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# FEDERAL REGISTER

Vol. 80 Tuesday,

No. 31 February 17, 2015

Pages 8239–8510

OFFICE OF THE FEDERAL REGISTER

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# Contents

**Federal Register**

Vol. 80, No. 31

Tuesday, February 17, 2015

**Alcohol, Tobacco, Firearms, and Explosives Bureau**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Report of Multiple Sale or Other Disposition of Pistols and Revolvers, 8347–8348

**Antitrust Division**
**NOTICES**
Changes Under the National Cooperative Research and Production Act:
Odva, Inc., 8348
PXI System Alliance, Inc., 8348

**Antitrust**
*See* Antitrust Division

**Army Department**
**NOTICES**
Privacy Act; Systems of Records, 8292–8295

**Arts and Humanities, National Foundation**
*See* National Foundation on the Arts and the Humanities

**Bureau of Consumer Financial Protection**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8291–8292

**Centers for Medicare & Medicaid Services**
**RULES**
Medicare Programs; Reporting and Returning of Overpayments, 8247–8248
**NOTICES**
Requests for Applications:
Medicare Program; Oncology Care Model, 8323–8324

**Children and Families Administration**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8324–8325

**Coast Guard**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8334–8335
Charter Renewals:
Cook Inlet Regional Citizens' Advisory Council, 8335–8336
Guidance:
Maritime Cybersecurity Standards, 8336–8337

**Commerce Department**
*See* International Trade Administration
*See* National Oceanic and Atmospheric Administration

**Defense Department**
*See* Army Department

**Energy Department**
*See* Federal Energy Regulatory Commission
**NOTICES**
Applications to Export Liquefied Natural Gas:
SCT and E LNG, LLC, 8295–8296
Commission To Review the Effectiveness of the National Energy Laboratories Interim Report, 8296
Meetings:
Biomass Research and Development Technical Advisory Committee, 8298–8299
Electricity Advisory Committee, 8297–8298
Environmental Management Site-Specific Advisory Board, Portsmouth, 8299
International Energy Agency, 8296–8297
State Energy Advisory Board; Teleconference, 8299

**Environmental Protection Agency**
**PROPOSED RULES**
Air Quality State Implementation Plans; Approvals and Promulgations:
California; South Coast Air Quality Management District; Stationary Source Permits, 8250–8253
Pennsylvania; Redesignation Request and Associated Maintenance Plan for Pennsylvania Portion of the Philadelphia-Wilmington, PA–NJ–DE Nonattainment Area , etc., 8254–8273
National Emission Standards:
Aerospace Manufacturing and Rework Facilities Risk and Technology Review, 8392–8439
Coal- and Oil-Fired Electric, Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Utility Steam Generating Units, etc., 8442–8484
Nonattainment and Reclassification; Determinations:
Dallas/Fort Worth 1997 8-hour Ozone Nonattainment Area; Texas, 8274–8278
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Facility Ground-Water Monitoring Requirements, 8307–8308
Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System, 8306–8307
Test Data Under the Toxic Substances Control Act, 8308–8309

**Federal Aviation Administration**
**RULES**
Air Traffic Service Routes:
Baton Rouge, LA, 8239–8240
New York North Shore Helicopter Route, 8242
VOR Federal Airways:
V–330 in the Vicinity of Mountain Home, ID, 8240–8242
**NOTICES**
Release From Conveyance Deed Obligations:
Superior Municipal Airport, Superior, Pinal County, AZ, 8387–8388
Release From Quitclaim Deed and Federal Grant Assurance Obligations:
Oxnard Airport, Oxnard, Ventura County, CA, 8388

**Federal Communications Commission**
**RULES**
Commercial Operations in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz Bands, 8248–8249

**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Communications Commission Under Delegated Authority Review, 8309–8310

**Federal Emergency Management Agency**
**NOTICES**
Meetings:
National Advisory Council, 8337–8338

**Federal Energy Regulatory Commission**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8299–8302
Combined Filings, 8303–8304
Environmental Assessments; Availability, etc.:
Texas Gas Transmission, LLC, Southern Indiana Market Lateral Project, 8304–8306

**Federal Highway Administration**
**PROPOSED RULES**
National Performance Management Measures:
Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program, 8250

**Federal Reserve System**
**NOTICES**
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 8310–8311

**Food and Drug Administration**
**NOTICES**
Guidance:
Complicated Urinary Tract Infections: Developing Drugs for Treatment, 8325
Meetings:
Clinical Trial Requirements, Regulations, Compliance and Good Clinical Practice, 8325–8326
Food and Drug Administration/Xavier University Global Medical Device, 8327–8328
In Motion: Science Transforming Policy in Food, Drug, and Medical Device Regulation, 8328–8329
Orthopaedic and Rehabilitation Panel of the Medical Devices Advisory Committee, 8326–8327
Regulatory Site Visit Training Program, 8329–8330

**General Services Administration**
**PROPOSED RULES**
Acquisition Regulations:
Environmental, Conservation, Occupational Safety and Drug-Free Workplace, 8278–8280
**NOTICES**
Environmental Impact Statements; Availability, etc.:
Federal Bureau of Investigation Central Records Complex in Winchester County, VA, 8311

**Health and Human Services Department**
*See* Centers for Medicare & Medicaid Services
*See* Children and Families Administration
*See* Food and Drug Administration
*See* National Institutes of Health
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8311–8312
Applications for New Awards:
National Institute on Disability, Independent Living, and Rehabilitation Research Community Living and Participation and, Health and Function, 8312–8317
National Institute on Disability, Independent Living, and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Engineering Research Centers, 8317–8323

**Homeland Security Department**
*See* Coast Guard
*See* Federal Emergency Management Agency

**Housing and Urban Development Department**
**RULES**
Obsolete Section 8 Rental Assistance Certificate Program Regulations; Removal, 8243–8247
Qualified Mortgage Rule:
Annual Threshold Adjustments to the Points and Fees Limit, 8243

**Interior Department**
*See* Land Management Bureau
*See* National Park Service
*See* Reclamation Bureau

**International Trade Administration**
**NOTICES**
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Barium Carbonate From the People's Republic of China, 8286–8287
Low Enriched Uranium From France, 8285–8286

**International Trade Commission**
**NOTICES**
Complaints:
Certain Audio Processing Hardware and Software and Products Containing Same, 8346–8347
Certain Electronic Products, Including Products With Near Field Communication System-Level Functionality and/or Battery Power-Up Functionality, 8345–8346
Hearing Cancellations:
Sugar From Mexico, 8347

**Justice Department**
*See* Alcohol, Tobacco, Firearms, and Explosives Bureau
*See* Antitrust Division
*See* Justice Programs Office

**Justice Programs Office**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Methodological Research To Support the National Crime Victimization Survey—Subnational Companion Study—American Crime Survey Field Test, 8349

**Land Management Bureau**
**NOTICES**
Public Lands:
Oregon; Proposed Withdrawal and Opportunity for Public Meeting, 8338–8339

**Legal Services Corporation**
NOTICES
Funding Opportunity:
2015 Technology Initiative Grant, 8349–8352

**Maritime Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Cruise Vessel Security and Safety Training Provider Certification, 8388–8389

**National Foundation on the Arts and the Humanities**
NOTICES
Meetings:
National Council on the Humanities, 8353

**National Institutes of Health**
NOTICES
Exclusive Licenses:
Start-Up Evaluation License for the Development of Theranostic Kits for Taxane-Based Chemotherapy, 8330
Meetings:
Center for Scientific Review, 8333
National Cancer Institute, 8331–8332
National Institute of Allergy and Infectious Diseases, 8333
National Institute of Environmental Health Sciences, 8330–8331
National Institute on Aging, 8331
National Institute on Drug Abuse, 8332

**National Oceanic and Atmospheric Administration**
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Pacific Cod by Vessels Using Pot Gear in the Western Regulatory Area of the Gulf of Alaska, 8249
PROPOSED RULES
Fisheries off West Coast States; Pacific Coast Groundfish Fishery:
Trawl Rationalization Program; Midwater Trawl Fishery Season Date Change, 8280–8284
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8287–8288
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application Forms for Membership on a National Marine Sanctuary Advisory Council, 8289–8290
Customer Surveys, 8288–8289
Seafood Inspection and Certification Requirements, 8290–8291
U.S. Fishermen Fishing in Russian Waters, 8289
Meetings:
Mid-Atlantic Fishery Management Council, 8291

**National Park Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Native American Graves Protection and Repatriation Regulations, 8339–8340
Survey of Direct Recreational Uses Along the Colorado River, 8340–8341
Meetings:
Boston Harbor Islands National Recreation Area Advisory Council, 8341

**National Science Foundation**
NOTICES
Meetings:
Proposal Review Panel for Materials Research, 8353–8355

**Nuclear Regulatory Commission**
NOTICES
Facility Operating and Combined Licenses:
Applications and Amendments Involving Proposed No Significant Hazards Considerations, 8355–8368
Meetings; Sunshine Act, 8368

**Overseas Private Investment Corporation**
NOTICES
Meetings; Sunshine Act, 8368–8369

**Presidio Trust**
NOTICES
Meetings:
Presidio Institute Advisory Council, 8369

**Reclamation Bureau**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8341–8345

**Securities and Exchange Commission**
PROPOSED RULES
Disclosure of Hedging by Employees, Officers and Directors, 8486–8510
NOTICES
Applications:
Corsair Opportunity Fund, et al., 8373–8374
Exchange Traded Concepts, LLC et al., 8369–8373
Meetings:
Advisory Committee on Small and Emerging Companies, 8374–8375
Meetings; Sunshine Act, 8375
Self-Regulatory Organizations; Proposed Rule Changes:
EDGA Exchange, Inc., 8378–8383
EDGX Exchange, Inc., 8375–8378
The Options Clearing Corp, 8383–8387

**Transportation Department**
*See* Federal Aviation Administration
*See* Federal Highway Administration
*See* Maritime Administration

**Veterans Affairs Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Description of Materials, 8389–8390
Meetings:
Advisory Committee on Disability Compensation, 8390

**Separate Parts In This Issue**

**Part II**
Environmental Protection Agency, 8392–8439

**Part III**
Environmental Protection Agency, 8442–8484

**Part IV**
Securities and Exchange Commission, 8486–8510

**Reader Aids**

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

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## CFR PARTS AFFECTED IN THIS ISSUE

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

**14 CFR**
71 (2 documents) ....8239, 8240
93 ....8242

**17 CFR**

**Proposed Rules:**
229 ....8486
240 ....8486

**23 CFR**

**Proposed Rules:**
490 ....8250

**24 CFR**
203 ....8243
982 ....8243

**40 CFR**

**Proposed Rules:**
52 (2 documents) ....8250, 8254
60 ....8442
63 (2 documents) ....8392, 8442
81 (2 documents) ....8254, 8274

**42 CFR**
401 ....8247
405 ....8247

**47 CFR**
2 ....8248

**48 CFR**

**Proposed Rules:**
523 ....8278
552 ....8278

**50 CFR**
679 ....8249

**Proposed Rules:**
660 ....8280

# Rules and Regulations

Federal Register
Vol. 80, No. 31
Tuesday, February 17, 2015

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

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2014–1124; Airspace Docket No. 14–ASW–12]**

**RIN 2120–AA66**

## Modification of Air Traffic Service (ATS) Routes in the Vicinity of Baton Rouge, LA

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

**ACTION:** Final rule, technical amendment.

**SUMMARY:** This action amends the legal description of three Jet Routes, one High Altitude Area Navigation (RNAV) Route (Q-route), and five VHF Omnidirectional Range (VOR) Federal Airways in the vicinity of Baton Rouge, LA. The FAA is taking this action because the Baton Rouge VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) navigation aid, included as part of the route structure for the airways, is being renamed the Fighting Tiger VORTAC.

**DATES:** Effective date 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection 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_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

**FOR FURTHER INFORMATION CONTACT:** Colby Abbott, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

### The Rule

This action amends Title 14 of the Code of Federal Regulations (14 CFR) part 71 by amending the legal descriptions of Jet Routes J–2, J–138, and J–590; High Altitude RNAV Route Q–24; and VOR Federal Airways V–70, V–71, V–114, V–194, and V–559 in the vicinity of Baton Rouge, LA. Currently, these airways have the Baton Rouge, LA, [VORTAC] included as part of their route structure. The Baton Rouge VORTAC and the Baton Rouge Metropolitan Airport, both in Baton Rouge, LA, have similar names and share the same facility identifier (BTR), but are not co-located. Because the Baton Rouge VORTAC is actually located 8 nautical miles outside the airport boundary, and to eliminate a potential flight safety issue causing navigation confusion, the Baton Rouge VORTAC is renamed the Fighting Tiger VORTAC and assigned a new facility identifier (LSU). The Jet Routes, High Altitude RNAV Route, and VOR Federal airways with Baton Rouge, LA, [VORTAC] included in their legal descriptions will be amended to reflect the name change. The name change of the VORTAC will coincide with the effective date of this rulemaking action.

Since this action merely involves editorial changes in the legal description of Jet Routes, a High Altitude RNAV Route, and VOR Federal Airways, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does 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 United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it renames a navaid in the legal description of Jet Routes, a High Altitude RNAV Route, and VOR Federal Airways in the vicinity of Baton Rouge, LA.

Jet Routes, High Altitude United States RNAV Routes, and Domestic VOR Federal Airways are published in paragraphs 2004, 2006, and 6010(a), respectively, 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 Jet Routes, High Altitude RNAV Route, and domestic VOR Federal Airways listed in this document will be published subsequently in the Order.

### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, airspace Designations and Reporting Points, dated August 6, 2014,

and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with 311a, FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures.'' This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

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

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 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 FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 2004—Jet Routes*

* * * * *

**J–2 [Amended]**

From Mission Bay, CA; Imperial, CA; Bard, AZ; INT Bard 089° and Gila Bend, AZ, 261° radials; Gila Bend; Tucson, AZ; El Paso, TX; Fort Stockton, TX; Junction, TX; San Antonio, TX; Humble, TX; Lake Charles, LA; Fighting Tiger, LA; Semmes, AL; Crestview, FL; INT Crestview 091° and Seminole, FL, 290° radials; Seminole; to Taylor, FL.

* * * * *

**J–138 [Amended]**

From Fort Stockton, TX; Center Point, TX; San Antonio, TX; Hobby, TX; Lake Charles, LA; Fighting Tiger, LA; to Semmes, AL.

* * * * *

**J–590 [Amended]**

From Lake Charles, LA; Fighting Tiger, LA; Greene County, MS; to Montgomery, AL.

*Paragraph 2006—United States Area Navigation Routes*

* * * * *

**Q–24 Lake Charles, LA to PAYTN, AL [Amended]**

| | | |
|---|---|---|
| Lake Charles, LA (LCH) | VORTAC | (lat. 30°08′29″ N., long. 93°06′20″ W). |
| Fighting Tiger, LA (LSU) | VORTAC | (lat. 30°29′06″ N., long. 91°17′39″ W). |
| IRUBE, MS | WP | (lat. 31°00′16″ N., long. 88°56′19″ W). |
| PAYTN, AL | FIX | (lat. 31°28′04″ N., long. 87°53′08″ W). |

* * * * *

*Paragraph 6010(a)—Domestic VOR Federal Airways*

* * * * *

**V–70 [Amended]**

From Monterrey, Mexico; Brownsville, TX; INT Brownsville 338° and Corpus Christi, TX, 193° radials; 34 miles standard width, 37 miles 7 miles wide (4 miles E and 3 miles W of centerline), Corpus Christi; INT Corpus Christi 054° and Palacios, TX, 226° radials; Palacios; Scholes, TX; Sabine Pass, TX; Lake Charles, LA; Lafayette, LA; Fighting Tiger, LA; Picayune, MS; Green County, MS; Monroeville, AL; INT Monroeville 073° and Eufaula, AL, 258° radials; Eufaula; Vienna, GA; to Allendale, SC. From Grand Strand, SC; Wilmington, NC; Kinston, NC; INT Kinston 050° and Cofield, NC, 186° radials; to Cofield. The airspace within Mexico is excluded.

**V–71 [Amended]**

From Fighting Tiger, LA; Natchez, MS; Monroe, LA; El Dorado, AR; Hot Springs, AR; INT Hot Springs 358° and Harrison, AR, 176° radials; Harrison; Springfield, MO; Butler, MO; Topeka, KS; Pawnee City, NE; INT Pawnee City 334° and Lincoln, NE., 146° radials; Lincoln; Columbus, NE; O'Neill, NE; Winner, SD; Pierre, SD; Bismarck, ND; to Williston, ND.

* * * * *

**V–114 [Amended]**

From Panhandle, TX; Childress, TX; Wichita Falls, TX; INT Wichita Falls 117° and Blue Ridge, TX, 285° radials; Blue Ridge; Quitman, TX; Gregg County, TX; Alexandria, LA; INT Fighting Tiger, LA, 307° and Lafayette, LA, 042° radials; 7 miles wide (3 miles north and 4 miles south of centerline); Fighting Tiger; INT Fighting Tiger 112° and Reserve, LA, 323° radials; Reserve; INT Reserve 084° and Gulfport, MS, 247° radials; Gulfport, INT Gulfport 344° and Eaton, MS, 171° radials; to Eaton, excluding the portion within R3801B and R–3701C when active.

* * * * *

**V–194 [Amended]**

From Cedar Creek, TX; College Station, TX; INT College Station 151° and Hobby, TX, 289° radials; Hobby; Sabine Pass, TX; Lafayette, LA; Fighting Tiger, LA; McComb, MS; INT McComb 055° and Meridian, MS, 221° radials; to Meridian. From Liberty, NC; Raleigh-Durham, NC; Tar River, NC; Cofield, NC; to INT Cofield 077° and Norfolk, VA, 209° radials.

* * * * *

**V–559 [Amended]**

From Lafayette, LA; INT Lafayette 016° and Fighting Tiger, LA, 264° radials; to Fighting Tiger.

Issued in Washington, DC, on February 6, 2015.

**Gary A. Norek,**

*Manager, Airspace Policy and Regulations Group.*

[FR Doc. 2015–03056 Filed 2–13–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2014–1112; Airspace Docket No. 14–ANM–16]**

**RIN 2120–AA66**

## Amendment of VOR Federal Airway V–330 in the Vicinity of Mountain Home, Idaho

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

**ACTION:** Final rule, technical amendment.

**SUMMARY:** This action amends VHF Omnidirectional Range (VOR) Federal Airway V–330 in the vicinity of Mountain Home, ID. The FAA is taking this action to correct the V–330 description contained in Part 71 to ensure it matches the information contained in the FAA's aeronautical database, matches the depiction on the associated charts, and promotes safety and efficiency within the National Airspace System (NAS).

**DATES:** Effective date 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA

Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection 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_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

**FOR FURTHER INFORMATION CONTACT:** Colby Abbott, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

**History**

After a recent review of aeronautical data, the legal description for V–330 published in FAA Order 7400.9Y, Airspace Designations and Reporting Points, did not match the airway information contained in the FAA's aeronautical database or the charted depiction of the airway. In 2004, the FAA received a request from the U.S. Air Force to change the name and identifier of the Mountain Home, ID, VOR due to safety of flight concerns. At that time, Mountain Home Air Force Base (AFB), an on-base Tactical Air Navigation (TACAN) navigation aid (NAVAID), and a VOR located 5.5 nautical miles (NM) off-base all shared the same Mountain Home name and MUO identifier.

An event involving a KC–135 aircraft navigating to conduct aerial refueling (AR) activities highlighted the potential flight safety issue. While navigating to one of the AR tracks south of Mountain Home AFB, the flight crew entered ''MUO'' as the reference fix. The flight computer indicated two fixes identified as MUO. The crew, not familiar with the area, spent considerable time determining which NAVAID to use. As a result of this hazard to navigation and flight safety issue of having two navigation aids located 5.5 NM apart with the same name and identifier, the USAF requested the Mountain Home VOR (MUO) be renamed Liberator VOR with a new identifier of LTR.

In response, the FAA amended the aeronautical database information changing the Mountain Home VOR name to Liberator VOR and changing the MUO identifier to LIA, in lieu of LTR, effective September 30, 2004. The associated charts were published with the amended information, but the rulemaking action to amend the V–330 legal description to reflect the amendment was inadvertently overlooked at that time.

To overcome confusion and flight safety issues associated with the conflicting published V–330 airway description, the FAA is amending the legal description to reflect the Mountain Home VOR name change to Liberator VOR. Since this is an administrative correction to update the V–330 description to be in concert with the FAA's aeronautical database and charting, notice and public procedure under Title 5 U.S.C. 553(b) are unnecessary.

VOR Federal airways are listed in paragraph 6010 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 VOR Federal airway listed in this document will be revised subsequently in the Order.

**Availability and Summary of Documents for Incorporation by Reference**

This document amends FAA Order 7400.9Y, airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Rule**

The FAA amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the legal description of VOR Federal airway V–330 in the vicinity of Mountain Home, ID. Specifically, the FAA amends V–330, renaming the Mountain Home, ID, VOR to reflect the Liberator, ID, VOR; thus, matching the information currently contained in the FAA's aeronautical database and the charted depiction of the airway.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does 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 United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends an existing VOR Federal airway within the NAS.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with 311a, FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures.'' This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

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

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 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 FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 6010 VOR Federal Airways*

(a) Domestic VOR Federal airways.

* * * * *

**V–330**

From Wildhorse, OR; Boise, ID; INT Boise 130° and Liberator, ID, 084° radials; to INT Liberator 084° and Burley, ID, 323° radials. From Idaho Falls, ID; Jackson, WY; Dunoir, WY; Riverton, WY; to Muddy Mountain, WY.

Issued in Washington, DC, February 6, 2015.

**Gary A. Norek,**

*Manager, Airspace Policy and Regulations Group.*

[FR Doc. 2015–03062 Filed 2–13–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 93

**[Docket No.: FAA–2010–0302; Amdt. No. 93–98A]**

**RIN 2120–AK64**

## New York North Shore Helicopter Route

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

**ACTION:** Final rule.

**SUMMARY:** On June 23, 2014, the FAA published a final rule to extend the requirement for an additional two years for pilots operating civil helicopters under Visual Flight Rules to use the New York North Shore Helicopter Route when operating along the north shore of Long Island, New York. The final rule extended the expiration date to August 6, 2016. However, an error in the final rule resulted in the inadvertent removal of Subpart H of part 93 of Title 14 of the Code of Federal Regulations. This final rule corrects that error and reinstates the provisions of Subpart H.

**DATES:** This final rule is effective February 17, 2015. Subpart H of part 93 of Title 14 of the Code of Federal Regulations expires August 6, 2016.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action, contact David Maddox, Airspace Regulation and ATC Procedures Group, AJV–113, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8783; email *david.maddox@faa.gov.*

For legal questions concerning this action, contact Lorelei Peter, International Law, Legislation and Regulations Division, AGC–200, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073; email *lorelei.peter@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

On July 6, 2012, the FAA published Subpart H of part 93, which contained the rules governing civil helicopter operations when flying under visual flight rules along the north shore of Long Island, New York. This was a two-year rule that expired on August 6, 2014 (77 FR 39911). On June 23, 2014, the FAA published a final rule entitled ''The Extension of the Expiration Date of the New York North Shore Helicopter Route'' (79 FR 35488), which was to extend the regulations addressing helicopter operations along the North Shore for an additional two years from August 6, 2014 to August 6, 2016. In that rule, the FAA stated that:

> This action extends the requirement for pilots of civil helicopters to use the North Shore Helicopter Route when transiting along the north shore of Long Island for an additional two years, while the FAA considers whether to make the mandatory use of the route permanent. The current rule requiring use of the route expires on August 6, 2014. Public input to this consideration is critical and additional time is needed to conduct the rulemaking process. However, the FAA does not want to disrupt the operating environment and cause any confusion on using the route during this interim period. Therefore, the FAA finds that a two year extension of the current rule is warranted to maintain the current operating environment and permit the agency to engage in rulemaking to determine future action on this route. (*See* 79 FR 35489, June 23, 2014)

However, the Code of Federal Regulations was not amended correctly and Subpart H of part 93 of Title 14 of the Code of Federal Regulations was inadvertently removed.

This rule adds Subpart H back in part 93 with an expiration date of August 6, 2016, as originally intended. Adding Subpart H back into part 93 will ensure that all pilots are aware of the New York North Shore helicopter route and will make the regulations consistent with the New York Helicopter Chart. Because the amendment corrects an error and clarifies the regulations, the FAA finds that the notice and public procedures under 5 U.S.C. 553(b) are unnecessary, impracticable, and contrary to the public interest. As this final rule restores helicopter route information to the Code of Federal Regulations, thereby enhancing safety, good cause exists under 5 U.S.C. 553(d)(3) to make the rule effective in less than 30 days.

**List of Subjects in 14 CFR Part 93**

Air traffic control, Airspace, Navigation (air).

**The Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of Title 14 of the Code of Federal Regulations as follows:

## PART 93—SPECIAL AIR TRAFFIC RULES

■ 1. The authority citation for part 93 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44715, 44719, 46301.

■ 2. Add new heading for subpart H to part 93 to read as follows:

## Subpart H—Mandatory Use of the New York North Shore Helicopter Route

■ 3. Redesignate § 93.101 to subpart H.

■ 4. Add new § 93.103 to subpart H to read as follows:

**§ 93.103 Helicopter operations.**

(a) Unless otherwise authorized, each person piloting a helicopter along Long Island, New York's northern shoreline between the VPLYD waypoint and Orient Point, shall utilize the North Shore Helicopter route and altitude, as published.

(b) Pilots may deviate from the route and altitude requirements of paragraph (a) of this section when necessary for safety, weather conditions or transitioning to or from a destination or point of landing.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703, in Washington, DC on February 6, 2015.

**Michael P. Huerta,**

*Administrator.*

[FR Doc. 2015–03066 Filed 2–13–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 203

**[Docket No. FR–5845–N–01]**

### HUD's Qualified Mortgage Rule: Annual Threshold Adjustments to the Points and Fees Limit

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Announcement of HUD's qualified mortgage rule's annual threshold adjustments.

**SUMMARY:** The Consumer Financial Protection Bureau (CFPB) issued a final rule entitled ''Truth in Lending (Regulation Z) Annual Threshold Adjustments (CARD ACT, HOEPA and ATR/QM)'' on August 15, 2014. The final rule re-calculated the annual dollar amounts for the points and fees limit in CFPB's ''qualified mortgage'' definition to reflect the annual percentage change in the Consumer Price Index in effect on June 1, 2014. HUD's ''qualified mortgage'' definition incorporates CFPB's qualified mortgage points and fees limit and the requirement that the points and fees limit be adjusted annually. This document clarifies that all annual adjustments to the qualified mortgage points and fees limit issued by the CFPB to reflect the Consumer Price Index apply to HUD's points and fees limit provision, including CFPB's most recent final rule.

**DATES:** *Effective Date:* February 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Michael P. Nixon, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9278, Washington, DC 20410; telephone number 202–402–5216, ext. 3094 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On December 11, 2013, at 78 FR 75215, HUD published a final rule that established a definition of ''qualified mortgage'' for single family residential mortgages that HUD insures, guarantees, or administers. Under HUD's qualified mortgage rule, qualified mortgage status attaches at origination and insurance endorsement to those single family residential mortgages insured under the National Housing Act (12 U.S.C. 1701 *et seq.*), section 184 loans for Indian housing under the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a), and section 184A loans for Native Hawaiian housing under the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13b). HUD's definition of ''qualified mortgage'' is codified for each program at 24 CFR 201.7, 203.19, 1005.120 and 1007.80.

HUD has defined ''qualified mortgage'' in a manner that aligns HUD's definition, to the extent feasible and consistent with HUD's mission, with that of the ''qualified mortgage'' definition promulgated by the CFPB, and which is codified at 12 CFR 1026.43. HUD undertook the alignment for the purpose of lessening future differences in standards for HUD's single family residential insured mortgages and those established by the CFPB, which apply to conventional, federally-related mortgages for which designation as a qualified mortgage is sought.

HUD's alignment to CFPB's standards at 24 CFR 203.19 includes a cross-reference to the CFPB's limit on points and fees for a qualified mortgage at 12 CFR 1026.43(e)(3). The CFPB's qualified mortgage limit on points and fees requires that to be a ''qualified mortgage,'' the transaction's points and fees must not exceed 3 percent of the total loan amount for a loan amount greater than or equal to $100,000; $3,000 for a loan amount greater than or equal to $60,000 but less than $100,000; 5 percent of the total loan amount for loans greater than or equal to $20,000 but less than $60,000; $1,000 for a loan amount greater than or equal to $12,500 but less than $20,000; and 8 percent of the total loan amount for loans less than $12,500. The definition also provides that the dollar amounts should be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) that was reported on the preceding June 1. Members of the public interested in more detail about HUD's qualified mortgage regulations may refer to the preamble of HUD's September 30, 2013, proposed rule and HUD's December 11, 2013, final rule, at 78 FR 59890 and 78 FR 75215, respectively.

#### II. HUD Notice of CFPB's Final Rule

On August 15, 2014, the CFPB issued a final rule ''Truth in Lending (Regulation Z) Annual Threshold Adjustments (CARD ACT, HOEPA and ATR/QM).'' (79 FR 48015) CFPB's final rule amended the points and fees limit at 12 CFR 1026.43(e)(3), as required by 12 CFR 1026.43(e)(3)(ii), to reflect the annual inflation in the (CPI–U), as published by the Bureau of Labor Statistics, as of June 1, 2014. The adjustment adopted reflected a 2 percent increase in the CPI–U for the required period and is rounded to whole dollars for ease of compliance. The new points and fees limit, effective January 1, 2015, requires that for a covered transaction to be a qualified mortgage the total points and fees must not exceed 3 percent of the total loan amount for a loan greater than or equal to $101,953; $3,059 for a loan amount greater than or equal to $61,172 but less than $101,953; 5 percent of the total loan amount for a loan greater than or equal to $20,391 but less than $61,172; $1,020 for a loan amount greater than or equal to $12,744 but less than $20,391; and 8 percent of the total loan amount for a loan amount less than $12,744.

HUD's reference to 12 CFR 1026.43(e)(3) in its final rule included the requirement that the points and fees limit be updated annually to reflect the CPI–U. Therefore, this document clarifies that all adjustments to the CFPB's point and fees limit consistent with 12 CFR 1026.43(e)(3)(ii) are to be incorporated into HUD's points and fees limit per the effective date of the CFPB's adjustment, including the most recent change issued on August 15, 2014.

Dated: February 9, 2015.

**Biniam Gebre,**

*Acting Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 2015–03139 Filed 2–13–15; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 982

**[Docket No. FR–5827–F–01]**

### Removal of Obsolete Section 8 Rental Assistance Certificate Program Regulations

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes from regulations obsolete references to the Section 8 Tenant-Based Rental Assistance Certificate program (Certificate Program). In accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' HUD reviewed its regulations to identify regulations that are ''outmoded, ineffective, insufficient or excessively burdensome.'' Following its review, HUD determined that the

Certificate Program regulations are obsolete and unnecessary because they govern a program that has been consolidated into another program, the Housing Choice Voucher (HCV) program. This rule also makes minor editorial corrections to the regulations.

**DATES:** *Effective date:* March 19, 2015.

**FOR FURTHER INFORMATION CONTACT:** For questions, please contact Jennifer Lavorel at 202–402–2515 (the number is not toll-free). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. She may also be reached via postal mail at the following address: Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On January 18, 2011, President Obama issued Executive Order 13563, ''Improving Regulation and Regulatory Review.'' [1] The Executive Order directs heads of Federal departments and agencies to review all existing regulations to eliminate those that are outdated and modify others to increase flexibility and reduce burden. As a part of HUD's overall effort to reduce regulatory burden and streamline the content of title 24 of the Code of Federal Regulations (CFR), this rule removes obsolete references to the Certificate Program, which has long been merged with the HCV program.

In the HCV program (and also formerly in the Certificate Program), HUD pays rental subsidies so eligible families can afford decent, safe, and sanitary housing. HUD provides housing assistance funds to public housing agencies (PHAs) that administer the program. Eligible families select and rent units that meet program housing quality standards. The PHA contracts with the owner of the housing to make rent subsidy payments on behalf of the family.

The Certificate Program was first created by the Housing and Community Development Act of 1974,[2] which amended section 8 of the United States Housing Act of 1937 (1937 Act).[3] Building on the success of the Certificate Program, Congress authorized a new rental voucher demonstration program in 1984, by adding a new section 8(o) to the 1937 Act, as part of the Supplemental Appropriations Act, 1984.[4] The rental voucher program was similar to the Certificate Program but provided families with more options in housing selection. The rental voucher program was made permanent by the Housing and Community Development Act of 1987.[5]

HUD published a series of regulatory changes in the 1990s to align the two programs as closely as possible, given the statutory framework of each program. The Quality Housing and Work Responsibility Act of 1998 (QHWRA) [6] amended section 8 of the 1937 Act to fully merge the Certificate and rental voucher programs and eliminated all differences between the two. On May 14, 1999,[7] HUD published an interim rule implementing the merger of the two programs into the new HCV program. The interim rule was followed by publication of an October 21, 1999, final rule.[8] In accordance with the regulations implementing the merger, the Certificate Program was phased out by October 2001.

The removal of obsolete references to the Certificate Program from 24 CFR will eliminate any misunderstanding that the Certificate Program is an active program. No new assistance is being provided under this program. To the extent that any Project-Based Certificate Program contracts remain in effect, they are now governed by the regulations in 24 CFR 983.10, entitled ''Project-based certificate (PBC) program''.

In addition to eliminating obsolete regulatory provisions in 24 CFR part, this rule makes certain minor editorial corrections to the regulations in 24 CFR part 982. For example, in certain places, the regulations refer to PHAs as PHAs but in other places the regulations refer to PHAs as housing authorities or HAs. HUD revised the regulations to consistently use the terms PHA or PHAs throughout. Similarly, the rule revises the part 982 regulations to refer to the tenant-based voucher program as the HCV program.

## II. Justification for Final Rulemaking

In accordance with 24 CFR part 10, it is the practice of HUD to offer interested parties the opportunity to comment on proposed regulations. Part 10, consistent with 5 U.S.C. 553(b), provides for exceptions to the general rule if an agency, for good cause, finds that ''notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' (See 24 CFR 10.1.)

The removal of these regulations from 24 CFR does not establish or affect substantive policy. This final rule removes obsolete and unnecessary regulatory provisions for a program that is no longer being funded and makes non-substantive editorial corrections. Therefore, HUD finds that public notice and comment are unnecessary and contrary to the public interest.

## III. Findings and Certifications

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

*Unfunded Mandates Reform*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of UMRA (2 U.S.C. 1534) also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. However, the UMRA applies only to rules for which an agency publishes a general notice of proposed rulemaking. As discussed above, HUD has determined, for good cause, that prior notice and public comment is not required on this rule and, therefore, the UMRA does not apply to this final rule.

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts

[1] The Executive Order was subsequently published in the **Federal Register** on January 21, 2011, at 76 FR 3821.

[2] Public Law 93–383, approved August 22, 1974.

[3] 42 U.S.C. 1437f.

[4] Public Law 98–181, approved November 30, 1983.

[5] Public Law 100–242, approved February 5, 1988.

[6] Title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105–276, approved October 21, 1998).

[7] 64 FR 26632.

[8] 64 FR 56894.

state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule will not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive order.

*Environmental Review*

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern, or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

**List of Subjects in 24 CFR Part 982**

Grant programs—housing and community development, Grant programs-Indians, Indians, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, and pursuant to the Secretary's authority under 42 U.S.C. 3535(d), 24 CFR part 982 is amended as follows:

## PART 982—SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

■ 1. The authority citation for part 982 continues to read as follows:

**Authority:** 42 U.S.C. 1437f and 3535(d).

■ 2. Revise § 982.1(a) to read as follows:

**§ 982.1 Programs: purpose and structure.**

(a) *General description.* (1) In the HUD Housing Choice Voucher (HCV) program, HUD pays rental subsidies so eligible families can afford decent, safe, and sanitary housing. The HCV program is generally administered by State or local governmental entities called public housing agencies (PHAs). HUD provides housing assistance funds to the PHA. HUD also provides funds for PHA administration of the program.

(2) Families select and rent units that meet program housing quality standards. If the PHA approves a family's unit and tenancy, the PHA contracts with the owner to make rent subsidy payments on behalf of the family. A PHA may not approve a tenancy unless the rent is reasonable.

(3) Subsidy in the HCV program is based on a local ''payment standard'' that reflects the cost to lease a unit in the local housing market. If the rent is less than the payment standard, the family generally pays 30 percent of adjusted monthly income for rent. If the rent is more than the payment standard, the family pays a larger share of the rent.

* * * * *

■ 3. Revise § 982.2 to read as follows:

**§ 982.2 Applicability.**

Part 982 contains the program requirements for the tenant-based housing assistance program under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f). The tenant-based program is the HCV program.

■ 4. Amend § 982.4 as follows:
■ a. Revise paragraph (a)(2); and
■ b. In paragraph (b), remove the definition of ''Tenant rent'' and revise the definitions of ''Absorption'', ''Administrative plan'', ''Admission'', ''Applicant'', ''Budget authority'', ''Continuously assisted'', ''Housing quality standards (HQS)'', ''Merger date'', ''Program'', ''Receiving PHA'', and ''Utility reimbursement''.

The revisions read as follows:

**§ 982.4 Definitions.**

(a) * * *

(2) *Definitions concerning family income and rent.* The terms ''adjusted income,'' ''annual income,'' ''extremely low income family,'' ''tenant rent,'' ''total tenant payment,'' ''utility allowance,'' ''utility reimbursement,'' and ''welfare assistance'' are defined in part 5, subpart F of this title. The definitions of ''tenant rent'' and ''utility reimbursement'' in part 5, subpart F of this title do not apply to the HCV program under part 982.

(b) * * *

*Absorption.* In portability (under subpart H of this part): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

* * * * *

*Administrative plan.* The plan that describes PHA policies for administration of the HCV program. See § 982.54.

*Admission.* The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in the tenant-based program.

*Applicant* (applicant family). A family that has applied for admission to the HCV program but is not yet a program participant.

*Budget authority.* An amount authorized and appropriated by the Congress for payment to PHAs under the HCV program. For each funding increment in the program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

* * * * *

*Continuously assisted.* An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Act program when the family is admitted to the HCV program.

* * * * *

*Housing quality standards (HQS).* The HUD minimum quality standards for housing assisted under the HCV program. See § 982.401.

* * * * *

*Merger date.* October 1, 1999, which is the effective date of the merger of the two tenant-based programs (the housing voucher and housing certificate programs) into the Housing Choice Voucher (HCV) program.

* * * * *

*Program.* The Section 8 HCV program under this part.

* * * * *

*Receiving PHA.* In portability: A PHA that receives a family selected for participation in the HCV program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

* * * * *

*Utility reimbursement.* The portion of the housing assistance payment which exceeds the amount of the rent to owner. (See § 982.514(b)).

* * * * *

■ 5. In § 982.51(b), revise the second sentence to read as follows:

**§ 982.51 PHA authority to administer program.**

* * * * *

(b) * * * The PHA must submit additional evidence when there is a change that affects its status as a PHA, its authority to administer the program, or its jurisdiction.

**§ 982.53 [Amended]**

■ 6. In § 982.53(e), remove the phrase ''incidents of'' and add in its place ''an incidence of''.

**§ 982.54 [Amended]**

■ 7. In § 982.54, remove paragraph (d)(19) and redesignate paragraphs (d)(20) through (23) as paragraphs (d)(19) through (22), respectively.

**§ 982.101 [Amended]**

■ 8. In § 982.101(c), remove the word ''HAs'' and add in its place ''PHAs'' and remove the parenthetical ''(NOFA)'' and add in its place ''(NOFAs)''.

**§ 982.102 [Amended]**

■ 9. Amend § 982.102 as follows:
■ a. In paragraph (a), remove the phrase ''part 983 of this title'' and add in its place ''24 CFR part 983'' and remove the '','' at the end of the paragraph and add a ''.'' in its place;
■ b. In paragraph (e)(1)(i), remove the words ''PHA certificate and voucher programs (including project-based assistance under such programs)'' and add, in their place, the words ''HCV program (including project-based assistance under such program)'';
■ c. Redesignate the second paragraph (e)(3)(iii) as paragraph (e)(3)(iv); and
■ d. In paragraph (f), capitalize the word ''consolidated'' in the paragraph heading.

**§ 982.103 [Amended]**

■ 10. In § 982.103(a), capitalize the word ''a'' at the beginning of the paragraph.

**§ 982.151 [Amended]**

■ 11. In § 982.151(a)(2), remove the words ''PHA tenant-based assistance program'' and add in their place ''PHA's HCV program''.

**§ 982.152 [Amended]**

■ 12. Amend § 982.152 as follows:
■ a. In paragraph (a), remove all references to ''HA'' and add in their place ''PHA''; and
■ b. In paragraph (b)(2), remove the phrase ''tenant-based'' and add in its place ''HCV''.

**§ 982.158 [Amended]**

■ 13. In § 982.158(c), remove the word ''tPHAt'' and add in its place ''that''.

**§ 982.161 [Amended]**

■ 14. In § 982.161(a), remove the phrase ''tenant-based programs'' and add in its place ''HCV program''.

■ 15. Amend § 982.201 as follows:
■ a. In the paragraph heading of paragraph (a), add the word ''In'' before the word ''general'';
■ b. In paragraph (b)(2)(i), remove the phrase ''tenant-based voucher'' and add in its place ''HCV'';
■ c. Remove paragraph (b)(2)(iv) and redesignate paragraphs (b)(2)(v) through (vii) as paragraphs (b)(2)(iv) through (vi), respectively;
■ d. In newly redesignated paragraph (b)(2)(v), remove the phrase ''tenant-based voucher'' and add in its place ''HCV''; and
■ e. Revise newly redesignated paragraph (b)(2)(vi) and paragraph (b)(3).

The revisions read as follows:

**§ 982.201 Eligibility and targeting.**

* * * * *

(b) * * *

(2) * * *

(vi) If a family initially leases a unit outside the PHA jurisdiction under portability procedures at admission to the HCV program, such admission shall be counted against the targeting obligation of the initial PHA (unless the receiving PHA absorbs the portable family into the receiving PHA's HCV program from the point of admission).

(3) The annual income (gross income) of an applicant family is used both for determination of income-eligibility under paragraph (b)(1) of this section and for targeting under paragraph (b)(2)(i) of this section. In determining annual income of an applicant family that includes a person with disabilities, the determination must include the disallowance of increase in annual income as provided in 24 CFR 5.617, if applicable.

* * * * *

**§ 982.205 [Amended]**

■ 16. In § 982.205(a)(1), capitalize the word ''a'' in the first sentence following the paragraph heading.

■ 17. Add § 982.305(b)(1)(iii) to read as follows:

**§ 982.305 PHA approval of assisted tenancy.**

* * * * *

(b) * * *

(1)

(iii) The PHA has approved leasing of the unit in accordance with program requirements.

* * * * *

**§ 982.311 [Amended]**

■ 18. In § 982.311(b), remove the word ''HA'' and add in its place ''PHA''.

**§ 982.315 [Amended]**

■ 19. In § 982.315(b)(3), remove the words ''or actual'' and add in their place ''of actual''.

■ 20. Amend § 982.355 as follows:
■ a. In paragraph (a), remove the phrase ''a tenant-based'' and add in its place ''an HCV'';
■ b. Revise paragraph (c)(1);
■ c. In paragraph (d)(1), remove the phrase ''PHA voucher'' and add in its place ''PHA's HCV'' and remove the phrase ''PHA tenant-based'' and add in its place ''PHA's HCV'';
■ d. In paragraph (e)(6), capitalize the word ''a'' at the beginning of the paragraph and remove the phrase ''PHA tenant-based'' and add in its place ''PHA's HCV''; and
■ e. In paragraph (e)(7), remove the phrase ''tenant-based'' and add in its place ''HCV''.

The revision reads as follows:

**§ 982.355 Portability: Administration by receiving PHA.**

* * * * *

(c) * * *

(1) The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's HCV program. However, for a portable family that was not already receiving assistance in the PHA's HCV program, the initial PHA must determine whether the family is eligible for admission to the receiving PHA's HCV program.

* * * * *

**§ 982.401 [Amended]**

■ 21. Amend § 982.401 as follows:
■ a. In paragraph (a)(1), remove the phrase ''in the programs'' and add in its place ''under the HCV program'';
■ b. In paragraph (c)(1)(ii), add a period after ''e.g''; and
■ c. In paragraph (n)(1), remove '' -'' after ''hearing-impaired person,''.

**§ 982.403 [Amended]**

■ 22. In § 982.403, remove paragraph (b) and redesignate paragraph (c) as paragraph (b).

**§ 982.406 [Amended]**

■ 23. In § 982.406, remove ''tPHAn'' and add in its place ''than''.

**§ 982.452 [Amended]**

■ 24. In § 982.452(b)(5)(ii), remove the line break between ''tenant contribution'' and ''(the part of rent''.

■ 25. Revise § 982.501 to read as follows:

**§ 982.501 Overview.**

This subpart describes program requirements concerning the housing assistance payment and rent to owner under the HCV program.

**§ 982.502 [Removed]**

■ 26. Remove § 982.502.

**§ 982.503 [Amended]**

■ 27. Amend § 982.503 as follows:
■ a. Remove ''Voucher tenancy:'' from the section heading; and
■ b. Remove paragraph (c)(7).

**§ 982.504 [Amended]**

■ 28. Amend § 982.504 as follows:

■ a. Remove ''Voucher tenancy:'' from the section heading;
■ b. In paragraph (a) introductory text, remove the phrase ''tenant-based assistance under the voucher program'' and add in its place ''HCV assistance'';
■ c. In paragraph (a)(1), remove the phrase ''tenant-based voucher'' and add in its place ''HCV'' and remove the phrase ''§ 401.421 of this title'' and add in its place ''24 CFR 401.421''; and
■ d. In paragraph (a)(2), remove ''tenant-based'' and add in its place ''HCV''.

**§ 982.505 [Amended]**

■ 29. In § 982.505, remove ''Voucher tenancy:'' from the section heading.

■ 30. Revise § 982.516(d)(2) to read as follows:

**§ 982.516 Family income and composition: Regular and interim examinations.**

* * * * *

(d) * * *

(2) At the effective date of a regular or interim reexamination, the PHA must make appropriate adjustments in the housing assistance payment in accordance with § 982.505.

* * * * *

**§ 982.517 [Amended]**

■ 31. In § 982.517(c)(1), capitalize the word ''a'' at the beginning of the paragraph and remove the word ''PHAs'' and add in its place ''has''.

**§§ 982.518, 982.519, and 982.520 [Removed]**

■ 32. Remove §§ 982.518 through 982.520.

**§ 982.521 [Amended]**

■ 33. Remove § 982.521(c).

**§ 982.552 [Amended]**

■ 34. In § 982.522(c)(2)(iii), add ''may'' before ''consider whether''.

**§ 982.553 [Amended]**

■ 35. In § 982.553(a)(2)(ii)(B), remove the phrase ''not to have'' and add in its place ''not have''.

**§ 982.555 [Amended]**

■ 36. Amend § 982.555 as follows:
■ a. In paragraph (a), add a space between the paragraph heading and paragraph (a)(1), capitalize the word ''a'' at the beginning of paragraph (a)(1), remove paragraph (a)(1)(iv), and redesignate paragraphs (a)(1)(v) and (vi) as paragraphs (a)(1)(iv) and (v), respectively; and
■ b. In paragraphs (b)(4), (5), (6), and (7), capitalize the word ''a'' at the beginning of each paragraph.

**§ 982.601 [Amended]**

■ 37. In § 982.601(c)(1), add a period after ''e.g''.

**§ 982.615 [Amended]**

■ 38. In § 982.615(b), remove ''HA'' and add in its place ''PHA''.

■ 39. Revise § 982.619(b)(4) to read as follows:

**§ 982.619 Cooperative housing.**

* * * * *

(b) * * *

(4) Adjustments are applied to the carrying charge as determined in accordance with this section.

* * * * *

**§ 982.623 [Amended]**

■ 40. Amend § 982.623 as follows:

■ a. Remove paragraph (a);

■ b. Remove the heading of paragraph (b).

■ c. Redesignate paragraphs (b)(1) through (4) as paragraphs (a) through (d), respectively;

■ d. In newly redesignated paragraph (c), further redesignate paragraphs (i) and (ii) as paragraphs (c)(1) and (2), respectively; and

■ e. In newly redesignated paragraph (d), further redesignate paragraphs (i) through (iii) as paragraphs (d)(1) through (3), respectively.

**§ 982.625 [Amended]**

■ 41. In § 982.625(g)(2), add a space between ''its'' and ''Section 8''.

**§ 982.627 [Amended]**

■ 42. In § 982.627(c)(2)(ii)(A), remove the line break between ''voucher'' and ''program''.

**§ 982.631 [Amended]**

■ 43. In § 982.631(c)(2)(iii), remove the line break between ''unit'' and ''unless''.

**§ 982.636 [Amended]**

■ 44. In § 982.636(c), add a period after ''e.g''.

**§ 982.641 [Amended]**

■ 45. In § 982.641(c)(3), in the cross-reference ''§ 982.353(b)(1), (2), and (3)'', remove ''(b)(1),(2), and (3)''.

Dated: February 9, 2015.

**Jemine A. Bryon,**

*Acting Assistant Secretary for Public and Indian Housing.*

[FR Doc. 2015–03037 Filed 2–13–15; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

### 42 CFR Parts 401 and 405

**[CMS–6037–RCN]**

**RIN 0938–AQ58**

## Medicare Program; Reporting and Returning of Overpayments; Extension of Timeline for Publication of the Final Rule

**AGENCY:** Centers for Medicare & Medicaid Services (CMS).

**ACTION:** Extension of timeline for publication of a final rule.

**SUMMARY:** This document announces the extension of the timeline for publication of the ''Medicare Program; Reporting and Returning of Overpayments'' final rule. We are issuing this notice in accordance with the Social Security Act (the Act) which requires notice to be provided in the **Federal Register** if there are exceptional circumstances that cause us to publish a final rule more than 3 years after the publication date of the proposed rule. In this case, the complexity of the rule and scope of comments warrants the extension of the timeline for publication.

**DATES:** As of February 17, 2015, CMS extends by 1 year the timeline for publication of a final rule concerning policies and procedures for reporting and returning overpayments to the Medicare program for providers and suppliers of services under Parts A and B of title XVIII as outlined in the proposed rule published February 16, 2012, at 77 FR 9179.

**FOR FURTHER INFORMATION CONTACT:** Joe Strazzire, (410) 786–2775.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Section 1871(a)(3)(A) of the Social Security Act (the Act) requires the Secretary, in consultation with the Director of the Office of Management and Budget (OMB), to establish a regular timeline for the publication of a final rule based on the previous publication of a proposed rule or an interim final rule. In accordance with section 1871(a)(3)(B) of the Act, such regular timeline may vary among different final rules, based on the complexity of the rule, the number and scope of the comments received, and other relevant factors. The timeline for publishing the final rule, however, cannot exceed 3 years from the date of publication of the proposed or interim final rule, unless

there are exceptional circumstances. After consultation with the Director of OMB, the Department, through CMS, published a notice in the December 30, 2004 **Federal Register** (69 FR 78442) establishing a general 3-year timeline for publishing Medicare final rules after the publication of a proposed or interim final rule.

## II. Notice of Continuation

The Medicare program (title XVIII of the Act) is the primary payer of health care for approximately 50 million enrolled beneficiaries. Providers and suppliers furnishing Medicare items and services must comply with the Medicare requirements set forth in the Act and in CMS regulations. The requirements are meant to ensure compliance with applicable statutes, promote the furnishing of high quality care, and to protect the Medicare Trust Funds against fraud and improper payments.

On March 23, 2010, the Affordable Care Act was enacted. Section 6402(a) of the Affordable Care Act established a new section 1128J(d) of the Act. Section 1128J(d)(1) of the Act requires a person who has received an overpayment to report and return the overpayment to the Secretary, the State, an intermediary, a carrier, or a contractor, as appropriate, at the correct address, and to notify the Secretary, State, intermediary, carrier or contractor to whom the overpayment was returned in writing of the reason for the overpayment. Section 1128J(d)(2) of the Act requires that an overpayment be reported and returned by the later of—(A) the date which is 60 days after the date on which the overpayment was identified; or (B) the date any corresponding cost report is due, if applicable. Section 1128J(d)(3) of the Act specifies that any overpayment retained by a person after the deadline for reporting and returning an overpayment is an obligation (as defined in 31 U.S.C. 3729(b)(3)) for purposes of 31 U.S.C. 3729.

In the February 16, 2012 **Federal Register** (77 FR 9179), we published a proposed rule that would implement the provisions of section 1128J(d) of the Act as to Medicare Parts A and B. This notice extends by 1 year the timeline for publication of a final rule concerning policies and procedures for reporting and returning overpayments to the Medicare program for providers and suppliers of services under Parts A and B of title XVIII as outlined in the February 16, 2012 proposed rule. However we continue to remind all stakeholders that even without a final regulation they are subject to the statutory requirements found in section 1128J(d) of the Act and could face potential False Claims Act liability, Civil Monetary Penalties Law liability, and exclusion from Federal health care programs for failure to report and return an overpayment.

Based on both public comments received and internal stakeholder feedback, we have determined that there are significant policy and operational issues that need to be resolved in order to address all of the issues raised by comments to the proposed rule and to ensure appropriate coordination with other government agencies. Specifically, the development of the final rule requires collaboration among both the Department of Health and Human Services' (HHS') Office of the Inspector General and the Department of Justice.

Our decision to extend the timeline for issuing a final regulation related to the reporting and returning of Medicare overpayments should not be viewed as a diminution of the Department's commitment to timely and effective rulemaking in this area. Our goal remains to publish a final rule that provides clear requirements for persons to report and return Medicare overpayments. At this time, we believe we can best achieve this balance by issuing this continuation notice.

This notice extends the timeline for publication of the final rule for this rulemaking for 1 year—until February 16, 2016.

## III. Collection of Information

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

## IV. Regulatory Impact Statement

This document extends the timeline for publication of the Medicare Program; Reporting and Returning of Overpayments final rule; and therefore, there are no regulatory impact implications associated with this notice.

**Authority:** Section 1871 of the Social Security Act (42 U.S.C. 1395hh).

Dated: February 9, 2015.

**C'Reda Weeden,**

*Executive Secretary to the Department, Department of Health and Human Services.*

[FR Doc. 2015–03072 Filed 2–13–15; 8:45 am]

**BILLING CODE 4120–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 2

**[GN Docket No. 13–185; FCC 14–31]**

### Commercial Operations in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz Bands

**AGENCY:** Federal Communications Commission.

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

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years a non-substantive change to a currently approved information collection requirements contained in the regulations in the ''Commercial Operations in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz.'' The information collection requirement was approved on December 23, 2014 by OMB.

**DATES:** The amendments to 47 CFR 2.1033(c)(19)(i) through (ii), published at 79 FR 32410, June 4, 2014, is effective February 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** For additional information contact Nancy Brooks on (202) 418–2454 or email *Nancy.Brooks@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** This document announces that on December 23, 2014, OMB approved, for a period of three years a non-substantive change to a currently approved information collection requirement contained in 47 CFR 2.1033(c)(19)(i) through (ii). The Commission publishes this document to announce the effective date of this rule section. See, Amendment of the Commission's rules with Regard to Commercial Operations in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz, GN Docket No. 13–85; FCC 14–31, 79 FR 32410, June 4, 2014.

### Synopsis

As required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on December 23, 2014, for the information collection requirement contained in 47 CFR 2.1033(c)(19)(i) through (ii). Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not

display a valid OMB Control Number. The OMB Control Number is 3060–0057.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2015–03119 Filed 2–13–15; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 130925836–4174–02]**

**RIN 0648–XD715**

## Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Western Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2015 Pacific cod total allowable catch apportioned to vessels using pot gear in the Western Regulatory Area of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), February 12, 2015, through 1200 hours, A.l.t., June 10, 2015.

**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 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. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2015 Pacific cod total allowable catch (TAC) apportioned to vessels using pot gear in the Western Regulatory Area of the GOA is 5,230 metric tons (mt), as established by the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014) and inseason adjustment (80 FR 192, January 5, 2015).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2015 Pacific cod TAC apportioned to vessels using pot gear in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,220 mt and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Western Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

### 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 delay the directed fishing closure of Pacific cod for vessels using pot gear in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 10, 2015.

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: February 10, 2015.

**Emily H. Menashes,**

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

[FR Doc. 2015–03143 Filed 2–11–15; 4:15 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register
Vol. 80, No. 31
Tuesday, February 17, 2015

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

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### 23 CFR Part 490

**[FHWA Docket No. FHWA–2013–0053]**

**RIN 2125–AF53**

## National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of proposed rulemaking; extension of comment period.

**SUMMARY:** The FHWA is extending the comment period for a notice of proposed rulemaking (NPRM) and request for comments, which was published on January 5, 2015, at 80 FR 326. The original comment period is set to close on April 6, 2015. The extension is based on concern expressed by the American Association of State Highway and Transportation Officials (AASHTO) and the Oregon Department of Transportation (Oregon DOT) that as a result of the scope and complexity of the NPRM the April 6 closing date does not provide sufficient time to review and provide comprehensive comments. The FHWA recognizes that others interested in commenting may have similar concerns and agrees that the comment period should be extended. Therefore, the closing date for comments is changed to May 8, 2015, which will provide AASHTO, the Oregon DOT, and others interested in commenting additional time to discuss, evaluate, and submit responses to the docket.

**DATES:** Comments must be received on or before May 8, 2015.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, 1200 New Jersey Avenue SE., Washington, DC 20590, or submit electronically at *http://www.regulations.gov.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or may print the acknowledgment page that appears after submitting comments electronically. 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) or you may visit *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Francine Shaw Whitson, Office of Infrastructure, (202) 366–8028, or Anne Christenson, Office of Chief Counsel, (202) 366–1356, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### Electronic Access and Filing

You may submit or access all comments received by DOT online through: *http://www.regulations.gov.* Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 365 days each year. Please follow the instructions. An electronic copy of this document may also be downloaded from the **Federal Register**'s home page at: *http://www.federalregister.gov.*

### Background

Section 150 of title 23, U.S.C., identifies the national transportation goals and requires the Secretary by rule to establish performance measures in specified Federal-aid highway program areas. On January 5, 2015, FHWA published in the **Federal Register** an NPRM proposing to establish measures for State Departments of Transportation (State DOTs) to use to carry out the National Highway Performance Program (NHPP) and to assess the condition of the following: pavements on the National Highway System (NHS) (excluding the Interstate System), bridges on the NHS, and pavements on the Interstate System. The NHPP is a core Federal-aid highway program that provides support for the condition and performance of the NHS and the construction of new facilities on the NHS, and ensures that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets established in a State's asset management plan for the NHS. The NPRM proposed regulations for the new performance aspects of the NHPP, which address: measures, targets, and reporting.

The original comment period for the NPRM closes on April 6, 2015. The AASHTO and the Oregon DOT have expressed concern that this closing date does not provide sufficient time to review and provide comprehensive comments on the proposal. The FHWA recognizes that others interested in commenting may have similar concerns and agrees that the comment period should be extended. To allow time for this organization and others to submit comprehensive comments, the closing date is changed from April 6, 2015, to May 8, 2015.

**Authority:** 23 U.S.C. 104(b)(1), 119, and 150.

Issued on: February 9, 2015.

**Gregory G. Nadeau,**

*Acting Administrator, Federal Highway Administration.*

[FR Doc. 2015–03138 Filed 2–13–15; 8:45 am]

**BILLING CODE 4910–22–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2015–0087; FRL–9923–02–Region 9]**

## Revision of Air Quality Implementation Plan; California; South Coast Air Quality Management District; Stationary Source Permits

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP) that pertains to SCAQMD Rule 1325: Federal $PM_{2.5}$ New Source Review Program, submitted on December 29, 2014. SCAQMD adopted Rule 1325 to meet the Clean Air Act (CAA) part D requirements for emissions of $PM_{2.5}$ from stationary sources.

**DATES:** Written comments must be received on or before March 19, 2015.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2015–0087, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

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

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

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

*Docket:* EPA has established a docket for this action under EPA–R09–OAR–2015–0087. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are generally listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

**FOR FURTHER INFORMATION CONTACT:** La Weeda Ward, by phone: (213) 244–1812 or by email at *ward.laweeda@epa.gov.*

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

**Table of Contents**

I. The State's Submittal
A. What rule did the State submit?
B. What is the purpose of the submitted rule?
II. EPA's Evaluation
A. What is the background for today's proposal?
B. How is EPA evaluating the rule?
C. Does the rule meet the evaluation criteria?
III. Proposed Action and Public Comment
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

## I. The State's Submittal

### *A. What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by CARB.

TABLE 1—SUBMITTED RULE

| Local agency | Rule # | Rule title | Adopted/ amended | Submitted |
|---|---|---|---|---|
| SCAQMD | 1325 | Federal $PM_{2.5}$ New Source Review Program | 12/05/14 | 12/29/14 |

On December 29, 2014, CARB submitted an amended rule, SCAQMD Rule 1325: *Federal $PM_{2.5}$ New Source Review Program* to EPA for approval as a revision to the SCAQMD portion of the California SIP.

On January 30, 2015, CARB's December 29, 2014 submittal of Rule 1325 was deemed to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. The submittal includes evidence of public notice and adoption of the regulation. Our technical support document (TSD) provides additional background information on our evaluation of Rule 1325.

### *B. What is the purpose of the submitted rule?*

SCAQMD Rule 1325 addresses Nonattainment New Source Review (NNSR) permit requirements for major sources of $PM_{2.5}$. The NNSR requirements under part D of the CAA apply to ''major stationary sources'' and ''major modifications'' as those terms are defined in 40 CFR part 51.165(a)(1)(iv) and (v). The purpose of this proposed rulemaking is to present our evaluation under the CAA and EPA's regulations. We provide our reasoning in general terms below but provide a more detailed analysis in our TSD, which is available in the docket for this proposed rulemaking.

## II. EPA's Evaluation

### *A. What is the background for today's proposal?*

Part D of title I of the Act contains the requirements for areas designated ''nonattainment'' for any of the national ambient air quality standards (NAAQS). Part D requires pre-construction permit programs for certain new or modified stationary sources located in nonattainment areas. 42 U.S.C. 7502(c)(5).

On July 18, 1997, EPA established 24-hour and annual NAAQS for $PM_{2.5}$ (62 FR 38652). On January 5, 2005 (70 FR 944), EPA designated portions of the South Coast Air Basin as nonattainment for the 1997 24-hour and annual $PM_{2.5}$ standards (40 CFR 81.305). On December 9, 2014, EPA proposed to find that the South Coast Air Basin had attained the 1997 24-hour and annual $PM_{2.5}$ NAAQS (79 FR 72999).

EPA has revised the NAAQS for $PM_{2.5}$ on two occasions since the 1997 promulgation. On October 17, 2006, the 24-hour $PM_{2.5}$ primary standard was strengthened (71 FR 61144) and on January 15, 2013, the annual primary standard for $PM_{2.5}$ was strengthened (78 FR 3086). On November 13, 2009, EPA designated the South Coast Air Basin as nonattainment for the 2006 24-hour $PM_{2.5}$ standard (74 FR 58688). On February 13, 2013, SCAQMD submitted

a plan to provide for attainment of the 2006 24-hour $PM_{2.5}$ standard in the South Coast Air Basin.

Following promulgation of the $PM_{2.5}$ standards, EPA issued two guidance documents pertaining to the regulation of $PM_{2.5}$ emissions. The first document issued in 1997 (Seitz Memo) stated that sources were allowed to use implementation of a $PM_{10}$ permit program as a surrogate for meeting $PM_{2.5}$ PSD requirements until certain technical difficulties were resolved, primarily the lack of necessary tools to calculate the emissions of $PM_{2.5}$ and related precursors, the lack of adequate modeling techniques to project ambient impacts, and the lack of $PM_{2.5}$ monitoring sites.[1] The second document (Page Memo) was issued in 2005 on the same date that the 1997 $PM_{2.5}$ designations became effective and provided guidance on the implementation of the NNSR provisions in $PM_{2.5}$ nonattainment areas for an interim period between the effective date of the designations (April 5, 2005) and the promulgation date of final NNSR regulations.[2] As reflected in the Page Memo, States were allowed to use their existing $PM_{10}$ NNSR program as a surrogate to address the requirements of a NNSR program for $PM_{2.5}$. Therefore, districts such as the SCAQMD, which have a SIP approved NNSR program for $PM_{10}$, were not required to submit a NNSR rule for emissions of $PM_{2.5}$ at that time.

On May 16, 2008, EPA published its final rule pertaining to $PM_{2.5}$ implementation requirements entitled ''Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)'' (the 2008 NSR $PM_{2.5}$ Rule),[3] which promulgated NSR requirements for implementation of $PM_{2.5}$ in both nonattainment areas (NNSR) and attainment/unclassifiable areas (PSD). With respect to NNSR, this 2008 final rule established the major source threshold, significant emissions rate, offset ratios for $PM_{2.5}$, interpollutant offset trading requirements, and applicability of NNSR to $PM_{2.5}$ precursors. Promulgation of the 2008 $PM_{2.5}$ NNSR Rule ended application of the $PM_{10}$ surrogacy policy under the Page Memo for NNSR permitting. Because it takes time for a local permitting agency to revise its rules to include all of the new NNSR program requirements, EPA's regulations provide in 40 CFR 52.24(k) that the Emission Offset Interpretative Ruling, contained in 40 CFR part 51, Appendix S shall govern applications for permits to construct and operate during the period between the date of designation as nonattainment and the date a NNSR permitting program meeting the requirements of part D of the CAA is approved into the SIP.[4] The 2008 NSR $PM_{2.5}$ Rule therefore codified revisions to Appendix S for states that lacked a NNSR program covering $PM_{2.5}$. Therefore, new and modified major sources of $PM_{2.5}$ emissions locating in SCAQMD are subject to the provisions of Appendix S until our final approval of Rule 1325, which SCAQMD adopted to implement the requirements of EPA's 2008 $PM_{2.5}$ NSR implementation rule. Once approved into the SIP, Rule 1325 will replace the current Appendix S $PM_{2.5}$ New Source Review requirements.

On January 4, 2013, the U.S. Court of Appeals for the District of Columbia Circuit, in *Natural Resources Defense Council* v. *EPA*,[5] issued a decision that remanded the EPA's 2007 and 2008 rules implementing the 1997 $PM_{2.5}$ NAAQS. The court found that EPA erred in implementing the $PM_{2.5}$ NAAQS in these rules solely pursuant to the general implementation provisions of subpart 1 of part D of title I of the CAA, rather than pursuant to the additional implementation provisions specific to particulate matter nonattainment areas in subpart 4. The court ordered the EPA to ''repromulgate these rules pursuant to Subpart 4 consistent with this opinion.'' 706 F.3d 428, 437. On June 2, 2014, EPA finalized a rule that provides a response, in part, to the *NRDC* v. *EPA* remand.[6] The rule initially classifies all nonattainment areas as moderate and sets a deadline of December 31, 2014, for states to submit ''remaining required SIP submissions for [nonattainment] areas, pursuant to and considering the application of subpart 4''. Under subpart 4, the only additional requirement for a NNSR program is to ensure all control requirements applicable to $PM_{2.5}$ major sources also apply to $PM_{2.5}$ precursors, except where the Administrator determines that such sources do not contribute significantly to $PM_{2.5}$ levels which exceed the standard in the area. (CAA section 189(e))

The SCAQMD's current NNSR program for emissions of pollutants other than $PM_{2.5}$ regulates new and modified stationary sources of emissions through a series of rules in its Regulation XIII. The rules contained in Regulation XIII prescribe pre-construction review requirements for new and modified facilities, to ensure that the facility operations do not interfere with progress towards attaining ambient air quality standards. With the adoption of Rule 1325, SCAQMD provides a rule intended to specifically regulate $PM_{2.5}$ emissions in accordance with requirements of 40 CFR 51.165 and the CAA.

*B. How is EPA evaluating the rule?*

EPA reviewed Rule 1325: Federal $PM_{2.5}$ New Source Review Program for compliance with: *(1)* The CAA requirements for SIPs in general as set forth in CAA section 110(a)(2); *(2)* the requirements related to SIP revisions in CAA sections 110(l)[7] and 193; *(3)* the requirements for stationary source preconstruction permitting programs in CAA section 173(a) through (c) of subpart 1 and section 189 of subpart 4; *(4)* requirements related to the review and modification of major sources in 40 CFR part 51.165.

*C. Does the rule meet the evaluation criteria?*

With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart V. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, a public hearing or notice of an opportunity for a public hearing on the proposed revisions, and a public comment period of at least 30 days.

Based on our review of the public process documentation included in the December 29, 2014 submittal, we find that SCAQMD has provided sufficient evidence of public notice and opportunity for comment and a public

[1] United Stated Environmental Protection Agency Memorandum from John S. Seitz, Director, Office of Air Quality Planning & Standards, Director to Regional Air Division Directors, ''Interim Implementation of New Source Review Requirements for $PM_{2.5}$,'' October 23, 1997.

[2] United States Environmental Protection Agency Memorandum from Stephen D. Page, Director to Regional Air Division Directors, ''*Implementation of New Source Review Requirements in $PM_{2.5}$ Nonattainment Areas,''* April 5, 2005.

[3] 73 FR 28321 (May 16, 2008).

[4] 73 FR at 28321.

[5] 706 F.3d 428 (D.C. Cir. 2013).

[6] Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) and 2006 $PM_{2.5}$ NAAQS; 79 FR 31566, June 2, 2014.

[7] CAA section 110(l) requires SIP revisions to be subject to reasonable notice and public hearing prior to adoption and submittal by States to EPA and prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

hearing prior to adoption and submittal of these rules to EPA.

For Section 193 of the Act, which was added by the Clean Air Act Amendments of 1990, that provision includes a savings clause providing in pertinent part: ''No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before November 15, 1990, in any area which is a nonattainment area for any air pollutant may be modified after November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.'' Since $PM_{2.5}$ is a new NAAQS, there are no existing $PM_{2.5}$ control requirements that would be subject to the provisions of Section 193 of the CAA. Therefore, for the purposes of our analysis of Rule 1325, we find that Section 193 of the CAA does not apply to this action.

Rule 1325 includes revisions to SCAQMD's NNSR program consistent with CAA sections 173 and 189, and 40 CFR 51.165. Specifically, Rule 1325 includes the $PM_{2.5}$ emission rates that define major source and major modification thresholds, regulation of direct $PM_{2.5}$ and certain $PM_{2.5}$ precursors ($SO_2$ and $NO_X$), and the emissions offset requirements.

CAA subpart 4 includes section 189(e), which requires the control of major stationary sources of $PM_{10}$ precursors (and hence under the court decision, $PM_{2.5}$ precursors) ''except where the Administrator determines that such sources do not contribute significantly to $PM_{10}$ levels which exceed the standard in the area.'' Rule 1325(b)(8) provides a definition of *Precursors* that only includes $SO_2$ and $NO_X$ and excludes VOC and ammonia emissions as precursors to $PM_{2.5.}$ The SCAQMD regulates VOC emissions pursuant to Regulation XIII, requiring federal Lowest Achievable Emission Rate (LAER) controls and offsets at emission thresholds significantly lower than required for a $PM_{2.5}$ precursor. Therefore we are proposing to find that Regulation XIII already satisfies the section 189(e) requirement for VOC and it is not necessary to include VOC as a precursor in Rule 1325. The SCAQMD requires LAER but not offsets for ammonia emissions in Regulations XIII. However, as allowed by CAA section 189(e), the SCAQMD has provided additional information in its staff report and other documents in our docket demonstrating major stationary sources of ammonia emissions do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the South Coast Air Basin. Please refer to our TSD for a detailed discussion of this issue.

With respect to substantive requirements found in CAA sections 173 and 189, and 40 CFR 51.165, we have evaluated SCAQMD Rule 1325 in accordance with the CAA and regulatory requirements that apply to NNSR permit programs under part D of title I of the Act. We find that Rule 1325 satisfies the applicable requirements for a NNSR permit program and would strengthen the applicable SIP. We are therefore proposing a full approval of the submitted rule. Our TSD, which can be found in the docket for this rule, contains a more detailed evaluation and discussion of the approval criteria.

## III. Proposed Action and Public Comment

Pursuant to section 110(k)(3) of the CAA and for the reasons provided above, EPA is proposing to approve SCAQMD Rule 1325. For the reasons stated above and explained further in our TSD, we find that SCAQMD Rule 1325 satisfies the applicable CAA and regulatory requirements for a NNSR permit program under CAA section 110(a)(2)(C) and part D of title I of the Act. Rule 1325 strengthens the SIP by adding $PM_{2.5}$ permit major source requirements.

We will accept comments from the public on this proposed approval for the next 30 days.

## IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference SCAQMD Rule 1325—Federal $PM_{2.5}$ New Source Review Program which is discussed in section I.A. of this preamble. The EPA has made, and will continue to make, this document generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

## V. Statutory and Executive Order Reviews

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

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

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

## List of Subjects in 40 CFR Part 52

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

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

Dated: February 5, 2015.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2015–03058 Filed 2–13–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

**[EPA–R03–OAR–2014–0868; FRL–9923–03–Region 3]**

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation Request and Associated Maintenance Plan for the Pennsylvania Portion of the Philadelphia-Wilmington, PA–NJ–DE Nonattainment Area for the 1997 Annual and 2006 24-Hour Fine Particulate Matter Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the Commonwealth of Pennsylvania's September 5, 2014 request to redesignate to attainment the Pennsylvania portion of the Philadelphia-Wilmington, PA-NJ-DE nonattainment area (hereafter ''the Philadelphia Area'' or ''the Area'') for both the 1997 annual and the 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS or standards). EPA is also proposing to approve as a revision to the Pennsylvania State Implementation Plan (SIP) the associated maintenance plan to show maintenance of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS through 2025 for the Pennsylvania portion of the Area. EPA is also proposing to approve the motor vehicle emissions budgets (MVEBs) included in Pennsylvania's maintenance plan for the Pennsylvania portion of the Area for both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. EPA is also proposing to determine that the Pennsylvania portion of the Philadelphia Area continues to attain both the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. In addition, EPA is proposing to approve the 2007 emissions inventory included in the maintenance plan for the Pennsylvania portion of the Area for the 2006 24-hour $PM_{2.5}$ NAAQS. In this rulemaking action, EPA also addresses the effects of several decisions of the United States Court of Appeals for the District of Columbia (D.C. Circuit Court) and a decision of the United States Supreme Court: (1) The D.C. Circuit Court's August 21, 2012 decision to vacate and remand to EPA the Cross-State Air Pollution Control Rule (CSAPR); (2) the Supreme Court's April 29, 2014 reversal of the vacature of CSAPR, and remand to the D.C. Circuit Court; (3) the D.C. Circuit Court's October 23, 2014 decision to lift the stay of CSAPR; and (4) the D.C. Circuit Court's January 4, 2013 decision to remand to EPA two final rules implementing the 1997 annual $PM_{2.5}$ NAAQS. This rulemaking action to propose approval of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS redesignation request and associated maintenance plan for the Pennsylvania portion of the Philadelphia Area is based on EPA's determination that Pennsylvania has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA) for both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. EPA has taken separate rulemaking actions to approve the redesignation of the New Jersey portion and the Delaware portion of the Philadelphia Area for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. *See* 78 FR 54396, September 4, 2013 (for the New Jersey portion of the Area), and 79 FR 45350, August 5, 2014 (for the Delaware portion of the Area).

**DATES:** Written comments must be received on or before March 19, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0868 by one of the following methods:

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

B. *Email: powers.marilyn@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0868, Marilyn Powers, Acting Associate Director, Office of Air Quality Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

*Instructions:* Direct your comments to Docket ID No. EPA–R03–OAR–2014–0868. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers, (215) 814–2308 or by email at *powers.marilyn@epa.gov* and Rose Quinto, (215) 814–2182 or email at *quinto.rose@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Background
II. EPA's Requirements
  A. Criteria for Redesignation to Attainment
  B. Requirements of a Maintenance Plan
III. Summary of Proposed Actions
IV. Effects of Recent Court Decisions on Proposed Actions
  A. Effect of Court Decisions Regarding EPA's CSAPR
  B. Effect of the D.C. Circuit Court Decision Regarding $PM_{2.5}$ Implementation under Subpart 4 of Part D of Title I of the CAA
V. EPA's Analysis of Pennsylvania's Submittal
  A. Redesignation Request
  B. Maintenance Plan
  C. Motor Vehicle Emissions Budgets

VI. Proposed Actions
VII. Statutory and Executive Order Reviews

## I. Background

The first air quality standards for $PM_{2.5}$ were established on July 16, 1997 (62 FR 38652, July 18, 1997). EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$), based on a three-year average of annual mean $PM_{2.5}$ concentrations (the 1997 annual $PM_{2.5}$ NAAQS). In the same rulemaking action, EPA promulgated a 24-hour standard of 65 $\mu g/m^3$, based on a three-year average of the 98th percentile of 24-hour concentrations.

On January 5, 2005 (70 FR 944, 1014), EPA published air quality area designations for the 1997 $PM_{2.5}$ NAAQS. In that rulemaking action, EPA designated the Philadelphia Area as nonattainment for the 1997 annual $PM_{2.5}$ NAAQS. The Philadelphia Area is comprised of New Castle County in Delaware (the Delaware portion of the Area); Burlington, Camden, and Gloucester Counties in New Jersey (the New Jersey portion of the Area); and Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties in Pennsylvania (the Pennsylvania portion of the Area). *See* 40 CFR 81.308 (Delaware), 40 CFR 81.331 (New Jersey), and 40 CFR 81.339 (Pennsylvania).

On October 17, 2006 (71 FR 61144), EPA retained the annual average standard at 15 $\mu g/m^3$, but revised the 24-hour standard to 35 $\mu g/m^3$, based again on the three-year average of the 98th percentile of 24-hour concentrations (the 2006 24-hour $PM_{2.5}$ NAAQS). On November 13, 2009 (74 FR 58688), EPA published designations for the 2006 24-hour $PM_{2.5}$ NAAQS, which became effective on December 14, 2009. In that rulemaking action, EPA designated the Philadelphia Area as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS. *See* 77 FR 58775 and also *see* 40 CFR 81.308 (Delaware), 40 CFR 81.331 (New Jersey), and 40 CFR 81.339 (Pennsylvania). Today's proposed rulemaking actions address the redesignations to attainment for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS for the Pennsylvania portion of the Philadelphia Area.

On May 16, 2012 (77 FR 28782) and January 7, 2013 (78 FR 882), EPA made determinations that the entire Philadelphia Area had attained the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, respectively. Pursuant to 40 CFR 51.1004(c) and based on these determinations, the requirements for the Philadelphia Area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning SIPs related to the attainment of either the 1997 annual or 2006 24-hour $PM_{2.5}$ NAAQS were, and continue to be, suspended until such time as: The Area is redesignated to attainment for each standard, at which time the requirements no longer apply; or EPA determines that the Area has again violated any of the standards, at which time such plans are required to be submitted. In the May 16, 2012 action, EPA also determined, in accordance with CAA section 179(c), that the Philadelphia Area attained the 1997 annual $PM_{2.5}$ NAAQS by its attainment date of April 5, 2010.

On September 5, 2014, the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), formally submitted a request to redesignate the Pennsylvania portion of the Area from nonattainment to attainment for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. Concurrently, PADEP submitted a combined maintenance plan for the Area as a SIP revision to ensure continued attainment throughout the Area over the next 10 years. The maintenance plan includes the 2017 and 2025 $PM_{2.5}$ and $NO_X$ MVEBs for the Area for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS which EPA is proposing to approve for transportation conformity purposes. On September 5, 2014, PADEP also submitted a 2007 comprehensive emissions inventory for the 2006 24-hour $PM_{2.5}$ NAAQS for $PM_{2.5}$, nitrogen oxides ($NO_X$), sulfur dioxide ($SO_2$), volatile organic compounds (VOCs), and ammonia ($NH_3$). EPA is proposing to approve as a SIP revision the maintenance plan for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is also proposing to approve as a SIP revision the 2007 emissions inventory for the 2006 24-hour $PM_{2.5}$ NAAQS to meet the emissions inventory requirement of section 172(c)(3) of the CAA.

## II. EPA's Requirements

### *A. Criteria for Redesignation to Attainment*

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) EPA determines that the area has attained the applicable NAAQS; (2) EPA has fully approved the applicable implementation plan for the area under section 110(k); (3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing such area has met all requirements applicable to the area under section 110 and part D.

EPA has provided guidance on redesignation in the ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clear Air Act Amendments of 1990,'' (57 FR 13498, April 16, 1992) (the General Preamble) and has provided further guidance on processing redesignation requests in the following documents: (1) ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter the 1992 Calcagni Memorandum); (2) ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and (3) ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

### B. Requirements of a Maintenance Plan

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after approval of a redesignation of an area to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as EPA deems necessary to assure prompt correction of any future $PM_{2.5}$ violations.

The 1992 Calcagni Memorandum provides additional guidance on the content of a maintenance plan. The Memorandum states that a maintenance plan should address the following provisions: (1) An attainment emissions inventory; (2) a maintenance demonstration showing maintenance for

10 years; (3) a commitment to maintain the existing monitoring network; (4) verification of continued attainment; and (5) a contingency plan to prevent or correct future violations of the NAAQS.

## III. Summary of Proposed Actions

EPA is proposing to take several rulemaking actions related to the redesignation of the Pennsylvania portion of the Philadelphia Area to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is proposing to find that the Pennsylvania portion of the Area meets the requirements for redesignation of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve Pennsylvania's request to change the legal designation of the Pennsylvania portion of the Area from nonattainment to attainment for both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. This rulemaking action does not impact the legal designation of the New Jersey and Delaware portions of the Philadelphia Area. On September 4, 2013 (78 FR 54396) and August 5, 2014 (79 FR 45350), EPA took separate rulemaking actions to redesignate to attainment the New Jersey portion of the Area and the Delaware portion of the Area, respectively, for both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

EPA is also proposing to approve the associated maintenance plan for the Pennsylvania portion of the Area as a revision to the Pennsylvania SIP for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, including the MVEBs for the Pennsylvania portion of the Area for both the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. The approval of the maintenance plan is one of the CAA criteria for redesignation of the Pennsylvania portion of the Area to attainment for both NAAQS. Pennsylvania's combined maintenance plan is designed to ensure continued attainment of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, respectively, in the Pennsylvania portion of the Area for 10 years after redesignation.

EPA previously determined that the Philadelphia Area attained both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS (*see* 77 FR 28782 and 78 FR 882), and EPA is proposing to find that the Area continues to attain both NAAQS. Furthermore, under section 172(c)(3) of the CAA, EPA is proposing to approve the 2007 comprehensive emissions inventory submitted by PADEP for the Pennsylvania portion of the Area as a revision to the Pennsylvania's SIP for the 2006 24-hour $PM_{2.5}$ NAAQS. EPA's analysis of the proposed actions is provided in Section V. of today's proposed rulemaking action.

## IV. Effects of Recent Court Decisions on Proposed Actions

### *A. Effect of Court Decisions Regarding EPA's CSAPR*

#### 1. Background

The D.C. Circuit Court and the Supreme Court have issued a number of decisions and orders regarding the status of EPA's regional trading programs for transported air pollution, the Clean Air Interstate Rule (CAIR) and CSAPR, that impact this proposed redesignation action. In 2008, the D.C. Circuit Court initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit Court's remand, EPA promulgated CSAPR, to address interstate transport of emissions and resulting secondary air pollutants and to replace CAIR.[1] CSAPR requires substantial reductions of $SO_2$ and $NO_X$ emissions from electric generating units (EGUs) in 28 states in the Eastern United States. Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR's cap-and-trade programs would have superseded the CAIR cap-and-trade programs. Numerous parties filed petitions for review of CSAPR, and on December 30, 2011, the D.C. Circuit Court issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Dec. 30, 2011), Order at 2. On August 21, 2012, the D.C. Circuit Court issued its ruling, vacating and remanding CSAPR to EPA and once again ordering continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit Court subsequently denied EPA's petition for rehearing en banc. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302, 2013 WL 656247 (D.C. Cir. Jan. 24, 2013), at *1. EPA and other parties then petitioned the Supreme Court for a writ of certiorari, and the Supreme Court granted the petitions on June 24, 2013. *EPA* v. *EME Homer City Generation, L.P.,* 133 S. Ct. 2857 (2013).

On April 29, 2014, the Supreme Court vacated and reversed the D.C. Circuit Court's decision regarding CSAPR, and remanded that decision to the D.C. Circuit Court to resolve remaining issues in accordance with its ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). EPA moved to have the stay of CSAPR lifted by the D.C. Circuit Court in light of the Supreme Court decision. *EME Homer City Generation, L.P.* v. *EPA,* Case No. 11–1302, Document No. 1499505 (D.C. Cir. filed June 26, 2014). In its motion, EPA asked the D.C. Circuit Court to toll CSAPR's compliance deadlines by three years, so that the Phase 1 emissions budgets apply in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit Court granted EPA's motion and lifted the stay of CSAPR which was imposed on December 30, 2011. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Oct. 23, 2014), Order at 3. On December 3, 2014, EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit Court's order granting EPA's motion requesting lifting the stay and tolling the rule's deadlines. *See* 79 FR 71663 (December 3, 2014) (interim final rulemaking). Consistent with that rule, EPA began implementing CSAPR on January 1, 2015.

#### 2. Proposal on This Issue

Because CAIR was promulgated in 2005 and incentivized sources and states to begin achieving early emission reductions, the air quality data examined by EPA in issuing a final determination of attainment for the Pennsylvania portion of the Area in 2012 (May 16, 2012, 77 FR 28782) and the air quality data from the Area since 2005 necessarily reflect reductions in emissions from upwind sources as a result of CAIR, and Pennsylvania included CAIR as one of the measures that helped to bring the Area into attainment. However, modeling conducted by EPA during the CSAPR rulemaking process, which used a baseline emissions scenario that ''backed out'' the effects of CAIR, *see* 76 FR 48223, projected that the counties in the Philadelphia Area would have design values below the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS for 2012 and 2014 without taking into account emission reductions from CAIR or CSAPR. *See* Appendix B of EPA's ''Air Quality Modeling Final Rule Technical Support Document,'' (Pages

[1] CAIR addressed the 1997 annual $PM_{2.5}$ NAAQS and the 1997 8-hour ozone NAAQS. CSAPR addresses contributions from upwind states to downwind nonattainment and maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS as well as the ozone and $PM_{2.5}$ NAAQS addressed by CAIR.

B–37, B–51, B–57, B–58, B–66, B–80, B–86), which is available in the docket for this proposed rulemaking action. In addition, the 2010–2012 quality-assured, quality-controlled, and certified monitoring data for the Philadelphia Area confirms that the $PM_{2.5}$ annual design value for the Area remained well below the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS in 2012.

The status of CSAPR is not relevant to this redesignation. CSAPR was promulgated in June 2011, and the rule was stayed by the D.C. Circuit Court just six months later, before the trading programs it created were scheduled to go into effect. As stated previously, EPA began implementing CSAPR on January 1, 2015, subsequent to the emission reductions documented in the Commonwealth's September 2014 request for redesignation. Therefore, the Philadelphia Area's attainment of the 1997 annual $PM_{2.5}$ NAAQS or the 2006 24-hour $PM_{2.5}$ NAAQS cannot have been a result of any emission reductions associated with CSAPR. In summary, neither the status of CAIR nor the current status of CSAPR affects any of the criteria for proposed approval of this redesignation request for the Pennsylvania portion of the Area.

*B. Effect of the D.C. Circuit Court Decision Regarding $PM_{2.5}$ Implementation Under Subpart 4 of Part D of Title I of the CAA*

1. Background

On January 4, 2013, in *NRDC* v. *EPA,* the D.C. Circuit Court remanded to EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for $PM_{2.5}$'' final rule (73 FR 28321, May 16, 2008) (collectively, 1997 $PM_{2.5}$ Implementation Rule). 706 F.3d 428 (D.C. Cir. 2013). The D.C. Circuit Court found that EPA erred in implementing the 1997 annual $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of part D of Title I of the CAA (subpart 1), rather than the particulate-matter-specific provisions of subpart 4 of part D of Title I (subpart 4). Prior to the January 4, 2013 decision, the states had worked towards meeting the air quality goals of the 1997 and 2006 $PM_{2.5}$ NAAQS in accordance with EPA regulations and guidance derived from subpart 1 of part D of Title I of the CAA. In response to the D.C. Circuit Court's remand, EPA took this history into account by setting a new deadline for any remaining submissions that may be required for moderate nonattainment areas as a result of the D.C. Circuit Court's decision regarding the applicability of subpart 4 of part D of Title I of the CAA.

On June 2, 2014 (79 FR 31566), EPA issued a final rule, ''Identification of Nonattainment Classification and Deadlines for Submission of SIP Provisions for the 1997 and 2006 $PM_{2.5}$ NAAQS'' (the $PM_{2.5}$ Subpart 4 Classification and Deadline Rule), which identifies the classification under subpart 4 for areas currently designated nonattainment for the 1997 annual and/or 2006 24-hour $PM_{2.5}$ NAAQS. The rule set a deadline for states to submit attainment plans and meet other subpart 4 requirements. The rule specified December 31, 2014 as the deadline for states to submit any additional attainment-related SIP elements that may be needed to meet the applicable requirements of subpart 4 for areas currently designated nonattainment for the 1997 $PM_{2.5}$ and/or 2006 $PM_{2.5}$ NAAQS and to submit SIPs addressing the nonattainment new source review (NSR) requirements in subpart 4.

As explained in detail in the following section, since Pennsylvania submitted its request to redesignate the Pennsylvania portion of the Philadelphia Area on September 5, 2014, any additional attainment-related SIP elements that may be needed for the Pennsylvania portion of the Area to meet the applicable requirements of subpart 4 were not due at the time Pennsylvania submitted its request to redesignate the Pennsylvania portion of the Area for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

2. Proposal on This Issue

In this proposed rulemaking action, EPA addresses the effect of the D.C. Circuit Court's January 4, 2013 ruling and the June 2, 2014 $PM_{2.5}$ Subpart 4 Classification and Deadline Rule on the redesignation requests for the Area. EPA is proposing to determine that the D.C. Circuit Court's January 4, 2013 decision does not prevent EPA from redesignating the Area to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Even in light of the D.C. Circuit Court's decision, redesignation for this Area is appropriate under the CAA and EPA's longstanding interpretations of the CAA's provisions regarding redesignation. EPA first explains its longstanding interpretation that requirements that are imposed, or that become due, after a complete redesignation request is submitted for an area that is attaining the standard, are not applicable for purposes of evaluating a redesignation request. Second, EPA then shows that, even if EPA applies the subpart 4 requirements to the redesignation requests of the Area and disregards the provisions of its 1997 $PM_{2.5}$ Implementation Rule recently remanded by the D.C. Circuit Court, Pennsylvania's request for redesignation of the Area still qualifies for approval. EPA's discussion takes into account the effect of the D.C. Circuit Court's ruling and the June 2, 2014 $PM_{2.5}$ Subpart 4 Classification and Deadline Rule on the maintenance plans of the Area, which EPA views as approvable when subpart 4 requirements are considered.

a. Applicable Requirements Under Subpart 4 for Purposes of Evaluating the Redesignation Request of the Area

With respect to the 1997 $PM_{2.5}$ Implementation Rule, the D.C. Circuit Court's January 4, 2013 ruling rejected EPA's reasons for implementing the $PM_{2.5}$ NAAQS solely in accordance with the provisions of subpart 1, and remanded that matter to EPA, so that it could address implementation of the $PM_{2.5}$ NAAQS under subpart 4 of Part D of the CAA, in addition to subpart 1. For the purposes of evaluating Pennsylvania's September 2014 redesignation request for the Area, to the extent that implementation under subpart 4 would impose additional requirements for areas designated nonattainment, EPA believes that those requirements are not ''applicable'' for the purposes of section 107(d)(3)(E) of the CAA, and thus EPA is not required to consider subpart 4 requirements with respect to the redesignation of the areas. Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are ''applicable'' and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* 1992 Calcagni Memorandum. *See also* ''SIP Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) NAAQS on or after November 15, 1992,'' Memorandum from Michael Shapiro, Acting Assistant Administrator, Air and Radiation, September 17, 1993 (Shapiro memorandum); Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club* v. *EPA,* 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of

''applicable'' under the statute is ''whatever should have been in the plan at the time of attainment rather than whatever actually was in the plan and already implemented or due at the time of attainment'').[2] In this case, at the time that Pennsylvania submitted its redesignation request for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, the requirements under subpart 4 were not due.

EPA's view that, for purposes of evaluating the redesignation of the Pennsylvania portion of the Area, the subpart 4 requirements were not due at the time Pennsylvania submitted the redesignation request is in keeping with the EPA's interpretation of subpart 2 requirements for subpart 1 ozone areas redesignated subsequent to the D.C. Circuit Court's decision in *South Coast Air Quality Mgmt. Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). In *South Coast,* the D.C. Circuit Court found that EPA was not permitted to implement the 1997 8-hour ozone standard solely under subpart 1, and held that EPA was required under the statute to implement the standard under the ozone-specific requirements of subpart 2 as well. Subsequent to the *South Coast* decision, in evaluating and acting upon redesignation requests for the 1997 8-hour ozone standard that were submitted to EPA for areas under subpart 1, EPA applied its longstanding interpretation of the CAA that ''applicable requirements,'' for purposes of evaluating a redesignation, are those that had been due at the time the redesignation request was submitted. *See, e.g.,* Proposed Redesignation of Manitowoc County and Door County Nonattainment Areas (75 FR 22047, 22050, April 27, 2010). In those rulemaking actions, EPA, therefore did not consider subpart 2 requirements to be ''applicable'' for the purposes of evaluating whether the area should be redesignated under section 107(d)(3)(E) of the CAA.

EPA's interpretation derives from the provisions of section 107(d)(3) of the CAA. Section 107(d)(3)(E)(v) states that, for an area to be redesignated, a state must meet ''all requirements 'applicable' to the area under section 110 and part D.'' Section 107(d)(3)(E)(ii) provides that EPA must have fully approved the ''applicable'' SIP for the area seeking redesignation. These two sections read together support EPA's interpretation of ''applicable'' as only those requirements that came due prior to submission of a complete redesignation request.

First, holding states to an ongoing obligation to adopt new CAA requirements that arose after the state submitted its redesignation request, in order to be redesignated, would make it problematic or impossible for EPA to act on redesignation requests in accordance with the 18-month deadline Congress set for EPA action in section 107(d)(3)(D). If ''applicable requirements'' were interpreted to be a continuing flow of requirements with no reasonable limitation, states, after submitting a redesignation request, would be forced continuously to make additional SIP submissions that in turn would require EPA to undertake further notice-and-comment rulemaking actions to act on those submissions. This would create a regime of unceasing rulemaking that would delay action on the redesignation request beyond the 18-month timeframe provided by the CAA for this purpose.

Second, a fundamental premise for redesignating a nonattainment area to attainment is that the area has attained the relevant NAAQS due to emission reductions from existing controls. Thus, an area for which a redesignation request has been submitted would have already attained the NAAQS as a result of satisfying statutory requirements that came due prior to the submission of the request. Absent a showing that unadopted and unimplemented requirements are necessary for future maintenance, it is reasonable to view the requirements applicable for purposes of evaluating the redesignation request as including only those SIP requirements that have already come due. These are the requirements that led to attainment of the NAAQS. To require, for redesignation approval, that a state also satisfy additional SIP requirements coming due after the state submits its complete redesignation request, and while EPA is reviewing it, would compel the state to do more than is necessary to attain the NAAQS, without a showing that the additional requirements are necessary for maintenance.

In the context of this redesignation, the timing and nature of the D.C. Circuit Court's January 4, 2013 decision in *NRDC* v. *EPA,* and EPA's June 2, 2014 $PM_{2.5}$ Subpart 4 Classification and Deadline Rule compound the consequences of imposing requirements that come due after the redesignation request is submitted. Pennsylvania submitted its redesignation request for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS on September 5, 2014 for the Pennsylvania portion of the Area, which is prior to the deadline by which the Area is required to meet the attainment plan and other requirements pursuant to subpart 4.

To require Pennsylvania's fully-completed and pending redesignation request for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS to comply now with requirements of subpart 4 that the D.C. Circuit Court announced only in January 2013 and for which the December 31, 2014 deadline to comply occurred subsequent to EPA's receipt of Pennsylvania's September 5, 2014 redesignation request, would be to give retroactive effect to such requirements and provide Pennsylvania a unique and earlier deadline for compliance solely on the basis of submitting its redesignation requests for the Area. The D.C. Circuit Court recognized the inequity of this type of retroactive impact in *Sierra Club* v. *Whitman,* 285 F.3d 63 (D.C. Cir. 2002),[3] where it upheld the D.C. Circuit Court's ruling refusing to make retroactive EPA's determination that the areas did not meet their attainment deadlines. In that case, petitioners urged the D.C. Circuit Court to make EPA's nonattainment determination effective as of the date that the statute required, rather than the later date on which EPA actually made the determination. The D.C. Circuit Court rejected this view, stating that applying it ''would likely impose large costs on States, which would face fines and suits for not implementing air pollution prevention plans . . . even though they were not on notice at the time.'' *Id.* at 68. Similarly, it would be unreasonable to penalize Pennsylvania by rejecting its September 2014 redesignation request for an area that EPA previously determined was attaining the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS and that met all applicable requirements known to be in effect at the time of the request. For EPA now to reject the redesignation request solely because Pennsylvania did not expressly address subpart 4 requirements which came due after receipt of such request and for which it had little to no notice, would inflict the same unfairness condemned by the D.C. Circuit Court in *Sierra Club* v. *Whitman.*

[2] Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. *See* section 175A(c) of the CAA.

[3] *Sierra Club* v. *Whitman* was discussed and distinguished in a recent D.C. Circuit Court decision that addressed retroactivity in a quite different context, where, unlike the situation here, EPA sought to give its regulations retroactive effect. *National Petrochemical and Refiners Ass'n* v. *EPA,* 630 F.3d 145, 163 (D.C. Cir. 2010), rehearing denied 643 F.3d 958 (D.C. Cir. 2011), *cert denied* 132 S. Ct. 571 (2011).

b. Subpart 4 Requirements and Pennsylvania's Redesignation Request

Even if EPA were to take the view that the D.C. Circuit Court's January 4, 2013 decision, or the June 2, 2014 $PM_{2.5}$ Subpart 4 Classification and Deadline Rule, requires that, in the context of pending redesignation request for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, which were submitted prior to December 31, 2014, subpart 4 requirements must be considered as being due and in effect, EPA proposes to determine that the Area still qualifies for redesignation to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. As explained subsequently, EPA believes that the redesignation request for the Area, though not expressed in terms of subpart 4 requirements, substantively meets the requirements of that subpart for purposes of redesignating the Area to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS.

With respect to evaluating the relevant substantive requirements of subpart 4 for purposes of redesignating the Area, EPA notes that subpart 4 incorporates components of subpart 1 of part D, which contains general air quality planning requirements for areas designated as nonattainment. *See* section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for coarse particulate matter ($PM_{10}$)[4] nonattainment areas, and under the D.C. Circuit Court's January 4, 2013 decision in *NRDC* v. *EPA,* these same statutory requirements also apply for $PM_{2.5}$ nonattainment areas. EPA has longstanding general guidance that interprets the 1990 amendments to the CAA, making recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas. *See* the General Preamble. In the General Preamble, EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific $PM_{10}$ requirements'' (57 FR 13538, April 16, 1992). The subpart 1 requirements include, among other things, provisions for attainment demonstrations, RACM, RFP, emissions inventories, and contingency measures.

For the purposes of this redesignation request, in order to identify any additional requirements which would apply under subpart 4, consistent with EPA's June 2, 2014 $PM_{2.5}$ Subpart 4 Classification and Deadline Rule, EPA is considering the areas to be ''moderate'' $PM_{2.5}$ nonattainment areas. As EPA explained in its June 2, 2014 rule, section 188 of the CAA provides that all areas designated nonattainment areas under subpart 4 are initially classified by operation of law as ''moderate'' nonattainment areas, and remain moderate nonattainment areas unless and until EPA reclassifies the area as a ''serious'' nonattainment area. Accordingly, EPA believes that it is appropriate to limit the evaluation of the potential impact of subpart 4 requirements to those that would be applicable to moderate nonattainment areas. Sections 189(a) and (c) of subpart 4 apply to moderate nonattainment areas and include the following: (1) An approved permit program for construction of new and modified major stationary sources (section 189(a)(1)(A)); (2) an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); and (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)).

The permit requirements of subpart 4, as contained in section 189(a)(1)(A), refer to and apply the subpart 1 permit provisions requirements of sections 172 and 173 to $PM_{10}$, without adding to them. Consequently, EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in subpart 1.[5] In any event, in the context of redesignation, EPA has long relied on the interpretation that a fully approved nonattainment NSR program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a prevention of significant deterioration (PSD) program after redesignation. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D NSR Requirements for Areas Requesting Redesignation to Attainment.'' *See also* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). With respect to the specific attainment planning requirements under subpart 4,[6] when EPA evaluates a redesignation request under either subpart 1 or 4, any area that is attaining the $PM_{2.5}$ NAAQS is viewed as having satisfied the attainment planning requirements for these subparts. For redesignations, EPA has for many years interpreted attainment-linked requirements as not applicable for areas attaining the standard. In the General Preamble, EPA stated that: ''The requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point.''

The General Preamble also explained that: ''[t]he section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans . . . provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas.'' *Id.* EPA similarly stated in its 1992 Calcagni Memorandum that, ''The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.''

It is evident that even if we were to consider the D.C. Circuit Court's January 4, 2013 decision in *NRDC* v. *EPA,* or the June 2, 2014 $PM_{2.5}$ Subpart 4 Classification and Deadline Rule, to mean that attainment-related requirements specific to subpart 4 were either due prior to Pennsylvania's September 2014 redesignation request or became due subsequent to the September 2014 redesignation request and must now be imposed retroactively[7], those requirements do not apply to areas that are attaining the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, for the purpose of evaluating a pending request to redesignate the areas to attainment. EPA has consistently enunciated this interpretation of applicable requirements under section 107(d)(3)(E) since the General Preamble was published more than twenty years

[4] $PM_{10}$ refers to particulates nominally 10 micrometers in diameter or smaller.

[5] The potential effect of section 189(e) on section 189(a)(1)(A) for purposes of evaluating this redesignation is discussed in this rulemaking action.

[6] EPA refers to attainment demonstration, RFP, RACM, milestone requirements, and contingency measures.

[7] As EPA has explained above, we do not believe that the D.C. Circuit Court's January 4, 2013 decision should be interpreted so as to impose these requirements on the states retroactively. *Sierra Club* v. *Whitman, supra.*

ago. Courts have recognized the scope of EPA's authority to interpret ''applicable requirements'' in the redesignation context. *See Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004).

Moreover, even outside the context of redesignations, EPA has viewed the obligations to submit attainment-related SIP planning requirements of subpart 4 as inapplicable for areas that EPA determines are attaining the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. EPA's prior ''Clean Data Policy'' rulemakings for the $PM_{10}$ NAAQS, also governed by the requirements of subpart 4, explain EPA's reasoning. They describe the effects of a determination of attainment on the attainment-related SIP planning requirements of subpart 4. *See* ''Determination of Attainment for Coso Junction Nonattainment Area,'' (75 FR 27944, May 19, 2010). *See also* Coso Junction Proposed $PM_{10}$ Redesignation, (75 FR 36023, 36027, June 24, 2010); Proposed and Final Determinations of Attainment for San Joaquin Nonattainment Area (71 FR 40952, 40954–55, July 19, 2006; and 71 FR 63641, 63643–47, October 30, 2006). In short, EPA in this context has also long concluded that to require states to meet superfluous SIP planning requirements is not necessary and not required by the CAA, so long as those areas continue to attain the relevant NAAQS.

As stated previously in this proposed rulemaking, on May 16, 2012 (77 FR 28782) and January 7, 2013 (78 FR 882), EPA made determinations that the entire Philadelphia Area had attained the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, respectively. Pursuant to 40 CFR 51.1004(c) and based on these determinations, the requirements for the Philadelphia Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning SIPs related to the attainment of either the 1997 annual or 2006 24-hour $PM_{2.5}$ NAAQS were, and continue to be, suspended until such time as: The Area is redesignated to attainment for each standard, at which time the requirements no longer apply; or EPA determines that the Area has again violated any of the standards, at which time such plans are required to be submitted. Under its longstanding interpretation, EPA is proposing to determine here that the Area meets the attainment-related plan requirements of subparts 1 and 4 for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Thus, EPA is proposing to conclude that the requirements to submit an attainment demonstration under 189(a)(1)(B), a RACM determination under section 172(c)(1) and section 189(a)(1)(c), a RFP demonstration under 189(c)(1), and contingency measure requirements under section 172(c)(9) are satisfied for purposes of evaluating this redesignation request.

c. Subpart 4 and Control of $PM_{2.5}$ Precursors

The D.C. Circuit Court in *NRDC* v. *EPA* remanded to EPA the two rules at issue in the case with instructions to EPA to re-promulgate them consistent with the requirements of subpart 4. EPA in this section addresses the D.C. Circuit Court's opinion with respect to $PM_{2.5}$ precursors. While past implementation of subpart 4 for $PM_{10}$ has allowed for control of $PM_{10}$ precursors, such as $NO_X$ from major stationary, mobile, and area sources in order to attain the standard as expeditiously as practicable, section 189(e) of the CAA specifically provides that control requirements for major stationary sources of direct $PM_{10}$ shall also apply to $PM_{10}$ precursors from those sources, except where EPA determines that major stationary sources of such precursors ''do not contribute significantly to $PM_{10}$ levels which exceed the standard in the area.''

EPA's 1997 $PM_{2.5}$ Implementation Rule, remanded by the D.C. Circuit Court, contained rebuttable presumptions concerning certain $PM_{2.5}$ precursors applicable to attainment plans and control measures related to those plans. Specifically, in 40 CFR 51.1002, EPA provided, among other things, that a state was ''not required to address VOC [and $NH_3$] as . . . $PM_{2.5}$ attainment plan precursor[s] and to evaluate sources of VOC [and $NH_3$] emissions in the State for control measures.'' EPA intended these to be rebuttable presumptions. EPA established these presumptions at the time because of uncertainties regarding the emission inventories for these pollutants and the effectiveness of specific control measures in various regions of the country in reducing $PM_{2.5}$ concentrations. EPA also left open the possibility for such regulation of VOC and $NH_3$ in specific areas where that was necessary.

The D.C. Circuit Court in its January 4, 2013 decision made reference to both section 189(e) and 40 CFR 51.1002, and stated that, ''In light of our disposition, we need not address the petitioners' challenge to the presumptions in [40 CFR 51.1002] that VOCs and $NH_3$ are not $PM_{2.5}$ precursors, as subpart 4 expressly governs precursor presumptions.'' *NRDC* v. *EPA,* at 27, n.10.

Elsewhere in the D.C. Circuit Court's opinion, however, the D.C. Circuit Court observed: ''$NH_3$ is a precursor to fine particulate matter, making it a precursor to both $PM_{2.5}$ and $PM_{10}$. For a $PM_{10}$ nonattainment area governed by subpart 4, a precursor is presumptively regulated. *See* 42 U.S.C. 7513a(e) [section 189(e)].'' *Id.* at 21, n.7.

For a number of reasons, the redesignation of the Pennsylvania portion of the Area for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS is consistent with the D.C. Circuit Court's decision on this aspect of subpart 4. While the D.C. Circuit Court, citing section 189(e), stated that ''for a $PM_{10}$ area governed by subpart 4, a precursor is 'presumptively' regulated,'' the D.C. Circuit Court expressly declined to decide the specific challenge to EPA's 1997 $PM_{2.5}$ Implementation Rule provisions regarding $NH_3$ and VOC as precursors. The D.C. Circuit Court had no occasion to reach whether and how it was substantively necessary to regulate any specific precursor in a particular $PM_{2.5}$ nonattainment area, and did not address what might be necessary for purposes of acting upon a redesignation request.

However, even if EPA takes the view that the requirements of subpart 4 were deemed applicable at the time the state submitted the redesignation request, and disregards the 1997 $PM_{2.5}$ Implementation Rule's rebuttable presumptions regarding $NH_3$ and VOC as $PM_{2.5}$ precursors, the regulatory consequence would be to consider the need for regulation of all precursors from any sources in the Area to demonstrate attainment and to apply the section 189(e) provisions to major stationary sources of precursors. In the case of the Pennsylvania portion of the Area, EPA believes that doing so is consistent with proposing redesignation of the Pennsylvania portion of the Area for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. The Pennsylvania portion of the Area has attained the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS without any specific additional controls of $NH_3$ and VOC emissions from any sources in the Pennsylvania portion of the Area.

Precursors in subpart 4 are specifically regulated under the provisions of section 189(e), which requires, with important exceptions, control requirements for major stationary sources of $PM_{10}$ precursors.[8] Under subpart 1 and EPA's prior implementation rule, all major

[8] Under either subpart 1 or subpart 4, for purposes of demonstrating attainment as expeditiously as practicable, a state is required to evaluate all economically and technologically feasible control measures for direct PM emissions and precursor emissions, and adopt those measures that are deemed reasonably available.

stationary sources of $PM_{2.5}$ precursors were subject to regulation, with the exception of $NH_3$ and VOC. Thus, EPA must address here whether additional controls of $NH_3$ and VOC from major stationary sources are required under section 189(e) of subpart 4 in order to redesignate the Pennsylvania portion of the Area for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. As explained subsequently, EPA does not believe that any additional controls of $NH_3$ and VOC are required in the context of this redesignation.

In the General Preamble, EPA discusses its approach to implementing section 189(e). *See* 57 FR 13538–13542. With regard to precursor regulation under section 189(e), the General Preamble explicitly stated that control of VOC under other CAA requirements may suffice to relieve a state from the need to adopt precursor controls under section 189(e). *See* 57 FR 13542. EPA in this rulemaking action, proposes to determine that the Pennsylvania SIP revision has met the provisions of section 189(e) with respect to $NH_3$ and VOC as precursors. These proposed determinations are based on EPA's findings that: (1) The Pennsylvania portion of the Area contains no major stationary sources of $NH_3$; and (2) existing major stationary sources of VOC are adequately controlled under other provisions of the CAA regulating the ozone NAAQS.[9] In the alternative, EPA proposes to determine that, under the express exception provisions of section 189(e), and in the context of the redesignation of the Area, which is attaining the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, at present $NH_3$ and VOC precursors from major stationary sources do not contribute significantly to levels exceeding the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS in the Area. *See* 57 FR 13539–42.

EPA notes that its 1997 $PM_{2.5}$ Implementation Rule provisions in 40 CFR 51.1002 were not directed at evaluation of $PM_{2.5}$ precursors in the context of redesignation, but at SIP plans and control measures required to bring a nonattainment area into attainment of the 1997 annual $PM_{2.5}$ NAAQS. By contrast, redesignation to attainment primarily requires the nonattainment area to have already attained due to permanent and enforceable emission reductions, and to demonstrate that controls in place can continue to maintain the standard. Thus, even if we regard the D.C. Circuit Court's January 4, 2013 decision as calling for ''presumptive regulation'' of $NH_3$ and VOC for $PM_{2.5}$ under the attainment planning provisions of subpart 4, those provisions in and of themselves do not require additional controls of these precursors for an area that already qualifies for redesignation. Nor does EPA believe that requiring Pennsylvania to address precursors differently than it has already would result in a substantively different outcome.

Although, as EPA has emphasized, its consideration here of precursor requirements under subpart 4 is in the context of a redesignation to attainment, EPA's existing interpretation of subpart 4 requirements with respect to precursors in attainment plans for $PM_{10}$ contemplates that states may develop attainment plans that regulate only those precursors that are necessary for purposes of attainment in the area in question, *i.e.,* states may determine that only certain precursors need be regulated for attainment and control purposes.[10] Courts have upheld this approach to the requirements of subpart 4 for $PM_{10}$.[11] EPA believes that application of this approach to $PM_{2.5}$ precursors under subpart 4 is reasonable. Because the Area has already attained the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS with its current approach to regulation of $PM_{2.5}$ precursors, EPA believes that it is reasonable to conclude in the context of these redesignations that there is no need to revisit the attainment control strategy with respect to the treatment of precursors. Even if the D.C. Circuit Court's decision is construed to impose an obligation, in evaluating this redesignation request, to consider additional precursors under subpart 4, it would not affect EPA's approval here of Pennsylvania's request for redesignation of the Pennsylvania portion of the Area for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. In the context of a redesignation, Pennsylvania has shown that the Area has attained the standards. Moreover, Pennsylvania has shown and EPA has proposed to determine that attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS in this Area is due to permanent and enforceable emission reductions on all precursors necessary to provide for continued attainment of the standards. *See* Section V.A.3 of this rulemaking. It follows logically that no further control of additional precursors is necessary. Accordingly, EPA does not view the January 4, 2013 decision of the D.C. Circuit Court as precluding redesignation of the Area to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS at this time.

In summary, even if, prior to submitting its September 2014 redesignation request submittal or subsequent to such submission and prior to December 31, 2014, Pennsylvania was required to address precursors for the Pennsylvania portion of the Area under subpart 4 rather than under subpart 1, as interpreted in EPA's remanded 1997 $PM_{2.5}$ Implementation Rule, EPA would still conclude that the Pennsylvania portion of the Area had met all applicable requirements for purposes of redesignation in accordance with section 107(d)(3(E)(ii) and (v) of the CAA.

## V. EPA's Analysis of Pennsylvania's Submittal

EPA is proposing several rulemaking actions for the Pennsylvania portion of the Area: (1) To redesignate the Pennsylvania portion of the Area to attainment for both the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS; and (2) to approve into the Pennsylvania SIP the associated maintenance plan for both the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is also proposing in this rulemaking action to approve the 2007 comprehensive emissions inventory to satisfy section 172(c)(3) requirement for the 2006 24-hour $PM_{2.5}$ NAAQS, which is one of the criteria for redesignation. EPA's proposed approval of the redesignation request and maintenance plan for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS are based upon EPA's determination that the Area continues to attain both standards, which EPA is proposing in this rulemaking action, and that all other redesignation criteria have been met for the Pennsylvania portion of the Area. The following is a description of how Pennsylvania's September 5, 2014 submittal satisfies the requirements of the CAA including specifically section 107(d)(3)(E) for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

### *A. Redesignation Request*

#### 1. Attainment

As discussed previously in this proposed rulemaking action, in a final

[9] The Areas have reduced VOC emissions through the implementation of various control programs including VOC Reasonably Available Control Technology (RACT) regulations and various on-road and non-road motor vehicle control programs.

[10] *See, e.g.,* ''Approval and Promulgation of Implementation Plans for California—San Joaquin Valley $PM_{10}$ Nonattainment Area; Serious Area Plan for Nonattainment of the 24-Hour and Annual $PM_{10}$ Standards,'' (69 FR 30006, May 26, 2004) (approving a $PM_{10}$ attainment plan that impose controls on direct $PM_{10}$ and $NO_X$ emissions and did not impose controls on $SO_2$, VOC, or $NH_3$ emissions).

[11] *See, e.g., Assoc. of Irritated Residents* v. *EPA et al.,* 423 F.3d 989 (9th Cir. 2005).

rulemaking action dated May 16, 2012 (77 FR 28782), EPA determined that the entire Philadelphia Area attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date, based upon quality-assured and certified ambient air quality monitoring data for the period of 2007–2009, and continued to attain that standard based upon quality-assured and certified ambient air quality monitoring data for the period of 2008–2010. In a separate rulemaking action dated January 7, 2013 (78 FR 882), EPA determined that the Philadelphia Area attained the 2006 24-hour $PM_{2.5}$ NAAQS, based on quality-assured and certified ambient air quality monitoring data for 2008–2010 and 2009–2011. The basis and effect of these determinations of attainment for both the 1997 and 2006 $PM_{2.5}$ NAAQS were discussed in the notices of the proposed (77 FR 3147 and 77 FR 60089, respectively) and final (77 FR 28782 and 78 FR 882, respectively) rulemakings.

EPA has reviewed the ambient air quality $PM_{2.5}$ monitoring data in the Philadelphia Area, consistent with the requirements contained in 40 CFR part 50, and recorded in EPA's Air Quality System (AQS), including quality-assured, quality-controlled, and state-certified data for the monitoring periods 2009–2011, 2010–2012, 2011–2013, and preliminary data for 2012–2014. The air quality data, included in the docket for this proposed rulemaking action, show that the Philadelphia Area continues to attain both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. The Area's annual and 24-hour $PM_{2.5}$ design values[12] are provided in Tables 1 and 2, respectively.

TABLE 1—PHILADELPHIA AREA'S ANNUAL DESIGN VALUES FOR THE 1997 ANNUAL $PM_{2.5}$ STANDARD FOR THE 2009–2013 MONITORING PERIODS, IN μg/m$^3$

| State | County | Annual design values | | | |
|---|---|---|---|---|---|
| | | 2009–2011 | 2010–2012 | 2011–2013 | Preliminary 2012–2014 |
| Delaware | New Castle | 10.7 | 10.4 | 10.0 | 9.9 |
| New Jersey | Camden | 9.7 | 9.7 | 10.1 | 10.5 |
| | Burlington | No monitor | | | |
| | Gloucester | 9.3 | 9.3 | 9.3 | 9.4 |
| Pennsylvania | Bucks | 10.9 | 10.9 | 10.8 | 10.6 |
| | Chester | 13.7 | 12.3 | 11.1 | 9.9 |
| | Delaware | 12.9 | 13.1 | 12.4 | 12.3 |
| | Montgomery | 10.1 | 9.8 | 9.8 | 9.3 |
| | Philadelphia | 11.4 | 11.0 | 11.1 | 12.4 |
| Area's Annual Design Value | | 13.7 | 13.1 | 12.4 | 12.4 |

**Source:** AQS Design Value Report dated December 12, 2014.

TABLE 2— PHILADELPHIA AREA'S 24-HOUR DESIGN VALUES FOR THE 2006 24-HOUR $PM_{2.5}$ STANDARD FOR THE 2009–2013 MONITORING PERIODS, IN μg/m$^3$

| State | County | 24-Hour design values | | | |
|---|---|---|---|---|---|
| | | 2009–2011 | 2010–2012 | 2011–2013 | Preliminary 2012–2014 |
| Delaware | New Castle | 27 | 26 | 25 | 25 |
| New Jersey | Camden | 24 | 23 | 25 | 26 |
| | Burlington | No monitor | | | |
| | Gloucester | 22 | 22 | 23 | 24 |
| Pennsylvania | Bucks | 28 | 29 | 30 | 30 |
| | Chester | 33 | 31 | 28 | 26 |
| | Delaware | 30 | 31 | 29 | 30 |
| | Montgomery | 27 | 25 | 26 | 25 |
| | Philadelphia | 34 | 29 | 28 | 30 |
| Area's Annual Design Value | | 34 | 31 | 30 | 30 |

**Source:** AQS Design Value Report dated December 12, 2014.

EPA's review of the monitoring data from 2009 through 2013 supports EPA's previous determinations that the Area has attained the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, and that the Area continues to attain both standards. Preliminary 2014 data, currently uncertified, is consistent with a finding that the Area is expected to continue to attain both standards. States are required to certify 2014 data by May 1, 2015. In addition, as discussed subsequently, with respect to the maintenance plan, Pennsylvania has committed to continue monitoring ambient $PM_{2.5}$ concentrations in accordance with 40 CFR part 58. Thus, based upon an analysis of currently

[12] As defined in 40 CFR part 50, Appendix N, section (1)(c).

available data, EPA is proposing to determine that the Philadelphia Area continues to attain the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

2. The Area Has Met All Applicable Requirements Under Section 110 and Subpart 1 of the CAA and Has a Fully Approved SIP Under Section 110(k)

In accordance with section 107(d)(3)(E)(v), the SIP revision for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS for the Pennsylvania portion of the Philadelphia Area must be fully approved under section 110(k) and all the requirements applicable to the Pennsylvania portion of the Area under section 110 of the CAA (general SIP requirements) and part D of Title I of the CAA (SIP requirements for nonattainment areas) must be met.

a. Section 110 General SIP Requirements

Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in section 110(a)(2) include, but are not limited to the following:

- Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing;
- Provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality;
- Implementation of a minor source permit program; provisions for the implementation of Part C requirements (PSD);
- Provisions for the implementation of Part D requirements for NSR permit programs;
- Provisions for air pollution modeling; and
- Provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision for various NAAQS, EPA has required certain states to establish programs to address transport of air pollutants in accordance with EPA's Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone (63 FR 57356, October 27, 1998), also known as the $NO_X$ (oxides of nitrogen) SIP Call; amendments to the $NO_X$ SIP Call (64 FR 26298, May 14, 1999 and 65 FR 11222, March 2, 2000), and CAIR (70 FR 25162, May 12, 2005), and CSAPR. However, section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that these requirements are applicable requirements for purposes of redesignation.

In addition, EPA believes that the other section 110(a)(2) elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Pennsylvania portion of the Philadelphia Area will still be subject to these requirements after it is redesignated. EPA concludes that the section 110(a)(2) and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request, and that section 110(a)(2) elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. This approach is consistent with EPA's existing policy on applicability of conformity (*i.e.,* for redesignations) and oxygenated fuels requirement. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). *See* also, the discussion on this issue in the Cincinnati, Ohio redesignation (65 FR at 37890, June 19, 2000), and in the Pittsburgh-Beaver Valley, Pennsylvania redesignation (66 FR at 53099, October 19, 2001).

EPA has reviewed the Pennsylvania SIP and has concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for purposes of redesignation. EPA has previously approved provisions of Pennsylvania's SIP addressing section 110(a)(2) requirements, including provisions addressing $PM_{2.5}$. *See* 77 FR 58955 (September 25, 2012). These requirements are, however, statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Philadelphia Area. Therefore, EPA believes that these SIP elements are not applicable requirements for purposes of review of the Commonwealth's $PM_{2.5}$ redesignation request.

b. Subpart 1 Requirements

Subpart 1 sets forth the basic nonattainment plan requirements applicable to $PM_{2.5}$ nonattainment areas. Under section 172, states with nonattainment areas must submit plans providing for timely attainment and must meet a variety of other requirements.

The General Preamble for Implementation of Title I discusses the evaluation of these requirements in the context of EPA's consideration of a redesignation request. The General Preamble sets forth EPA's view of applicable requirements for purposes of evaluating redesignation requests when an area is attaining the standard. *See* 57 FR 13498, April 16, 1992.

As mentioned previously, on May 16, 2012 (77 FR 28782), EPA made a determination that the Philadelphia Area had attained the 1997 annual $PM_{2.5}$ NAAQS. This determination of attainment was based upon quality-assured and certified ambient air quality monitoring data for the period of 2007–2009 showing that the entire Area had attained the standard by its applicable attainment date, and 2008–2010 data showing that the Area continued to attain the standard. In a separate rulemaking action, dated January 7, 2013 (78 FR 882), EPA made a determination of attainment for the Philadelphia Area for the 2006 24-hour $PM_{2.5}$ NAAQS, based on quality-assured and certified ambient air quality monitoring data for the 2008–2010 and 2009–2011 monitoring periods.

Pursuant to 40 CFR 51.2004(c), upon these determinations by EPA that the Area has attained the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, the requirement for Pennsylvania to submit for the Pennsylvania portion of the Area an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning SIPs related to the attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS were suspended until the Pennsylvania portion of the Area is redesignated to attainment for each standard or EPA determines that the Area has again violated either of the standards, at which time such plans are required to be submitted. Thus, because

attainment has been reached for the Area for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS and the Area continues to attain both standards, no additional measures are needed to provide for attainment. Therefore, the requirements of sections 172(c)(1), 172(c)(2), 172(c)(6), and 172(c)(9) are no longer considered to be applicable for purposes of redesignation of the Area for both standards.

However, determinations of attainment do not preclude states from submitting and EPA from approving planning SIP revisions for the 1997 or 2006 $PM_{2.5}$ NAAQS. On April 12, 2010, as amended on August 2, 2012, PADEP submitted an attainment plan for the Pennsylvania portion of the Philadelphia Area for the 1997 annual $PM_{2.5}$ NAAQS, which included a 2002 comprehensive emissions inventory. On August 28, 2012 (77 FR 51930), EPA approved Pennsylvania's attainment plan for the 1997 $PM_{2.5}$ NAAQS for the Pennsylvania portion of the Philadelphia Area, which included the 2002 emissions inventory, MVEBs for transportation conformity purposes for the five counties in the Pennsylvania portion of the Philadelphia Area, and contingency measures.

Section 172(c)(4) of the CAA requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a nonattainment NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Nevertheless, Pennsylvania currently has an approved NSR program codified in Pennsylvania's regulation at 25 Pa. Code 127.201 *et seq. See* 77 FR 41276 (July 13, 2012) (approving NSR program into the SIP). *See also* 49 FR 33127 (August 21, 1984) (approving Pennsylvania's PSD program). However, Pennsylvania's PSD program for $PM_{2.5}$ will become effective in the Philadelphia Area upon redesignation to attainment.

Section 172(c)(7) of the CAA requires the SIP to meet the applicable provisions of section 110(a)(2). As noted previously, EPA believes the Pennsylvania SIP meets the requirements of section 110(a)(2) that are applicable for purposes of redesignation.

As a result of EPA's determinations of attainment of the Area for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, respectively, the only remaining requirement under section 172 to be considered for the 2006 24-hour $PM_{2.5}$ standard is the comprehensive emissions inventory required under section 172(c)(3). Section 172(c)(3) of the CAA requires submission of a comprehensive, accurate, and current inventory of actual emissions. For purposes of the $PM_{2.5}$ NAAQS, this emissions inventory should address not only direct emissions of $PM_{2.5}$, but also emissions of all precursors with the potential to participate in $PM_{2.5}$ formation, *i.e.,* $SO_2$, $NO_X$, VOC and $NH_3$.

PADEP's April 12, 2010 attainment plan submittal, as amended on August 2, 2012, for the 1997 annual $PM_{2.5}$ NAAQS is relevant to this proposed rulemaking action to redesignate the Pennsylvania portion of the Area only with respect to the comprehensive emissions inventory requirement of section 172(c)(3) for the 1997 annual $PM_{2.5}$ NAAQS. On August 28, 2012 (77 FR 51930), EPA approved the 2002 comprehensive emissions inventory included in the attainment plan for the 1997 annual $PM_{2.5}$ NAAQS, to meet the requirement of section 172(c)(3) for this standard. The 2002 comprehensive emissions inventory for the 1997 annual $PM_{2.5}$ NAAQS includes emissions estimates that cover the general source categories of point sources, area sources, on-road mobile sources, and non-road mobile sources. The pollutants that comprise the 2002 emissions inventory are $PM_{2.5}$, $NO_X$, $SO_2$, VOC, and $NH_3$. An evaluation of Pennsylvania's 2002 comprehensive emissions inventory for the Philadelphia portion of the Area is provided in the Technical Support Document (TSD) prepared by EPA for the August 28, 2012 rulemaking action. *See* Docket ID No. EPA–R03–OAR–2010–0391.

To satisfy the 172(c)(3) requirement for the 2006 24-hour $PM_{2.5}$ NAAQS, Pennsylvania's September 5, 2014 redesignation request and maintenance plan for the 2006 24-hour $PM_{2.5}$ NAAQS contains a 2007 comprehensive emissions inventory. PADEP has submitted the 2007 emissions inventory to fulfill its obligation to submit a comprehensive inventory under CAA section 172(c)(3), because that inventory has gone through extensive quality assurance. The 2007 emissions inventory was the most current, accurate and comprehensive emissions inventory of direct $PM_{2.5}$, $NO_X$, $SO_2$, VOC, and $NH_3$ for the Area. Thus, as part of this rulemaking action, EPA is proposing to approve Pennsylvania's 2007 comprehensive emissions inventory for the 2006 24-hour $PM_{2.5}$ NAAQS as satisfying the requirement of section 172(c)(3) of the CAA for this standard. Final approval of the 2007 base year emissions inventory will satisfy the emissions inventory requirement under section 172(c)(3) of the CAA for the 2006 24-hour $PM_{2.5}$ NAAQS. The 2007 comprehensive emissions inventory addresses the general source categories of point sources, area sources, on-road mobile sources, and non-road mobile sources. A summary of the 2007 comprehensive emissions inventory is shown in Table 3. For more information on EPA's analysis of the 2007 emissions inventory, *see* the TSD prepared by the EPA Region III Office of Air Monitoring and Analysis dated December 23, 2014, ''Technical Support Document (TSD) for the Redesignation Request and Maintenance Plan for the Pennsylvania Portion of the Philadelphia-Wilmington, PA–NJ–DE 1997 $PM_{2.5}$ Nonattainment Area'' and ''Technical Support Document (TSD) for the Redesignation Request and Maintenance Plan for the Pennsylvania Portion of the Philadelphia-Wilmington, PA–NJ–DE 2006 $PM_{2.5}$ Nonattainment Area'' (''Inventory TSDs''), available in the docket for this rulemaking action at *www.regulations.gov. See* Docket ID No. EPA–R03–OAR–2014–0868.

TABLE 3—2007 EMISSIONS FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA, IN TONS PER YEAR

[tpy]

| Sector | $PM_{2.5}$ | $NO_X$ | $SO_2$ | VOC | $NH_3$ |
|---|---|---|---|---|---|
| Point | 2,444 | 20,744 | 19,633 | 6,281 | 743 |
| Area | 7,722 | 12,925 | 15,005 | 47,568 | 3,293 |

TABLE 3—2007 EMISSIONS FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA, IN TONS PER YEAR—Continued

[tpy]

| Sector | $PM_{2.5}$ | $NO_X$ | $SO_2$ | VOC | $NH_3$ |
|---|---|---|---|---|---|
| Onroad | 2,386 | 69,327 | 508 | 29,293 | 1,270 |
| Nonroad | 1,562 | 20,393 | 3,375 | 18,751 | 23 |
| Total | 14,114 | 123,390 | 38,520 | 101,894 | 5,329 |

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' In conjunction with its request to redesignate the Pennsylvania portion of the Area to attainment status, Pennsylvania submitted a SIP revision on September 5, 2014 to provide for maintenance of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS in the Pennsylvania portion of the Area for at least 10 years after redesignation, throughout 2025. Pennsylvania is requesting that EPA approve this SIP revision as meeting the requirement of CAA section 175A for both NAAQS. Once approved, the maintenance plan for the Pennsylvania portion of the Area will ensure that the SIP for Pennsylvania meets the requirements of the CAA regarding maintenance of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS for the Pennsylvania portion of the Area. EPA's analysis of the maintenance plan is provided in Section V.B. of this proposed rulemaking action.

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded or approved under Title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other Federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability which EPA promulgated pursuant to its authority under the CAA. EPA interprets the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under CAA section 107(d) because state conformity rules are still required after redesignation, and Federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F. 3d 426 (6th Cir. 2001) (upholding this interpretation) and (60 FR 62748, December 7, 1995) (discussing Tampa, Florida).

Thus, for purposes of redesignating to attainment the Pennsylvania portion of the Area for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, EPA determines that Pennsylvania has met all the applicable SIP requirements under part D of Title I of the CAA. EPA also determines that upon final approval of the 2007 comprehensive emissions inventory as proposed in this rulemaking action, Pennsylvania will also meet all the applicable SIP requirements under part D of Title I of the CAA for purposes of redesignating the Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS.

c. The Pennsylvania Portion of the Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

For purposes of redesignation to attainment for the 1997 annual $PM_{2.5}$ NAAQS, EPA has fully approved all applicable requirements of Pennsylvania's SIP for the Pennsylvania portion for the Area in accordance with section 110(k) of the CAA. Upon final approval of the 2007 comprehensive emissions inventory as proposed in this rulemaking action, EPA will have fully approved all applicable requirements of Pennsylvania's SIP for the Pennsylvania portion of the Area for purposes of redesignation to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS in accordance with section 110(k) of the CAA.

3. Permanent and Enforceable Reductions in Emissions

For redesignating a nonattainment area to attainment, section 107(d)(3)(E)(iii) requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions. Pennsylvania has calculated the change in emissions between 2002, a year showing nonattainment for the 1997 annual $PM_{2.5}$ NAAQS in the Pennsylvania portion of the Philadelphia Area, and 2007, one of the years for which the Philadelphia Area monitored attainment for the 1997 annual $PM_{2.5}$ NAAQS. For the 2006 24-hour daily standard, 2008 was a year in which the Area attained the standard. Appendix F–1 of Pennsylvania's September 5, 2014 submittal provides a comparison between the 2007 and the 2008 inventories, and the projected reductions between 2025 and 2007 and between 2025 and 2008. The analysis shows that the 2007 emission inventory is comparable to the 2008 emission inventory for the Philadelphia portion of the Area. Pennsylvania has shown that the 2007 emission inventory is an appropriate and representative emission inventory to use as a surrogate for the 2008 inventory.

A summary of the emissions reductions of $PM_{2.5}$, $NO_X$, $SO_2$, VOC, and $NH_3$ from 2002 to 2007 in the Pennsylvania portion of the Philadelphia Area, submitted by PADEP, is provided in Table 4. For more information on EPA's analysis of the 2007 emissions inventories, see EPA's Inventory TSDs, dated December 23, 2014, available in the docket for this rulemaking action at *www.regulations.gov.*

TABLE 4—EMISSION REDUCTIONS FROM 2002 TO 2007 IN THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA

[tpy]

| | Sector | 2002 | 2007 | Net reduction 2002–2007 | Percent reduction 2002–2007 |
|---|---|---|---|---|---|
| $PM_{2.5}$ | Point | 2,139 | 2,444 | −305 | −14.3 |
| | Area | 10,020 | 7,722 | 2,298 | 22.7 |
| | On-road | 2,905 | 2,386 | 518 | 17.8 |
| | Non-road | 1,535 | 1,562 | −27 | −1.8 |
| | Total | 16,598 | 14,114 | 2,484 | 15.0 |
| $NO_X$ | Point | 22,124 | 20,744 | 1,380 | 6.2 |
| | Area | 13,029 | 12,925 | 105 | 0.8 |
| | On-road | 90,879 | 69,327 | 21,552 | 23.7 |
| | Non-road | 21,619 | 20,393 | 1,226 | 5.7 |
| | Total | 147,651 | 123,390 | 24,262 | 16.3 |
| $SO_2$ | Point | 23,745 | 19,633 | 4,112 | 17.3 |
| | Area | 13,153 | 15,005 | −1,852 | −14.1 |
| | On-road | 1,848 | 508 | 1,340 | 72.6 |
| | Non-road | 1,640 | 3,375 | −1,735 | −1.1 |
| | Total | 40,387 | 38,520 | 1,866 | 4.6 |
| VOC | Point | 8,183 | 6,281 | 1,903 | 23.3 |
| | Area | 59,227 | 47,568 | 11,659 | 19.7 |
| | On-road | 32,150 | 29,293 | 2,856 | 8.9 |
| | Non-road | 21,589 | 18,751 | 2,838 | 13.1 |
| | Total | 121,149 | 101,894 | 19,256 | 15.9 |
| $NH_3$ | Point | 256 | 743 | −487 | −190 |
| | Area | 4,821 | 3,293 | 1,529 | 31.7 |
| | On-road | 1,451 | 1,270 | 181 | 12.5 |
| | Non-road | 14 | 23 | −9 | −64.3 |
| | Total | 6,542 | 5,329 | 1,213 | 18.5 |

The reduction in emissions and the corresponding improvement in air quality from 2002 to 2007 for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, respectively, in the Pennsylvania portion of the Philadelphia Area can be attributed to a number of regulatory control measures that have been implemented in the Area and contributing areas in recent years.

a. Federal Measures Implemented

Reductions in $PM_{2.5}$ precursor emissions have occurred statewide and in upwind states as a result of Federal emission control measures, with additional emission reductions expected to occur in the future.

Control of $NO_X$ and $SO_2$

$PM_{2.5}$ concentrations in the Philadelphia Area are impacted by the transport of sulfates and nitrates, and the Area's air quality is strongly affected by regulation of $SO_2$ and $NO_X$ emissions from power plants.

*$NO_X$ SIP Call*—On October 27, 1998 (63 FR 57356), EPA issued the $NO_X$ SIP Call requiring the District of Columbia and 22 states to reduce emissions of $NO_X$, a precursor to ozone pollution.[13] Affected states were required to comply with Phase I of the SIP Call beginning in 2004 and Phase II beginning in 2007. Emission reductions resulting from regulations developed in response to the $NO_X$ SIP Call are permanent and enforceable. By imposing an emissions cap regionally, the $NO_X$ SIP Call reduced $NO_X$ emissions from large EGUs and large non-EGUs such as industrial boilers, internal combustion engines, and cement kilns. In response to the $NO_X$ SIP Call, Pennsylvania adopted its $NO_X$ Budget Trading Program regulations for EGUs and large industrial boilers, with emission reductions starting in May 2003. Pennsylvania's $NO_X$ Budget Trading Program regulation was approved into the Pennsylvania SIP on August 21, 2001 (66 FR 43795). To meet other requirements of the $NO_X$ SIP Call, Pennsylvania adopted $NO_X$ control regulations for cement plants and internal combustion engines, with emission reductions starting in May 2005. These regulations were approved into the Pennsylvania SIP on September 29, 2006 (71 FR 57428).

*CAIR*—As previously noted, CAIR (70 FR 25162, May 12, 2005) created regional cap-and-trade programs to reduce $SO_2$ and $NO_X$ emissions in 27 eastern states, including Pennsylvania. EPA approved the Commonwealth's CAIR regulation, codified in 25 Pa. Code Chapter 145, Subchapter D, into the Pennsylvania SIP on December 10, 2009 (74 FR 65446). In 2009, the CAIR ozone season $NO_X$ trading program superseded the $NO_X$ Budget Trading Program, although the emission reduction obligations of the $NO_X$ SIP Call were not rescinded. *See* 40 CFR 51.121(r) and 51.123(aa). EPA promulgated CSAPR to replace CAIR as an emission trading program for EGUs. As discussed previously, pursuant to the D.C. Circuit Court's October 23, 2014 Order, the stay of CSAPR has been lifted and implementation of CSAPR commenced

[13] Although the $NO_X$ SIP Call was issued in order to address ozone pollution, reductions of $NO_X$ as a result of that program have also impacted $PM_{2.5}$ pollution, for which $NO_X$ is also a precursor emission.

in January 2015. EPA expects that the implementation of CSAPR will preserve the reductions achieved by CAIR and result in additional $SO_2$ and $NO_X$ emission reductions throughout the maintenance period.

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards

These emission control requirements result in lower $NO_X$ emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules were phased in between 2004 and 2009. EPA estimated that, after phasing in the new requirements, the following vehicle $NO_X$ emission reductions will have occurred nationwide: Passenger cars (light duty vehicles) (77 percent); light duty trucks, minivans, and sports utility vehicles (86 percent); and larger sports utility vehicles, vans, and heavier trucks (69 to 95 percent). Some of the emissions reductions resulting from new vehicle standards occurred during the 2008–2010 attainment period; however, additional reductions will continue to occur throughout the maintenance period as new vehicles replace older vehicles. EPA expects fleet wide average emissions to decline by similar percentages as new vehicles replace older vehicles.

Heavy-Duty Diesel Engine Rule

EPA issued the Heavy-Duty Diesel Engine Rule in July 2000. This rule included standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007 which reduced $PM_{2.5}$ emissions from heavy-duty highway engines and further reduced the highway diesel fuel sulfur content to 15 parts per million (ppm). Standards for gasoline engines were phased in starting in 2008. The total program is estimated to achieve a 90 percent reduction in direct $PM_{2.5}$ emissions and a 95 percent reduction in $NO_X$ emissions for new engines using low sulfur diesel fuel.

Nonroad Diesel Rule

On June 29, 2004 (69 FR 38958), EPA promulgated the Nonroad Diesel Rule for large nonroad diesel engines, such as those used in construction, agriculture, and mining, to be phased in between 2008 and 2014. The rule phased in requirements for reducing the sulfur content of diesel used in nonroad diesel engines. The reduction in sulfur content prevents damage to the more advanced emission control systems needed to meet the engine standards. It will also reduce fine particulate emissions from diesel engines. The combined engine standards and the sulfur in fuel reductions will reduce $NO_X$ and PM emissions from large nonroad engines by over 90 percent, compared to current nonroad engines using higher sulfur content diesel.

Nonroad Large Spark-Ignition Engine and Recreational Engine Standards

In November 2002, EPA promulgated emission standards for groups of previously unregulated nonroad engines. These engines include large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles using spark-ignition engines such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. Emission standards from large spark-ignition engines were implemented in two tiers, with Tier 1 starting in 2004 and Tier 2 in 2007. Recreational vehicle emission standards are being phased in from 2006 through 2012. Marine Diesel engine standards were phased in from 2006 through 2009. With full implementation of all of the nonroad spark-ignition engine and recreational engine standards, an overall 80 percent reduction in $NO_X$ are expected by 2020. Some of these emission reductions occurred by the 2002–2007 attainment period and additional emission reductions will occur during the maintenance period as the fleet turns over.

Federal Standards for Hazardous Air Pollutants

As required by the CAA, EPA developed Maximum Available Control Technology (MACT) Standards to regulate emissions of hazardous air pollutants from a published list of industrial sources referred to as ''source categories.'' The MACT standards have been adopted and incorporated by reference in Section 6.6 of Pennsylvania's Air Pollution Control Act and implementing regulations in 25 Pa. Code § 127.35 and are also included in Federally enforceable permits issued by PADEP for affected sources. The Industrial/Commercial/Institutional (ICI) Boiler MACT standards (69 FR 55217, September 13, 2004, and 76 FR 15554, February 21, 2011) are estimated to reduce emissions of PM, $SO_2$, and VOCs from major source boilers and process heaters nationwide. Also, the Reciprocating Internal Combustion Engines (RICE) MACT will reduce $NO_X$ and PM emissions from engines located at facilities such as pipeline compressor stations, chemical and manufacturing plants, and power plants.

b. State Measures

Heavy-Duty Diesel Emissions Control Program

In 2002, Pennsylvania adopted the Heavy-Duty Diesel Emissions Control Program for model years starting in May 2004. The program incorporates California standards by reference and required model year 2005 and beyond heavy-duty diesel highway engines to be certified to the California standards, which were more stringent than the Federal standards for model years 2005 and 2006. After model year 2006, Pennsylvania required implementation of the Federal standards that applied to model years 2007 and beyond, discussed in the Federal measures section of this proposed rulemaking action. This program reduced emissions of $NO_X$ statewide.

Vehicle Emission Inspection/Maintenance (I/M) Program

The Pennsylvania portion of the Area has had a vehicle emissions inspection program since 1984, and in 2004, Pennsylvania revised the implementation of its Vehicle Emission I/M program in the five-counties that comprise the Pennsylvania portion of the Area, and applies to model year 1975 and newer gasoline-powered vehicles that are 9,000 pounds and under. The program, approved into the Pennsylvania SIP on October 6, 2005 (70 FR 58313), consists of annual on-board diagnostics and gas cap test for model year 1996 vehicles and newer, and an annual visual inspection of pollution control devices and gas cap test for model year 1995 vehicles and older. This program reduces emissions of $NO_X$ from affected vehicles.

Consumer Products Regulation

Pennsylvania regulation ''Chapter 130, Subchapter B. Consumer Products'' established, effective January 1, 2005, VOC emission limits for numerous categories of consumer product, and applies statewide to any person who sells, supplies, offers for sale, or manufactures such consumer products on or after January 1, 2005 for use in Pennsylvania. It was approved into the Pennsylvania SIP on December 8, 2004 (69 FR 70895).

Based on the information summarized above, Pennsylvania has adequately demonstrated that the improvement in air quality in the Pennsylvania portion of the Philadelphia Area are due to permanent and enforceable emissions reductions. The reductions result from Federal and State requirements and regulation of precursors within Pennsylvania that affect the

Pennsylvania portion of the Philadelphia Area.

*B. Maintenance Plan*

On September 5, 2014, PADEP submitted a combined maintenance plan for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, as required by section 175A of the CAA. EPA's analysis for proposing approval of the maintenance plan is provided in this section.

1. Attainment Emissions Inventories

An attainment inventory is comprised of the emissions during the time period associated with the monitoring data showing attainment. PADEP determined that the appropriate attainment inventory year for the maintenance plan for the 1997 annual $PM_{2.5}$ NAAQS is 2007, one of the years in the periods during which the Philadelphia Area monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. As discussed previously in this proposed rulemaking, for the 2006 24-hour $PM_{2.5}$ NAAQS, 2008 was a year in which the Area attained the standard. Appendix F–1 of Pennsylvania's September 5, 2014 submittal provides a comparison between the 2007 and the 2008 inventories, and the projected reductions between 2025 and 2007 and between 2025 and 2008. The analysis shows that the 2007 emission inventory is comparable to the 2008 emission inventory for the Philadelphia portion of the Area. Pennsylvania has shown that the 2007 emission inventory is an appropriate and representative emission inventory to use as a surrogate for the 2008 inventory.

In its redesignation request and maintenance plan for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, PADEP described the methods used for developing its 2007 inventory. The 2007 inventory included the primary $PM_{2.5}$ emissions (including condensables), $SO_2$, $NO_X$, VOC, and $NH_3$. EPA reviewed the procedures used to develop the projected inventory and found them to be reasonable. EPA has reviewed the documentation provided by PADEP and found the 2007 emissions inventory to be approvable. For more information on EPA's analysis of the 2007 emissions inventory, *see* EPA's Inventory TSDs, dated December 23, 2014, available in the docket for this rulemaking action at *www.regulations.gov.*

2. Maintenance Demonstration

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' The Federal and State measures described in Section V.A.3 of this proposed rulemaking action demonstrate that the reductions in emissions from point, area, and mobile sources in the Area has occurred and will continue to occur through 2025. In addition, the following State and Federal regulations and programs ensure the continuing decline of $SO_2$, $NO_X$, $PM_{2.5}$, and VOC emissions in the Area during the maintenance period and beyond:

Non-EGUs Previously Covered Under the $NO_X$ SIP Call

Pennsylvania established $NO_X$ emission limits for the large industrial boilers that were previously subject to the $NO_X$ SIP Call, but were not subject to CAIR. For these units, Pennsylvania established an allowable ozone season $NO_X$ limit based on the unit's previous ozone season's heat input. A combined $NO_X$ ozone season emissions cap of 3,418 tons applies for all of these units.

CSAPR (August 8, 2011, 76 FR 48208)

EPA promulgated CSAPR to replace CAIR as an emission trading program for EGUs. As discussed previously implementation of CSAPR commenced in January 2015. EPA expects that the implementation of CSAPR will preserve the reductions achieved by CAIR and result in additional $SO_2$ and $NO_X$ emission reductions throughout the maintenance period.

Regulation of Cement Kilns

On July 19, 2011 (76 FR 52558), EPA approved amendments to 25 Pa. Code Chapter 145 Subchapter C to further reduce $NO_X$ emissions from cement kilns. The amendments established $NO_X$ emission rate limits for long wet kilns, long dry kilns, and preheater and precalciner kilns that are lower by 35 percent to 63 percent from the previous limit of 6 pounds of $NO_X$ per ton of clinker that applied to all kilns. The amendments were effective on April 15, 2011.

Stationary Source Regulations

Pennsylvania regulation 25 Pa. Code Chapter 130, Subchapter D for Adhesives, Sealers, Primers, and Solvents was approved into the Pennsylvania SIP on September 26, 2012 (77 FR 59090). The regulation established VOC content limits for various categories of adhesives, sealants, primers, and solvent, and became applicable on January 1, 2012.

Amendments to Pennsylvania regulation 25 Pa. Code Chapter 130, Subchapter B for Consumer Products, established, effective January 1, 2009, new or more stringent VOC standards for consumer products. The amendments were approved into the Pennsylvania SIP on October 18, 2010 (75 FR 63717).

Pennsylvania's Clean Vehicle Program

The Pennsylvania Clean Vehicles Program (formerly, New Motor Vehicle Control Program) incorporates by reference the California Low Emission Vehicle program (CA LEVII), although it allowed automakers to comply with the NLEV program as an alternative to this program until Model Year (MY) 2006. The Clean Vehicles Program, codified in 25 Pa. Code Chapter 126, Subchapter D, was modified to require CA LEVII to apply to MY 2008 and beyond, and was approved into the Pennsylvania SIP on January 24, 2012 (77 FR 3386). The Clean Vehicles Program incorporates by reference the emission control standards of CA LEVII, which, among other requirements, reduces emissions of $NO_X$ by requiring that passenger car emission standards and fleet average emission standards also apply to light duty vehicles. Model year 2008 and newer passenger cars and light duty trucks are required to be certified for emissions by the California Air Resource Board (CARB), in order to be sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received, titled or registered in Pennsylvania. In addition, manufacturers are required to demonstrate that the California fleet average standard is met based on the number of new light-duty vehicles delivered for sale in the Commonwealth. The Commonwealth's submittal for the January 24, 2012 rulemaking projected that, by 2025, the program will achieve approximately 334 tons more $NO_X$ reductions than Tier II for the counties in the Pennsylvania portion of the Philadelphia Area.

Two Pennsylvania regulations—the Diesel-Powered Motor Vehicle Idling Act (August 1, 2011, 76 FR 45705) and the Outdoor Wood-Fired Boiler regulation (September 20, 2011, 76 FR 58114)—were not included in the projection inventories, but may also assist in maintaining the standard. Also, the Tier 3 Motor Vehicle Emission and Fuel Standards (79 FR 23414, April 29, 2014) establishes more stringent vehicle emissions standards and will reduce the sulfur content of gasoline beginning in 2017. The fuel standard will achieve $NO_X$ reductions by further increasing the effectiveness of vehicle emission

controls for both existing and new vehicles.

The State and Federal regulations and programs described above ensure the continuing decline of $SO_2$, $NO_X$, $PM_{2.5}$, and VOC emissions in the Area during the maintenance period and beyond. A summary of the projected reductions from these measures from 2007 to 2025 is shown in Table 5. Table 5 incorporates the expected emissions from future construction at the Philadelphia International Airport (PHL–CEP), as well as potential emissions increases from Emission Reduction Credits (ERCs), which are also included in Tables 6a—6e.

TABLE 5—EMISSION REDUCTIONS FROM 2007 TO 2025 DUE TO CONTROL MEASURES

| | $NO_X$ | $PM_{2.5}$ | $SO_2$ | VOC | $NH_3$ |
|---|---|---|---|---|---|
| Point | 2,279 | −90 | 3,936 | −690 | −46 |
| Area | 250 | 674 | 5,818 | 3,039 | −143 |
| On-Road | 43,966 | 1,070 | 249 | 18,071 | 363 |
| Non-Road | 8,493 | 624 | 2,817 | 6,666 | −6 |
| Totals | 54,988 | 2,278 | 12,820 | 27,085 | 167 |

Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. *See* 1992 Calcagni Memorandum, pages 9–10. For a demonstration of maintenance, emissions inventories are required to be projected to future dates to assess the influence of future growth and controls; however, the demonstration need not be based on modeling. *See Wall* v. *EPA, supra; Sierra Club* v. *EPA, supra. See also* 66 FR 53099–53100 and 68 FR 25430–32. PADEP uses projection inventories to show that the Pennsylvania portion of the Area will remain in attainment and developed projection inventories for an interim year of 2017 and a maintenance plan end year of 2025 to show that future emissions of $NO_X$, $SO_2$, $PM_{2.5}$, VOC, and $NH_3$ will remain at or below the attainment year 2007 and 2008 attainment-level emissions levels, for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, respectively, throughout the Pennsylvania portion of the Area through the year 2025.

EPA has reviewed the documentation provided by PADEP for developing annual 2017 and 2025 emissions inventories for the Pennsylvania portion of the Area. EPA has determined that the 2017 and 2025 projected emissions inventories provided by PADEP are approvable. For more information on EPA's analysis of the emissions inventories, *see* EPA's Inventory TSDs, dated December 23, 2014, available in the docket for this rulemaking action at *www.regulations.gov.*

Tables 6a through 6e provide a summary of the $PM_{2.5}$, $NO_X$, $SO_2$, VOC, and $NH_3$ emissions inventories for the Pennsylvania portion of the Philadelphia Area for the 2007 attainment year, the 2017 interim year, and the 2025 maintenance plan end year for the 1997 annual $PM_{2.5}$ NAAQS. The future year inventories include expected emissions from future construction at the PHL–CEP, as well as potential emissions increases from ERCs.

TABLE 6A—COMPARISON OF 2007, 2017, AND 2025 EMISSIONS OF $PM_{2.5}$ FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA

[tpy]

| $PM_{2.5}$ | | | | | | | |
|---|---|---|---|---|---|---|---|
| Sector | 2007 | 2017 | 2025 | 2007–2017 | | 2007–2025 | |
| | | | | Reduction | Percent reduction | Reduction | Percent reduction |
| Point | 2,444 | 1,788 | 1,808 | 656 | 26.8 | 636 | 26.0 |
| Area | 7,722 | 7,383 | 7,047 | 339 | 4.4 | 675 | 8.7 |
| On-Road | 2,386 | 1,679 | 1,316 | 707 | 29.6 | 1,070 | 44.8 |
| Non-Road | 1,562 | 1,019 | 837 | 543 | 34.8 | 725 | 46.4 |
| PHL–CEP | ..... | 83 | 102 | −83 | ..... | −102 | ..... |
| ERC | ..... | 726 | 726 | −726 | ..... | −726 | ..... |
| Total | 14,114 | 12,678 | 11,837 | 1,436 | 10.2 | 2,277 | 16.1 |

TABLE 6b—COMPARISON OF 2007, 2017, AND 2025 EMISSIONS OF $NO_X$ FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA

[tpy]

| $NO_X$ | | | | | | | |
|---|---|---|---|---|---|---|---|
| Sector | 2007 | 2017 | 2025 | 2007–2017 | | 2007–2025 | |
| | | | | Reduction | Percent reduction | Reduction | Percent reduction |
| Point | 20,744 | 11,366 | 11,316 | 9,378 | 45.2 | 9,428 | 45.4 |
| Area | 12,925 | 12,461 | 12,675 | 464 | 3.4 | 250 | 1.9 |

TABLE 6b—COMPARISON OF 2007, 2017, AND 2025 EMISSIONS OF $NO_X$ FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA—Continued

[tpy]

| $NO_X$ | | | | | | | |
|---|---|---|---|---|---|---|---|
| Sector | 2007 | 2017 | 2025 | 2007–2017 | | 2007–2025 | |
| | | | | Reduction | Percent reduction | Reduction | Percent reduction |
| On-Road | 68,327 | 37,922 | 25,361 | 31,405 | 45.3 | 43,966 | 63.4 |
| Non-Road | 20,393 | 10,332 | 7,990 | 10,061 | 49.3 | 12,403 | 60.2 |
| PHL–CEP | ..... | 3,337 | 3,910 | −3,337 | ..... | −3,910 | ..... |
| ERC | ..... | 7,150 | 7,150 | −7,150 | ..... | −7,150 | ..... |
| Total | 123,390 | 82,567 | 68,402 | 40,823 | 33.1 | 54,988 | 44.6 |

TABLE 6c—COMPARISON OF 2007, 2017, AND 2025 EMISSIONS OF $SO_2$ FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA

[tpy]

| $SO_2$ | | | | | | | |
|---|---|---|---|---|---|---|---|
| Sector | 2007 | 2017 | 2025 | 2007–2017 | | 2007–2025 | |
| | | | | Reduction | Percent reduction | Reduction | Percent reduction |
| Point | 19,633 | 5,870 | 5,858 | 13,763 | 70.1 | 13,775 | 70.2 |
| Area | 15,005 | 12,844 | 9,186 | 2,161 | 14.4 | 5,819 | 38.8 |
| On-Road | 508 | 248 | 259 | 260 | 51.2 | 249 | 49.0 |
| Non-Road | 3,375 | 305 | 123 | 3,070 | 91.0 | 3,252 | 96.4 |
| PHL–CEP | ..... | 355 | 435 | −355 | ..... | −435 | ..... |
| ERC | ..... | 9,839 | 9,839 | −9,839 | ..... | −9,839 | ..... |
| Total | 38,520 | 29,460 | 25,701 | 9,060 | 23.5 | 12,819 | 33.3 |

TABLE 6d—COMPARISON OF 2007, 2017, AND 2025 EMISSIONS OF VOC FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA

[tpy]

| VOC/E≤ | | | | | | | |
|---|---|---|---|---|---|---|---|
| Sector | 2007 | 2017 | 2025 | 2007–2017 | | 2007–2025 | |
| | | | | Reduction | Percent reduction | Reduction | Percent reduction |
| Point | 6,281 | 6,438 | 6,508 | −157 | −2.5 | −227 | −3.6 |
| Area | 47,568 | 45,239 | 44,530 | 2,329 | 4.9 | 3,038 | 6.4 |
| On-Road | 29,293 | 16,349 | 11,222 | 12, 944 | 44.2 | 18,041 | 6.2 |
| Non-Road | 18,751 | 11,224 | 11,058 | 7,527 | 40.1 | 7,693 | 41.0 |
| PHL–CEP | ..... | 828 | 1,027 | −828 | ..... | −1,027 | ..... |
| ERC | ..... | 463 | 463 | −463 | ..... | −463 | ..... |
| Total | 101,894 | 80,540 | 74,808 | 21,354 | 20.9 | 27,086 | 26.6 |

TABLE 6e—COMPARISON OF 2007, 2017, AND 2025 EMISSIONS OF $NH_3$ FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA

[tpy]

| $NH_3$ | | | | | | | |
|---|---|---|---|---|---|---|---|
| Sector | 2007 | 2017 | 2025 | 2007–2017 | | 2007–2025 | |
| | | | | Reduction | Percent reduction | Reduction | Percent reduction |
| Point | 743 | 814 | 789 | −71 | −9.5 | −46 | −6.2 |
| Area | 3,293 | 3,375 | 3,436 | −82 | −2.5 | −143 | −4.3 |
| On-Road | 1,270 | 903 | 908 | 387 | 30.5 | 362 | 28.5 |
| Non-Road | 23 | 26 | 29 | −3 | −13.0 | −6 | −26.1 |

TABLE 6e—COMPARISON OF 2007, 2017, AND 2025 EMISSIONS OF $NH_3$ FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA—Continued

[tpy]

| | $NH_3$ | | | | | | |
|---|---|---|---|---|---|---|---|
| Sector | 2007 | 2017 | 2025 | 2007–2017 | | 2007–2025 | |
| | | | | Reduction | Percent reduction | Reduction | Percent reduction |
| PHL–CEP | | 0 | 0 | 0 | | 0 | |
| ERC | | 0 | 0 | 0 | | 0 | |
| Total | 5,329 | 5,117 | 5,162 | 212 | 4.0 | 167 | 3.1 |

Table 7a provides a summary of $PM_{2.5}$, $NO_X$, and $SO_2$ emissions for the entire Philadelphia Area for the 2007 attainment year, the 2017 interim year, and the 2025 maintenance plan end year for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. The inventories show that, between 2007 and 2025, the Area is projected to reduce $PM_{2.5}$ emissions by 16.2 percent, $NO_X$ emissions by 41.2 percent, and $SO_2$ emissions by 46.8 percent.

TABLE 7a—COMPARISON OF 2007, 2017, AND 2025 $PM_{2.5}$, $NO_X$, AND $SO_2$ EMISSIONS FOR THE ENTIRE PHILADELPHIA AREA

[tpy]

| | $PM_{2.5}$ | | | $NO_X$ | | | $SO_2$ | | |
|---|---|---|---|---|---|---|---|---|---|
| | 2007 | 2017 | 2025 | 2007 | 2017 | 2025 | 2007 | 2017 | 2025 |
| Pennsylvania portion | 14,114 | 12,678 | 11,837 | 38,520 | 29,460 | 25,701 | 123,390 | 82,567 | 68,402 |
| Delaware portion | 3,193 | 2,844 | 2,893 | 15,228 | 6,995 | 6,958 | 23,084 | 14,475 | 13,797 |
| New Jersey portion | 5,159 | 4,549 | 4,102 | 4,965 | 1,579 | 1,880 | 41,718 | 26,057 | 17,780 |
| Total | 22,466 | 20,071 | 18,832 | 58,713 | 38,034 | 34,539 | 188,192 | 123,099 | 100,069 |

The redesignation requests for Delaware and New Jersey did not include VOC and $NH_3$ emission inventories. Therefore, in order to take VOC and $NH_3$ emissions for the Delaware and New Jersey portions of the Area into consideration, Pennsylvania used information from EPA's Regulatory Impact Analysis (RIA) for the 2012 $PM_{2.5}$ NAAQS. Table 7b provides a comparison of the 2007 and 2020 VOC and $NH_3$ emissions for the entire Philadelphia Area. The RIA only projected to 2020; however, Pennsylvania believes, and EPA agrees, that the downward trend for these precursors and attainment would continue into 2025, given that the area is attaining both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS with the current level of emissions in the Area, and that additional reductions will be achieved from the Federal and State measures that will be implemented during the maintenance period. The projected emissions inventories show that the Philadelphia Area will continue to maintain the 1997 annual $PM_{2.5}$ standards during the maintenance period.

TABLE 7b—COMPARISON OF 2007 AND 2020 VOC AND $NH_3$ EMISSIONS FOR THE ENTIRE PHILADELPHIA AREA

[tpy]

| | VOC | | $NH_3$ | |
|---|---|---|---|---|
| | 2007 | 2020 | 2007 | 2020 |
| Pennsylvania portion | 95,255 | 75,861 | 5,229 | 4,903 |
| Delaware portion | 14,326 | 9,242 | 984 | 850 |
| New Jersey portion | 36,108 | 27,510 | 1,677 | 1,526 |
| Total | 145,689 | 112,613 | 7,890 | 7,279 |

3. Monitoring Network

Pennsylvania currently operates $PM_{2.5}$ monitors in each of the five counties that comprise the Pennsylvania portion of the Philadelphia Area. Pennsylvania's maintenance plan includes a commitment by PADEP and the Philadelphia County Health Department to continue to operate its EPA-approved monitoring network, as necessary to demonstrate ongoing compliance with the NAAQS. In its September 5, 2014 submittal, Pennsylvania stated that it will consult with EPA prior to making any necessary changes to the network and will continue to operate the monitoring network in accordance with the requirements of 40 CFR part 58.

4. Verification of Continued Attainment

To provide for tracking of the emission levels in the Area, PADEP will: (a) Evaluate annually the vehicle miles travelled (VMT) data and the annual emissions reported from

stationary sources to compare them with the assumptions used in the maintenance plan; and (b) evaluate the periodic emissions inventory for all $PM_{2.5}$ precursors prepared every three years in accordance with EPA's Air Emissions Reporting Requirements (AERR) to determine whether there is an exceedance of more than ten percent over the 2007 inventories. Also, as noted in the previous subsection, PADEP has stated that it will continue to operate its monitoring system in accordance with 40 CFR 58 and remains obligated to quality-assure monitoring data and enter all data into the AQS in accordance with federal requirements. PADEP has stated that it will use this data in considering whether additional control measures are needed to assure continuing attainment in the Area.

5. Contingency Measures

The contingency plan provisions are designed to promptly correct a violation of the 1997 annual and/or the 2006 24-hour $PM_{2.5}$ NAAQS that occurs in the Pennsylvania portion of the Area after redesignation. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to ensure that a state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Pennsylvania's maintenance plan describes the procedures for the adoption and implementation of contingency measures to reduce emissions should a violation occur. Pennsylvania's contingency measures include a first level response and a second level response. A first level response is triggered if the annual mean $PM_{2.5}$ concentration exceeds 15.5 $\mu g/m^3$ in a single calendar year within the Area, if the 98th percentile 24-hour $PM_{2.5}$ concentration exceeds 35.0 $\mu g/m^3$ in a single calendar year within the Area, or if the periodic emissions inventory for the Area exceed the attainment year inventory (2007) by more than ten percent. The first level response will consist of a study to determine if the emissions trends show increasing concentrations of $PM_{2.5}$, and whether this trend is likely to continue. If it is determined through the study that action is necessary to reverse a trend of emissions increases, Pennsylvania will, as expeditiously as possible, implement necessary and appropriate control measures to reverse the trend.

A second level response will be prompted if the two-year average of the annual mean concentration exceeds 15.0 $\mu g/m^3$ or if the two-year average of 98th percentile 24-hour $PM_{2.5}$ concentration exceeds 35.0 $\mu g/m^3$ within the Area. This would trigger an evaluation of the conditions causing the exceedance, whether additional emission control measures should be implemented to prevent a violation of the standard, and analysis of potential measures that could be implemented to prevent a violation. Pennsylvania would then begin its adoption process to implement the measures as expeditiously as practicable. If a violation of the $PM_{2.5}$ NAAQS occurs, PADEP will propose and adopt necessary additional control measures in accordance with the implementation schedule in the maintenance plan.

Pennsylvania's candidate contingency measures include the following: (1) A regulation based on the Ozone Transport Commission (OTC) Model Rule to update requirements for consumer products; (2) a regulation based on the Control Techniques Guidelines (CTG) for industrial cleaning solvents; (3) voluntary diesel projects such as diesel retrofit for public or private local onroad or offroad fleets, idling reduction technology for Class 2 yard locomotives, and idling reduction technologies or strategies for truck stops, warehouses, and other freight-handling facilities; (4) promotion of accelerated turnover of lawn and garden equipment, focusing on commercial equipment; and (5) promotion of alternative fuels for fleets, home heating and agricultural use. Pennsylvania's rulemaking process and schedule for adoption and implementation of any necessary contingency measure is shown in the SIP submittals as being 18 months from PADEP's approval to initiate rulemaking. For all of the reasons discussed in this section, EPA is proposing to approve Pennsylvania's 1997 annual and 2006 24-hour $PM_{2.5}$ maintenance plan for the Pennsylvania portion of the Philadelphia Area as meeting the requirements of section 175A of the CAA.

*C. Motor Vehicle Emissions Budgets*

Section 176(c) of the CAA requires Federal actions in nonattainment and maintenance areas to ''conform to'' the goals of SIPs. This means that such actions will not cause or contribute to violations of a NAAQS, worsen the severity of an existing violation, or delay timely attainment of any NAAQS or any interim milestone. Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the transportation conformity rule (40 CFR part 93, subpart A). Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state air quality and transportation agencies, EPA, and the FHWA and FTA to demonstrate that their long range transportation plans and transportation improvement programs (TIP) conform to applicable SIPs. This is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the MVEBs contained in the SIP. On September 5, 2014, Pennsylvania submitted SIP revisions that contain the 2017 and 2025 $PM_{2.5}$ and $NO_X$ onroad mobile source budgets for Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties. Pennsylvania did not provide emission budgets for $SO_2$, VOC, and $NH_3$ because it concluded, consistent with the presumptions regarding these precursors in the Transportation Conformity Rule at 40 CFR 93.102(b)(2)(v), which predated and were not disturbed by the litigation on the 1997 $PM_{2.5}$ Implementation Rule, that emissions of these precursors from motor vehicles are not significant contributors to the Area's $PM_{2.5}$ air quality problem. EPA issued conformity regulations to implement the 1997 annual $PM_{2.5}$ NAAQS in July 2004 and May 2005 (69 FR 40004, July 1, 2004 and 70 FR 24280, May 6, 2005). That decision does not affect EPA's proposed approval of the MVEBs for the Area. The MVEBs are presented in Table 8.

TABLE 8—MVEBS FOR THE PENNSYLVANIA PORTION OF THE PHILADELPHIA AREA FOR THE 1997 $PM_{2.5}$ AND 2006 24-HOUR NAAQS, IN tpy

| Year | $PM_{2.5}$ | $NO_X$ |
|---|---|---|
| 2017 | 1,679 | 37,922 |
| 2025 | 1,316 | 25,361 |

EPA's substantive criteria for determining adequacy of MVEBs are set out in 40 CFR 93.118(e)(4). Additionally, to approve the MVEBs, EPA must complete a thorough review of the SIP, in this case the $PM_{2.5}$ maintenance plan, and conclude that with the projected level of motor vehicle and all other emissions, the SIPs will achieve its overall purpose, in this case providing for maintenance of the 1997

annual and the 2006 24-hour $PM_{2.5}$ NAAQS. EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and (3) EPA taking action on the MVEB.

In this proposed rulemaking action, EPA is initiating the process for determining whether or not the MVEBs are adequate for transportation conformity purposes. The publication of this rulemaking starts a 30-day public comment period on the adequacy of the submitted MVEBs. This comment period is concurrent with the comment period on this proposed action and comments should be submitted to the docket for this rulemaking. EPA may choose to make its determination on the adequacy of the budgets either in the final rulemaking on this maintenance plan and redesignation request or by informing Pennsylvania of the determination in writing, publishing a notice in the **Federal Register** and posting a notice on EPA's adequacy Web page *(http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm).*[14]

EPA has reviewed the MVEBs and found that the submitted MVEBs are consistent with the maintenance plan and meet the criteria for adequacy and approval. Therefore, EPA is proposing to approve the 2017 and 2025 $PM_{2.5}$ and $NO_X$ MVEBs for Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties for transportation conformity purposes. Additional information pertaining to the review of the MVEBs can be found in the TSD dated December 17, 2014, available on line at *www.regulations.gov,* Docket ID No. EPA–R03–OAR–2014–0868.

## VI. Proposed Actions

EPA is proposing to approve Pennsylvania's request to redesignate the Pennsylvania portion of the Philadelphia Area from nonattainment to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. EPA has evaluated Pennsylvania's redesignation request and determined that upon approval of the 2007 comprehensive emissions inventory for the 2006 24-hour $PM_{2.5}$ NAAQS proposed as part of this rulemaking action, it would meet the redesignation criteria set forth in section 107(d)(3)(E) of the CAA for both standards. EPA believes that the monitoring data demonstrate that the Philadelphia Area is attaining and will continue to attain the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. EPA is also proposing to approve the associated maintenance plan for the Pennsylvania portion of the Area as a revision to the Pennsylvania SIP for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS because it meets the requirements of CAA section 175A for both standards. For transportation conformity purposes, EPA is also proposing to approve MVEBs for both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. Final approval of the redesignation requests would change the official designations of the Pennsylvania portion of the Philadelphia Area for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, respectively, found at 40 CFR part 81, from nonattainment to attainment, and would incorporate into the Pennsylvania SIP the associated maintenance plan ensuring continued attainment of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS in the Pennsylvania portion of the Area for the next 10 years, until 2025. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## VII. Statutory and Executive Order Reviews

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

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

In addition, this rule proposing to approve Pennsylvania's redesignation request, maintenance plan, 2007 comprehensive emissions inventory for the 2006 24-hour $PM_{2.5}$ NAAQS, and MVEBs for transportation conformity purposes for the Pennsylvania portion of the Philadelphia Area for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects

*40 CFR Part 52*

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

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

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

Dated: February 2, 2015.

**William C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2015–03169 Filed 2–13–15; 8:45 am]

**BILLING CODE 6560–50–P**

[14] For additional information on the adequacy process, please refer to 40 CFR 93.118(f) and the discussion of the adequacy process in the preamble to the 2004 final transportation conformity rule. *See* 69 FR 40039–40043.

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

**[EPA–R06–OAR–2014–0536; FRL–9923–13–Region 6]**

## Determination of Nonattainment and Reclassification of the Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area; Texas

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to determine that the Dallas/Fort Worth (DFW) 8-hour ozone nonattainment area did not attain the 1997 8-hour ozone national ambient air quality standard (NAAQS or standard) by June 15, 2013, the attainment deadline set forth in the Code of Federal Regulations (CFR) for a Serious ozone nonattainment area under this standard. This proposal is based on EPA's review of complete, quality assured and certified ambient air quality monitoring data for the 2010–2012 monitoring period that are available in the EPA Air Quality System (AQS) database. If the EPA finalizes this determination, the DFW area will be reclassified by operation of law as a Severe ozone nonattainment area for the 1997 8-hour ozone standard. The EPA is also proposing that Texas must submit to the EPA the State Implementation Plan (SIP) revisions to address the Severe ozone nonattainment area requirements of the Act no later than one year after the effective date of the final rulemaking for this reclassification.

**DATES:** Comments must be received on or before March 19, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R06–OAR–2014–0536, by one of the following methods:

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

*Instructions:* Direct your comments to Docket ID No. EPA–R06–OAR–2014–0536. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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

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

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

### Table of Contents

I. Background
II. EPA's Evaluation of the DFW Area's 1997 8-Hour Ozone Data
III. The Consequences of Reclassification
IV. The 2008 Ozone Standard and Its Effect on Reclassification of the DFW Area
V. Proposed Action
VI. Statutory and Executive Order Reviews

### I. Background

*A. The National Ambient Air Quality Standards*

Section 109 of the Clean Air Act (CAA or Act) requires the EPA to establish a NAAQS for pollutants that ''may reasonably be anticipated to endanger public health and welfare'' and to develop a primary and secondary standard for each NAAQS. The primary standard is designed to protect human health with an adequate margin of safety and the secondary standard is designed to protect public welfare and the environment. The EPA has set NAAQS for six common air pollutants, also referred to as criteria pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. These standards present state and local governments with the minimum air quality levels they must meet to comply with the Act. Also, these standards provide information to residents of the United States about the air quality in their communities.

*B. The 1997 8-Hour Ozone Standard*

Ozone is a gas composed of three oxygen atoms. It is not usually emitted directly into the air, but at ground level is created by a chemical reaction between volatile organic compounds (VOCs) and oxides of nitrogen ($NO_X$) in the presence of sunlight.[1] On July 18, 1997, the EPA promulgated an 8-hour ozone standard of 0.08 parts per million (ppm).[2] See 62 FR 38856 and 40 CFR 50.10.

Consistent with the EPA regulations in section 2.3 of 40 CFR part 50, Appendix I: ''The primary and secondary ozone ambient air quality standards are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. The number of significant figures in the level of the standard dictates the rounding convention for comparing the computed 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration with the level of the standard. The third decimal place of the computed value is rounded, with values equal to or greater than 5 rounding up. Thus, a computed 3-year average ozone concentration of 0.085 ppm is the smallest value that is greater than 0.08 ppm.'' [3] In addition,

[1] For additional information on ozone, please visit *www.epa.gov/groundlevelozone.*

[2] In this action we refer to the 1997 8-hour ozone standard as ''the 1997 ozone standard.''

[3] For ease of communication, many reports of ozone concentrations are given in parts per billion

the ambient air quality monitoring data for the 3-year period must meet a data completeness requirement, which is met when the average percentage of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50.

*C. The SIP and its Relation to the 1997 Ozone Standard*

The Act requires states to develop air pollution regulations and control strategies to ensure that for each area designated nonattainment for a NAAQS, state air quality will meet the NAAQS established by the EPA. Each state must submit these regulations and control strategies to the EPA for approval and incorporation into the Federally-enforceable SIP. Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. The SIPs may contain state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

For ozone nonattainment areas, requirements for SIPs are contained in Part D, subparts 1 and 2 of the Act. Under subpart 2, the applicable control requirements become increasingly more stringent according to an area's classification. The five classifications are Marginal, Moderate, Serious, Severe or Extreme, with Marginal areas subject to the least stringent requirements and Extreme areas subject to the most.

The EPA published two sets of regulations governing how the provisions of the CAA would apply for purposes of implementing the 1997 ozone standard. On April 30, 2004 (69 FR 23951), EPA promulgated the Phase 1 Rule, which addressed, among other matters, classifications for areas designated nonattainment for the 1997 ozone standard.

The EPA published a second rule, the Phase 2 Rule on November 29, 2005 (70 FR 71612), and made several revisions to that rule on June 8, 2007 (72 FR 31727). The Phase 2 rule addresses SIP obligations for the 1997 ozone standard, including the SIP elements associated with reasonably available control technology (RACT), reasonably available control measures (RACM), reasonable further progress (RFP), modeling and attainment demonstrations, new source review, vehicle inspection and maintenance (I/M) programs, and contingency measures for failure to meet RFP and the attainment date.

*D. The DFW Nonattainment Area and Its Current Nonattainment Classification Under the 1997 Ozone Standard*

On April 30, 2004, the EPA designated nine counties as the DFW nonattainment area for the 1997 ozone standard (*i.e.,* Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant counties) and this 9-county area was classified under subpart 2 of the Act, as ''Moderate'' (69 FR 23858).[4] For areas subject to subpart 2 of the Act, the maximum period to achieve attainment runs from the effective date of designations and classifications for the 1997 ozone standard and corresponds to the same length of time provided in Table 1 of Section 181(a) of the Act: Marginal—3 years; Moderate—6 years; Serious—9 years; Severe—15 years; and Extreme—20 years. 40 CFR 51.903.

The DFW nonattainment area was classified as Moderate based on a design value at the time of designation (DV) of 0.10 ppm, with an attainment date of June 15, 2010 (69 FR 23858). The DV of an area characterizes the severity of the air quality and is represented by the highest DV measured at any ozone monitor in the area. The calculation for the DV is the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration measured at a monitor. In response to the designation, the State of Texas submitted an attainment plan designed to meet the 1997 ozone standard and we conditionally approved this plan on January 14, 2009 (74 FR 1903).[5]

Section 181(b)(2) of the Act prescribes the process for making a determination of whether an ozone nonattainment area met the standard by its attainment date. Section 181(b)(2)(A) of the Act requires that the EPA determine, based on the area's ozone design value (as of the attainment date), whether or not the area attained the ozone standard by that date. For Marginal, Moderate, and Serious areas, if the EPA finds that the nonattainment area has failed to attain the ozone standard by the applicable attainment date, the area must be reclassified by operation of law to the higher of (1) the next higher classification for the area, or (2) the classification applicable to the area's design value as determined at the time of the required **Federal Register** notice. Section 181(b)(2)(B) requires the EPA to publish in the **Federal Register** a notice identifying any area that has failed to attain by its attainment date and, if applicable, the resulting reclassification. The DFW area failed to attain the 1997 ozone standard by its Moderate attainment date of June 15, 2010, and was consequently reclassified as a Serious ozone nonattainment area with an attainment date of no later than June 15, 2013 (75 FR 79302, December 20, 2010).

*II. EPA's Evaluation of the DFW Area's 1997 8-Hour Ozone Data*

The EPA is proposing to determine the DFW area did not attain the 1997 ozone standard by its attainment deadline of June 15, 2013 based on quality-assured, quality-controlled ambient air monitoring data for the years 2010–2012 that show the area was violating the 1997 ozone standard. These data from sites in the DFW area have been certified by the TCEQ and are presented in Table 1. As noted earlier in this action, the highest DV at any regulatory monitor in the area is considered the DV for the area (40 CFR 58.1). The Keller monitoring site recorded the highest 2010–2012 design value—0.087 ppm—which is also the design value for the area. Thus, pursuant to section 181(b)(2) of the Act, the EPA is proposing to determine that the DFW nonattainment area did not attain the 1997 ozone standard by the June 15, 2013, deadline for Serious nonattainment areas.

(ppb); ppb = ppm × 1000. Thus, 0.085 ppm becomes 85 ppb.

[4] On March 27, 2008 (73 FR 16436), the EPA promulgated a revised 8-hour ozone standard of 0.075 ppm (''the 2008 ozone standard''). On April 30, 2012, the EPA promulgated designations under the 2008 ozone standard (77 FR 30088, May 21, 2012) and in that action, the EPA designated 10 counties as a Moderate ozone nonattainment area: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise. The EPA's actions herein do not address the DFW nonattainment area for the 2008 ozone standard.

[5] In the next paragraph, we describe how the DFW area failed to attain the 1997 ozone standard by its Moderate attainment date and was reclassified as a Serious ozone nonattainment area. Following reclassification to Serious, the State submitted a revised attainment plan for the DFW area. We are addressing the State's revised Moderate area SIP that addressed the conditional approval and the State's Serious area SIP in separate rulemaking actions.

TABLE 1—DFW AREA FOURTH HIGHEST 8-HOUR OZONE CONCENTRATIONS AND DESIGN VALUES (ppm),[6] 2010–2012

| Site name and No. | 4th Highest daily max | | | Design value (2010–2012) |
|---|---|---|---|---|
| | 2010 | 2011 | 2012 | |
| Fort Worth Northwest, 48–439–1002 | [7] 0.081 | 0.082 | 0.077 | 0.080 |
| Keller, 48–439–2003 | 0.085 | 0.097 | 0.079 | 0.087 |
| Frisco, 48–085–0005 | 0.074 | 0.091 | 0.084 | 0.083 |
| Midlothian OFW, 48–139–0016 | 0.072 | 0.080 | 0.078 | 0.076 |
| Denton Airport South, 48–121–0034 | 0.074 | 0.095 | 0.081 | 0.083 |
| Arlington Municipal Airport, 48–439–3011 | 0.079 | 0.080 | 0.092 | 0.083 |
| Dallas North No. 2, 48–113–0075 | 0.071 | 0.088 | 0.086 | 0.081 |
| Rockwall Heath, 48–397–0001 | 0.073 | 0.080 | 0.080 | 0.077 |
| Grapevine Fairway, 48–439–3009 | 0.083 | 0.091 | 0.086 | 0.086 |
| Kaufman, 48–257–0005 | 0.064 | 0.074 | 0.073 | 0.070 |
| Eagle Mountain Lake, 48–439–0075 | 0.080 | 0.080 | 0.087 | 0.082 |
| Parker County, 48–367–0081 | 0.070 | 0.088 | 0.076 | 0.078 |
| Cleburne Airport, 48–251–0003 | 0.078 | 0.079 | 0.082 | 0.079 |
| Dallas Hinton St., 48–113–0069 | 0.075 | 0.084 | 0.087 | 0.082 |
| Dallas Executive Airport, 48–113–0087 | 0.078 | 0.082 | 0.085 | 0.081 |
| Pilot Point, 48–121–1032 | 0.078 | 0.091 | 0.078 | 0.082 |
| Italy, 48–139–1044 | 0.063 | 0.075 | 0.071 | 0.069 |

Under section 181(a)(5) of the Act and 40 CFR 51.907, an area can qualify for up to 2 one-year extensions of its attainment date if it meets the conditions set forth in 40 CFR 51.907. For the 1997 ozone standard, if an area's fourth highest daily maximum 8-hour average value in the attainment year is 0.084 ppm or less (40 CFR 51.907), the area is eligible for the first one-year extension to the attainment date. The attainment year is the year immediately preceding the attainment date (40 CFR 51.900(g)), thus the DFW area's attainment year is 2012. In 2012, the area's fourth-highest daily maximum 8-hour was 0.092 ppm at the Arlington monitor site. Therefore, the DFW area does not qualify for a 1-year extension of its Serious area attainment deadline.

Section 181(b)(2)(A) of the Act provides that, should the EPA find that an area fails to attain by the applicable date, the area shall be reclassified by operation of law to the higher of: The next higher classification for the area; or the classification applicable to the area's ozone design value at the time of the reclassification. The classification that would be applicable to the DFW area's ozone DV at the time of today's notice is ''Marginal'' because the area's calculated DV, based on quality-assured ozone monitoring data from 2011–2013, is 0.087 ppm.[8] By contrast, the next higher classification for the DFW area is ''Severe.'' Because ''Severe'' is a higher nonattainment classification than ''Marginal'' under the statutory scheme in the Act, upon the effective date of the final rulemaking determining that the DFW has failed to attain the 1997 ozone standard by the applicable attainment date of June 15, 2013, the DFW area will be reclassified by operation of law as ''Severe.''

## III. The Consequences of Reclassification

### *A. Effect of Reclassification on Stationary Air Pollution Sources*

Upon reclassification, stationary air pollution sources in the DFW ozone nonattainment area will be subject to Severe ozone nonattainment area New Source Review (NSR) and Title V permit requirements. The source applicability threshold for major sources and major source modification emissions is lowered to those that emit or have the potential to emit at least 25 tons per year (tpy) of VOC and $NO_X$. For new and modified major stationary sources subject to review under Texas Administrative Code Title 30, Chapter 116, Section 116.150 (30 TAC 116.150) in the EPA approved SIP, VOC and $NO_X$ emissions increases from the proposed construction of new or modified major stationary sources must be offset by emissions reductions meeting a minimum offset ratio of 1.30 to 1. See 30 TAC 116 and 40 CFR 52.2270(c).

### *B. Use of Reformulated Gasoline*

Effective one year after the reclassification of the DFW area as a Severe ozone nonattainment area, the requirement at section 211(k)(10)(D) of the Act would expand the prohibition of the sale of conventional gasoline and require the use of reformulated gasoline in Ellis, Johnson, Kaufman, Parker, and Rockwall counties. Currently, the prohibition applying to the sale of conventional gasoline in the DFW area is limited to Collin, Dallas, Denton and Tarrant counties (see 57 FR 46316, October 8, 1992).

### *C. Proposed Date for Submitting a Revised SIP for the DFW Area*

Pursuant to section 181(b)(2) of the Act, the EPA is proposing to determine that the DFW area did not attain the 1997 ozone standard by the attainment deadline for Serious ozone nonattainment areas. If the EPA takes final action on this determination as proposed, the DFW area will be reclassified by operation of law from Serious to Severe nonattainment. Severe areas are required to attain the standard ''as expeditiously as practicable'' but no later than 15 years after designation, or June 15, 2019.[9] The ''as expeditiously as

[6] Design value calculations for the 1997 ozone standard are based on a rolling three-year average of the annual 4th highest values (40 CFR part 50, Appendix I).

[7] As happens on occasion, this particular value varies from that reported on the State Web site (see *www.tceq.texas.gov/cgi-bin/compliance/monops/8hr_attainment.pl*). For comparison and confirmation, the AQS report for these monitors, for 2010 through 2013, is provided in the docket for this rulemaking.

[8] As indicated earlier in this rulemaking, the DV for the 2010–2012 ozone season is 0.087 ppm, too. The DFW area fourth highest 8-hour ozone concentrations and DVs for 2011–2013 are provided in the docket for this rulemaking.

[9] As noted earlier, the attainment date is 15 years from the effective date of designations and classifications for the 1997 ozone standard, which places it in the middle of the ozone monitoring season. The DFW ozone season data collected through June 15 would not meet the data completeness requirement and thus could not be used to determine attainment. To achieve the data completeness requirement, we use data collected from the prior complete ozone seasons. In other words, the area must attain by the year immediately preceding the attainment date (40 CFR 51.900(g)), which in this instance is 2018. The attainment date for the DFW nonattainment area under the 2008 ozone standard is December 31, 2018 (77 FR 30088).

practicable'' attainment date will be determined as part of the action on the required SIP submittal demonstrating attainment of the 1997 ozone standard. The EPA is proposing a schedule by which Texas will submit the SIP revisions necessary pursuant to reclassification to Severe nonattainment of the 1997 ozone standard.

When an area is reclassified, the EPA has the authority under section 182(i) of the Act to adjust the Act's submittal deadlines for any new SIP revisions that are required as a result of the reclassification. Pursuant to 40 CFR 51.908(d), for each nonattainment area, the State must provide for implementation of all control measures needed for attainment as expeditiously as practicable but no later than the beginning of the attainment year ozone season. The attainment year ozone season is the ozone season immediately preceding a nonattainment area's attainment date. For an area with an attainment date of June 15, 2019, which is the date that would apply for the DFW area if bumped up to Severe, the attainment year ozone season is 2018 (40 CFR 51.900(g)). The ozone season is the ozone monitoring season as defined in 40 CFR part 58, Appendix D, section 4.1, Table D–3 (71 FR 61236, October 17, 2006). For the DFW area, March 1st is the beginning of the ozone monitoring season. We propose that Texas submit the required SIP revisions, including the attainment demonstration, RFP plan, and other applicable Severe area requirements to the EPA as expeditiously as practicable, but not later than one year after the effective date of the final rulemaking for this reclassification. In addition, all applicable controls shall be implemented as expeditiously as practicable but no later than March 1, 2018, which is the beginning of the attainment year ozone season.

*D. Severe Area Plan Requirements*

Pursuant to section 182(d) of the Act and 40 CFR 51 subpart X, the revised SIP for the DFW area must include all the CAA requirements for Serious ozone nonattainment area plans such as: (1) Enhanced ambient monitoring (CAA 182(c)(1)); (2) an enhanced vehicle I/M program (CAA 182(c)(3)); and (3) a clean fuel vehicle program or an approved substitute (CAA 182(c)(4)).[10] The revised SIP for the DFW area must also meet the Severe area requirements specified in CAA section 182(d), including: (1) An attainment demonstration (CAA section 182(c)(2)(A) and (d); 40 CFR 51.908); (2) provisions for RACT and RACM (CAA sections 172(c)(1); 182(b)(2) and (d); 40 CFR 51.912); (3) RFP reductions for each three-year period until the attainment date (CAA section 182(c)(2)(B) and (d); 40 CFR 51.910); (4) contingency measures to be implemented in the event of failure to meet RFP or attain the standard (CAA 172(c)(9) and 182(c)(9)); (5) transportation control measures to offset emissions from growth in vehicle miles traveled or VMT (CAA 182(d)(1)(A)); (6) increased offsets for major sources (CAA section 182(d)(2) and 40 CFR 51.165); and (7) fees on major sources if the area fails to attain the standard (CAA 182(d)(3) and 185).

Because the DFW area is presently classified as Serious under the 1997 ozone standard, the state has adopted and EPA has approved into the SIP provisions that meet several of these requirements. A list of the requirements already in place and those yet to be adopted by the State for the DFW area is provided in Table 2.

TABLE 2—REQUIREMENTS THAT WOULD APPLY FOR THE PROPOSED DFW SEVERE NONATTAINMENT AREA FOR THE 1997 OZONE STANDARD

| Requirement | Action needed or date approved by EPA |
|---|---|
| Severe Area Attainment Demonstration | Must be submitted to EPA for approval by date established in final reclassification rule. |
| RFP Demonstration | Must be submitted to EPA for approval by date established in final reclassification rule. |
| Contingency provisions | Must be submitted to EPA for approval by date established in final reclassification rule. |
| Enhanced ambient monitoring | Proposed for approval on May 13, 2014 (79 FR 27257). |
| Enhanced vehicle I/M program | November 14, 2001 (66 FR 57261).[11] |
| Clean-fuel vehicle programs | Proposed for approval on May 13, 2014 (79 FR 27257). |
| Transportation control measures to offset VMT | Must be submitted to EPA for approval by date established in final reclassification rule. |
| RACM | Must be submitted to EPA for approval by date established in final reclassification rule. |
| RACT | Must be submitted to EPA for approval by date established in final reclassification rule. |
| Fees on major sources if the area fails to attain the 1997 ozone standard. | Must be submitted to EPA for approval by date established in final reclassification rule. |

## IV. The 2008 Ozone Standard and Its Effect on Reclassification of the DFW Area

In 2008, the EPA promulgated a more protective 8-hour ozone standard of 0.075 ppm (73 FR 16436) and EPA published a rule designating areas for that standard on May 21, 2012 (77 FR 30088). On June 6, 2013, the EPA published its proposed rule to implement the 2008 ozone standard (78 FR 34178). The rule also proposed revocation of the 1997 ozone standard for all purposes, and that upon revocation of that standard, the EPA would not be obligated to reclassify areas to a higher classification under the 1997 ozone NAAQS based upon a determination that the areas failed to attain such NAAQS by the areas' corresponding attainment date (78 FR 34178, 34236; proposed 40 CFR 51.1105(d)(2)(ii)). We anticipate final action on the proposed implementation

[10] The requirement for Stage II gasoline vapor recovery does not apply because the EPA determined that onboard vapor recovery is in widespread use in the motor vehicle fleet and waived the CAA section 182(b)(3) requirement. See 77 FR 28772, May 16, 2012. On March 17, 2014, the EPA approved revisions to the Texas SIP that remove the requirement that gasoline dispensing facilities (GDFs) install Stage II equipment and provide removal (decommissioning) procedures that existing GDFs must complete by August 31, 2018 (79 FR 14611).

[11] This rulemaking expanded the enhanced I/M program to include all nine of the DFW nonattainment counties.

rule this spring. If EPA has not yet taken final action to reclassify the DFW area for the 1997 ozone standard before a final rulemaking revoking the 1997 ozone NAAQS for all purposes is effective, and that rulemaking is finalized as proposed with respect to EPA's obligation concerning reclassification of areas for the revoked standard, then EPA will not finalize this proposed reclassification for DFW. However, the DFW area will still be subject to appropriate ''anti-backsliding'' requirements for the 1997 ozone NAAQS as established in any final rule EPA may promulgate in connection with any revocation of the 1997 standard. Anti-backsliding provides protection against degradation of air quality (*e.g.,* the DFW area does not ''backslide'') and ensures the area continues to make progress toward attainment of the new, more stringent NAAQS. Anti-backsliding also ensures there is consistency with the ozone NAAQS implementation framework outlined in subpart 2 of Part D of the CAA (78 FR 34178, 34211).

## V. Proposed Action

Pursuant to section 181(b)(2) of the Act, the EPA is proposing to determine, based on certified, quality-assured monitoring data for 2010–2012 that the DFW area did not attain the 1997 ozone standard by the applicable June 15, 2013 attainment deadline. If the EPA finalizes this determination, upon the effective date of the final determination the DFW 9-county nonattainment area will be reclassified by operation of law as a Severe ozone nonattainment area under the 1997 ozone standard. Pursuant to section 182(i) of the Act, the EPA is also proposing the schedule for submittal of the SIP revisions required for Severe areas once the DFW area is reclassified. The EPA is proposing that Texas submit to the EPA the required SIP revisions for the Severe attainment demonstration, RFP and for all other Severe area measures required under sections 172, 182(c), 182(d) and 185 of the Act no later than one year after the effective date of the final rulemaking for this reclassification.

## VI. Statutory and Executive Order Reviews

Under section 181(b)(2) of the CAA, a determination of nonattainment is a factual determination based upon air quality considerations and the resulting reclassification must occur by operation of law. A determination of nonattainment and the resulting reclassification of a nonattainment area by operation of law under section 181(b)(2) does not in and of itself create any new requirements, but rather applies the requirements contained in the Clean Air Act. For these reasons, this proposed action:

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

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

## List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: February 9, 2015.

**Ron Curry,**

*Regional Administrator, Region 6.*

[FR Doc. 2015–03152 Filed 2–13–15; 8:45 am]

**BILLING CODE 6560–50–P**

## GENERAL SERVICES ADMINISTRATION

### 48 CFR Parts 523 and 552

**[GSAR Case 2006–G506; Docket No. 2009–0005; Sequence No. 2]**

**RIN 3090–AI82**

### General Services Administration Acquisition Regulation (GSAR); Environmental, Conservation, Occupational Safety and Drug-Free Workplace

**AGENCY:** Office of Acquisition Policy, General Services Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to update the text and clauses regarding Hazardous Materials Identification and Material Safety Data. The second proposed rule incorporates many of the changes of the proposed rule and makes additional modifications to the text.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before April 20, 2015 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to GSAR Case 2006–G506 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments by searching for ''GSAR Case 2006–G506.'' Select the link ''Comment Now'' that corresponds with ''GSAR Case 2006–G506.'' Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''GSAR Case 2006–G506'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

*Instructions:* Please submit comments only and cite GSAR Case 2006–G506, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any

personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kevin Funk, Program Analyst, at 215–446–4860 or *kevin.funk@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite GSAR Case 2006–G506.

**SUPPLEMENTARY INFORMATION:**

## I. Background

GSA is proposing to amend the GSAR to update the text and clauses regarding Subpart 523.3-Hazardous Materials Identification and Material Safety Data.

GSA published a proposed rule in the **Federal Register** at 74 FR 11889 on March 20, 2009 to update the text and clauses regarding Hazardous Materials Identification and Material Safety Data. No comments were received in response to the proposed rule. This case is issued as a second proposed rule due to the length of time since the original proposed rule was published in 2009 and updates to the regulations referenced in the General Services Administration Manual (GSAM) Subpart 523.3.

This proposed rule changes the title of GSAR part 523 to ''Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace'', to correspond to the title in Federal Acquisition Regulation (FAR) part 23. The title for GSAR Subpart 523.3 is changed to ''Hazardous Material Identification and Material Safety Data'' to be consistent with the corresponding FAR subpart.

In addition, this rule adds a new hazardous materials GSAR clause 552.223–73. GSAR clause 552.223–73, Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments is added to require compliance by contractors regarding preservation, packaging, packing, marking and labeling of hazardous materials. This clause is also added to the provision and clause matrix.

In addition, the GSAR clause 552.212–72, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items, is updated to include the new hazardous material clause 552.223–73.

## II. Executive Orders 12866 and 13563

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

## III. Regulatory Flexibility Act

GSA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because there are no substantive changes. Therefore, an Initial Regulatory Flexibility Analysis (IRFA) has not been performed. GSA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

GSA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (GSAR Case 2006–G506), in correspondence.

## IV. Paperwork Reduction Act

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

## List of Subjects in 48 CFR Parts 523 and 552

Government procurement.

Dated: February 11, 2015.

**Jeffrey A. Koses,**

*Senior Procurement Executive, Office of Acquisition Policy, Office of Government-Wide Policy, General Services Administration.*

Therefore, GSA proposes to amend 48 CFR parts 523 and 552 as set forth below:

## PART 523—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 1. The authority citation for 48 CFR part 523 is revised to read as follows:

**Authority:** 40 U.S.C. 121(c).

■ 2. Revise the heading of part 523 to read as set forth above.

■ 3. Amend section 523.303 by revising the section heading and adding paragraph (c) to read as follows:

### 523.303 Contract clauses.

* * * * *

(c) Insert 552.223–73, Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments, in solicitations and contracts for packaged items subject to the Occupational Safety and Health Act and the Hazardous Materials Transportation Act.

## PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. The authority citation for 48 CFR part 552 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

■ 5. Amend section 552.212–72 by revising the introductory text, the date of the clause, and paragraph (b) to read as follows:

### 552.212–72 Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items.

As prescribed in 512.301(a)(2), insert the following clause:

Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items (Date)

* * * * *

(b) *Clauses.*

(1) __552.223–70 Hazardous Substances.

(2) __552.223–71 Nonconforming Hazardous Material.

(3) __552.223–73 Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments.

(4) __552.238–70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped.

(5) __552.238–72 Identification of Products that have Environmental Attributes.

* * * * *

■ 6. Add section 552.223–73 to read as follows:

### 552.223–73 Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments.

As prescribed in 523.303(c), insert the following clause:

Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments (Date)

(a) *Definition. United States,* as used in this clause, means the 48 adjoining U.S. States, Alaska, Hawaii, and U.S. territories and possessions, such as Puerto Rico.

(b) Preservation, packaging, packing, marking and labeling of hazardous materials for export shipment outside the United States in all transport modes shall comply with the following, as applicable:

(1) International Maritime Dangerous Goods (IMDG) Code as established by the International Maritime Organization (IMO).

(2) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180. (Note: Classifications permitted by the HMR, but not permitted by the IMDG code, such as Consumer Commodities classed as ORM–D shall be packaged in accordance with the IMDG Code and dual marked with both Consumer Commodity and IMDG marking and labeling.)

(3) Occupational Safety and Health Administration (OSHA) Regulation 29 (CFR) part 1910.1200.

(4) International Air Transport Association (IATA), Dangerous Goods Regulation and/or International Civil Aviation Organization (ICAO), Technical Instructions.

(5) AFMAN 24–204, Air Force Inter-Service Manual, Preparing Hazardous Materials For Military Air Shipments.

(6) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(c) Preservation, packaging, packing, marking and labeling of hazardous materials for domestic shipments within the United States in all transport modes shall comply with the following; as applicable:

(1) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49, CFR parts 171 through 180.

(2) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.

(3) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(d) Hazardous Material Packages designated for outside the United States destinations through Forwarding Points, Distribution Centers, or Container Consolidation Points (CCPs) shall comply with the IMDG, IATA, ICAO or AFMAN 24–204 codes, as applicable.

(e) The test certification data showing compliance with performance-oriented packaging or UN approved packaging requirements shall be made available to GSA contract administration/management representatives or regulatory inspectors upon request.

(End of clause)

[FR Doc. 2015–03164 Filed 2–13–15; 8:45 am]

BILLING CODE 6820–61–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 660

**[Docket No. 141222999–5114–01]**

**RIN 0648–BE72**

## Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Trawl Rationalization Program; Midwater Trawl Fishery Season Date Change

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This action would implement revisions to the Pacific Coast Groundfish Trawl Rationalization Program affecting the limited entry midwater trawl fisheries managed under the Pacific Coast Groundfish Fishery Management Plan (FMP). This action would revise the Shorebased Individual Fishing Quota (IFQ) Program regulations to change the primary season opening date for the shorebased whiting fishery and the shorebased non-whiting midwater trawl fishery to May 15 north of 40°30′ N. lat. to the U.S./Canada border. This moves the season a month earlier off Washington and Oregon, and a month and half later off northern California (north of 40°30′ N. lat.), increasing consistency in the season start date along the coast and between the shorebased and at-sea midwater trawl fleets.

**DATES:** Comments on this proposed rule must be received on or before March 19, 2015.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2015–0016, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0016,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; Attn: Jamie Goen.
- *Fax:* 206–526–6426; Attn: Jamie Goen.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Jamie Goen, 206–526–4656; *jamie.goen@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

In January 2011, NMFS implemented a trawl rationalization program, a type of catch share program, for the Pacific coast groundfish fishery's trawl fleet. The program was adopted through Amendment 20 to the FMP and consists of three sectors: An IFQ program for the shorebased trawl fleet (including vessels targeting whiting and non-whiting with midwater trawl gear); and cooperative (coop) programs for the at-sea mothership (MS) and catcher/processor (C/P) trawl fleets (whiting only).

Since implementation, the Pacific Fishery Management Council (Council) and NMFS have been working to implement additional regulatory changes to further improve the trawl rationalization program and respond to industry requests. Changing the midwater trawl fishery season date would further increase consistency in the season start date along the coast and between the shorebased and at-sea midwater trawl fleets. This rule would revise the Shorebased IFQ Program regulations to change the primary season opening date for the midwater trawl fishery (whiting and non-whiting) to May 15 north of 40°30′ N. lat. to the U.S./Canada border. This would move the season a month earlier off Washington and Oregon and a month and half later off northern California (north of 40°30′ N. lat.).

The Council discussed the season date change at its March and April 2012 meetings, with final Council recommendations to NMFS during the September 2012 Council meeting. In addition, NMFS received further

clarification on these issues from the Council at its November 2014 meeting.

**Evolution of Seasons**

While this action would affect the season start date for shorebased midwater trawl fisheries that target whiting or other groundfish (''non-whiting''), historically the season start dates were for midwater fisheries targeting whiting. However, since 2011 and the start of the trawl rationalization program, the Pacific whiting start date applies to the use of all midwater trawl gear regardless of the target species. In 1991, foreign fishing in U.S. waters ended and whiting became a fully domestic fishery with both at-sea and shorebased vessels. The season started on January 1 but fishing did not start until late spring when the fish were more available. In 1992, the season start date was set at April 15. In 1996, the at-sea sectors (mothership and catcher/processor) and the shorebased sector north of 42° N. lat. (northern fishery off Washington and Oregon) all started on May 15, the shorebased sector between 42° and 40°30′ N. lat. (central fishery off northern California) started on March 1, and the shorebased sector south of 40°30′ N. lat. (southern fishery off central and southern California) continued to start on April 15. Since 1997, the whiting seasons have started as follows: May 15 for the at-sea sectors, June 15 for the northern shorebased sector, April 1 for the central shorebased sector, and April 15 for the southern shorebased sector.

The 1997 delay in the season start date for the northern shorebased fishery to June 15 allowed shorebased vessels to deliver whiting to at-sea motherships for a full month or until the at-sea allocation was met and then to switch their delivery strategy to shorebased facilities until the shorebased allocation was met for the year. The delay for the northern shorebased fishery from May 15 to June 15 also allowed shorebased vessels to complete their May–June DTS (Dover sole, thornyhead, sablefish complex) cumulative limits before the start of the whiting fishery (it was not permissible to land more than 60 percent of the DTS limit in a particular month). The shift from a May 15 to a June 15 opening (and from March 1 to April 1 for the central area) was expected to allow the whiting to grow to a larger size prior to harvest. These date changes also affected bycatch of other species caught with midwater trawl gear. Bycatch rates of rockfish were expected to increase with the later northern start date because more of the whiting stock biomass would be in northern areas, where rockfish such as yellowtail and widow are more available to midwater gear. Bycatch of salmon was expected to be difficult to predict, but presumed to be lower in the summer months for the shorebased fishery and higher later in the year for the at-sea fishery.

The 1997 season date change also included an allocation decision to limit the California fisheries to taking a total of 5 percent of the shorebased allocation prior to the start of the northern fishery to prevent further expansion in that area. In addition to modifying the season dates and establishing a California early season allocation, the 1997 action also established a framework in the regulations for modifying the season opening dates on an annual basis (50 CFR 660.131(b)(2)). This action to change the northern and central shorebased season start dates for midwater fisheries (whiting and non-whiting) to May 15 would not change the framework regulation at § 660.131(b)(2) nor would it change the California early season allocation, other than to limit it to the southern shorebased fishery.

**Re-Emerging Non-Whiting Midwater Trawl Fishery**

Prior to 2001, a shorebased midwater trawl fishery existed, primarily targeting widow, yellowtail, and chilipepper rockfishes. In 2001 and 2002, catches in the non-whiting midwater fishery were drastically reduced by management measures to protect widow and other overfished rockfish. Widow rockfish was declared overfished in 2001, reducing the amount that could be harvested to bycatch. In addition, large coastwide closed areas, called rockfish conservation areas, were implemented in 2002 to reduce the catch of several overfished rockfish species. These changes eliminated the shorebased non-whiting midwater trawl fishery. Since implementation of the trawl rationalization program in 2011 and the declaration of widow rockfish as rebuilt, there are increasing opportunities for non-whiting midwater trawl fisheries. With implementation of the trawl rationalization program, the regulatory distinctions between the shorebased whiting and the non-whiting fishery were blurred. The season start date for the whiting fishery was interpreted to apply to all midwater fishing (whiting and non-whiting). The season date change in this action would also affect the non-whiting midwater trawl fishery.

**Expected Impacts**

Changing the season opening date for the midwater trawl fishery (whiting and non-whiting) to May 15 north of 40°30′ N. lat. to the U.S./Canada border would move the season a month earlier off Washington and Oregon, and a month and half later off northern California (north of 40°30′ N. lat.). This action would not change the areas open to groundfish fishing or the total amount of groundfish available for harvest, but it would shift when those fish can be caught. A single coastwide opening north of 40°30′ N. lat. would simplify the regulations. This change would align the northern and central shorebased fisheries with the at-sea fisheries, increase flexibility for the northern shorebased fishery, and equalize opportunity among most of the midwater sectors (except the southern shorebased fishery which would remain at April 15). With implementation of the trawl rationalization program in 2011, it is no longer necessary to stagger seasons in the whiting fishery to increase access to groundfish. While moving the season start date for the central shorebased fishery would result in a shortened season for the central area, no impact to this fishery is expected because there has not been harvest in northern California since implementation of the trawl rationalization program.

In addition to the expected impacts on groundfish, NMFS must also consider the impacts on salmon. Salmon, predominately Chinook, are caught as bycatch in groundfish midwater trawl fisheries. Some of the Chinook caught with midwater trawl gear are listed as endangered or threatened under the Endangered Species Act (ESA). NMFS considered the effects of ongoing implementation of the groundfish FMP on listed salmonid species in a biological opinion issued on December 15, 1999. That opinion noted that steelhead, sockeye, and cutthroat trout are rarely, if ever, encountered in the groundfish fishery. Coho and chum are caught in relatively low numbers in the whiting fishery with average catch per year coastwide on the order of tens to a few hundred fish and in the bottom trawl fishery on the order of tens of fish per year. The 1999 opinion focused on bycatch of Chinook salmon, which comprises the largest portion of salmonid bycatch in the whiting fishery.

The 1999 opinion determined that the fishery was not likely to jeopardize any of the ESA-listed Chinook and provided an incidental take statement estimating that total Chinook bycatch (listed and unlisted fish) for the whiting fishery (MS, C/P, shorebased, and tribal combined), would likely be 11,000 Chinook per year or 0.05 fish per metric ton (mt) of whiting catch. The 1999 opinion indicated consultation must be reinitiated if Chinook bycatch rates

exceed these amounts. For the bottom trawl fishery, the 1999 biological opinion estimated that 6,000 to 9,000 Chinook salmon would be taken annually. The biological opinion concluded that if the bottom trawl fishery changes substantially in magnitude or character or if bycatch exceeds 9,000 Chinook, consultation must be reinitiated.

In 2013, NMFS reinitiated section 7 consultation on the FMP to address the effects on salmonids caused by the re-emerging use of midwater trawl gear to target non-whiting groundfish species such as yellowtail and widow rockfish. The request was made due to the evolution of the trawl fishery under the trawl rationalization framework and improving conditions for species such as widow rockfish that were expected to change the characteristics of the fishery. In addition, West Coast Groundfish Observer Program data reports showed new estimates of Chinook and coho salmon bycatch in the nearshore fixed gear fisheries (open access and limited entry fisheries), limited entry sablefish fishery, and open access California Halibut fishery. In October 2014, the whiting fishery exceeded the 11,000 Chinook and 0.05 Chinook salmon/mt whiting reinitiation triggers stated in the 1999 biological opinion. Given this, NMFS determined that the reinitiation should address the effects on listed salmonids of all fishing under the FMP.

In the interim, NMFS will be monitoring the take of salmon inseason and expects industry to take measures to reduce salmon bycatch, if needed. All midwater trawl fisheries have 100 percent monitoring and are required to track the catch of prohibited and protected species, such as salmon.

NMFS and the Council estimated the bycatch of Chinook in 2015 based on the amount of target species (whiting, widow, and yellowtail rockfish) available to harvest. While the allowable harvest amounts for these target species will not be determined until the spring, they are expected to increase in 2015 and 2016. However, catch of salmon in groundfish trawl fisheries is highly variable from year to year, including in years when the season was as early as April 15 and as late as June 15. For salmon listed under the ESA, NMFS expects the bycatch of Chinook to remain within the amounts considered in the 1999 biological opinion for all groundfish trawl fisheries combined (20,000 Chinook) even if harvest limits for target groundfish species increases. For more information, see the draft environmental assessment at the Web site provided or the ESA information listed in the Classification section of this preamble.

**Classification**

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Pacific Coast Groundfish FMP, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

The Council prepared an environmental assessment (EA) for this action. The draft EA is available on the Council's Web site at *http://www.pcouncil.org/* or on NMFS' Web site at *http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Trawl-Program/index.cfm.*

Pursuant to the procedures established to implement section 6 of Executive Order 12866, the Office of Management and Budget has determined that this proposed rule is not significant.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A Regulatory Impact Review (RIR) was also prepared on the action and is included as part of the IRFA. A copy of the IRFA is available from NMFS (see **ADDRESSES**) and a summary of the IRFA, per the requirements of 5 U.S.C. 604(a) follows:

As described above, this action would revise the Shorebased IFQ Program regulations to change the primary season opening date for the whiting and non-whiting midwater trawl fisheries to May 15 north of 40°30′ N. lat. to the U.S./Canada border. This would move the season a month earlier off Washington and Oregon, and a month and half later off northern California (north of 40°30′ N. lat.), increasing consistency in the season start date along the coast and between the shorebased and at-sea midwater trawl fleets.

This action would affect shorebased midwater trawlers in the trawl rationalization program and the processors that receive their product. During the 2011 to 2014 period, 30 midwater trawl vessels delivered to 10 shoreside processing plants in this fishery. Some vessels share common ownership, other vessels are owned by processing companies, and some companies own multiple processing plants. After accounting for these relationships, there are 26 entities that have participated in the fishery, 22 of which are small entities, based on NMFS' review of available information.

The alternatives considered changing the season start date for the northern fishery, off Washington and Oregon from 42° N. lat. to the U.S./Canada border, from June 15 to May 15 and for the central fishery, off northern California from 40′30 N. lat. to 42° N. lat., from April 1 to May 15. The April 15 start data for the southern fishery, south of 40°30′ N. lat., would remain unchanged.

Under the Action Alternative (May 15 season start from 40°30′ N. lat. to the U.S./Canada border), the same amount of whiting and non-whiting groundfish species will be available for harvest using midwater trawl gear as under the No Action Alternative (April 1 between 40°30′ N. lat. to 42° N. lat., June 15 from 42° N. lat. to the U.S./Canada border). The proposed season opening date change will give fishers in the northern fishery greater flexibility in maximizing net operating profits and social benefits from fixed amounts of fish (for which quota share is required to cover impacts), thus a positive change in impact to the harvest sector is projected under the Action Alternative compared to the No Action Alternative. No change in impact is expected in the central fishery in the near term under the Action Alternative because the fishery in that area has been inactive with the Shorebased IFQ Program in place.

The main impact to the harvest sector from the Action Alternative, (as compared to the No Action Alternative) in the northern fishery will be to increase the flexibility that individual vessel operators have in using their IFQ with midwater gear by adding one month to the duration of their season. This additional time in the northern fishery should allow vessels and processors more opportunity to adjust their operations to changing market conditions and to changes in other fisheries. Increasing the time available to fish in the northern fishery may lead to increased harvests. During 2014, the total IFQ fishery (fixed gear, midwater, and bottom trawl) left 1.6 million lbs of chilipepper rockfish (70% of the total IFQ quota), 46 million lbs of Pacific whiting (17%), 750,000 lbs of widow rockfish (37%), and 3.9 million lbs of yellowtail rockfish (60%) unharvested. Increasing the time available to fish in the northern fishery may allow fishermen and processors to adjust their operations to increase participation in

other fisheries such as the crab, shrimp, or mothership fishery for whiting. One of the reasons for the staggered opening (May 15 for at-sea and June 15 for shorebased) was to reduce the conflict between the catcher vessels fishing for motherships and those in the shorebased fishery. Both fisheries were managed through season closures, which resulted in a race for fish (as ''derby'' fisheries). The trawl rationalization program, however, reserves for each quota holder a specific amount of fish, eliminating the race for fish and reducing the potential for conflicting opportunities. With the trawl rationalization program in place, a common opening date for these fisheries would not force quota holders to choose between them (*i.e.* participation in one fishery would not preclude participation in the other). The mothership is now managed by a single coop that plans participation preseason. Increasing the season length may allow the co-op to consider allowing alternative vessels to participate in the coop.

With an increase in the fishing season, the number of shorebased processors and vessels participating in the fishery are not expected to change. The midwater fishery is predominantly a Pacific whiting fishery where major investments in equipment would be needed by a processor to enter the fishery. Vessels participation is also not expected to change. Given that large portions of the IFQ allocations are unharvested, improvements in the basic markets for midwater trawl species will determine participation. Changing the season length will provide increased opportunities to take advantage of these improvements.

In summary, an extended shorebased season will increase the choices available for the northern fishery (off Oregon and Washington), providing an opportunity to improve business decisions and potential profits from the fishery. For the central fishery, there would be a contraction in flexibility to harvest from April 1 to May 15. Reducing the season in the central fishery may have a chilling effect on the potential growth in the fishery. However, data for 2011 through 2014 shows no midwater trawl gear harvest is occurring in this area under the IFQ program.

NMFS believes this rule, if finalized in this form, would not have a significant difference in impacts when comparing small versus large businesses in terms of disproportionality and profitability, given available information. Through this rulemaking process, we are specifically requesting comments on this conclusion.

There are no Federal reporting and recordkeeping requirements associated with this action. There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

NMFS issued Biological Opinions under the Endangered Species Act (ESA) on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the Groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the FMP is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS issued a Supplemental Biological Opinion on March 11, 2006, concluding that neither the higher observed bycatch of Chinook in the 2005 whiting fishery nor new data regarding salmon bycatch in the groundfish bottom trawl fishery required a reconsideration of its prior ''no jeopardy'' conclusion. NMFS also reaffirmed its prior determination that implementation of the FMP is not likely to jeopardize the continued existence of any of the affected ESUs. Lower Columbia River coho (70 FR 37160, June 28, 2005) and Oregon Coastal coho (73 FR 7816, February 11, 2008) were relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead.

NMFS has reinitiated section 7 consultation on the Pacific Coast Groundfish FMP with respect to its effects on listed salmonids. In the event the consultation identifies either reasonable and prudent alternatives to address jeopardy concerns, or reasonable and prudent measures to minimize incidental take, NMFS would coordinate with the Council to put additional alternatives or measures into place, as required. After reviewing the available information, NMFS has concluded that, consistent with sections 7(a)(2) and 7(d) of the ESA, this action will not jeopardize any listed species, would not adversely modify any designated critical habitat, and will not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

On December 7, 2012, NMFS completed a biological opinion concluding that the groundfish fishery is not likely to jeopardize non-salmonid marine species, including listed eulachon, the southern distinct population segment (DPS) of green sturgeon, humpback whales, the eastern DPS of Steller sea lions, and leatherback sea turtles. The opinion also concluded that the fishery is not likely to adversely modify critical habitat for green sturgeon and leatherback sea turtles. An analysis included in the same document as the opinion concludes that the fishery is not likely to adversely affect green sea turtles, olive ridley sea turtles, loggerhead sea turtles, sei whales, North Pacific right whales, blue whales, fin whales, sperm whales, Southern Resident killer whales, Guadalupe fur seals, or the critical habitat for Steller sea lions. Since that biological opinion, the eastern DPS of Steller sea lions was delisted on November 4, 2013 (78 FR 66140); however, this delisting did not change the designation of the codified critical habitat for the eastern DPS of Steller sea lions. On January 21, 2013, NMFS informally consulted on the fishery's effects on eulachon to consider whether the 2012 opinion should be reconsidered for eulachon in light of new information from the 2011 fishery and the proposed chafing gear modifications. NMFS determined that information about bycatch of eulachon in 2011 and chafing gear regulations did not change the effects that were analyzed in the December 7, 2012 biological opinion, or provide any other basis to reinitiate consultation.

On November 21, 2012, the U.S. Fish and Wildlife Service (FWS) issued a biological opinion concluding that the groundfish fishery will not jeopardize the continued existence of the short-tailed albatross. The FWS also concurred that the fishery is not likely to adversely affect the marbled murrelet, California least tern, southern sea otter, bull trout, nor bull trout critical habitat.

West Coast pot fisheries for sablefish are considered Category II fisheries under the Marine Mammal Protection Act (MMPA), indicating occasional interactions. All other West Coast groundfish fisheries, including the trawl fishery, are considered Category III fisheries under the MMPA, indicating a remote likelihood of or no known serious injuries or mortalities to marine mammals. MMPA section 101(a)(5)(E) requires that NMFS authorize the taking of ESA-listed marine mammals incidental to U.S. commercial fisheries if it makes the requisite findings, including a finding that the incidental mortality and serious injury from commercial fisheries will have a negligible impact on the affected species or stock. As noted above, NMFS concluded in its biological opinion for the 2012 groundfish fisheries that these fisheries were not likely to jeopardize Steller sea lions or humpback whales. The eastern distinct population segment of Steller sea lions was delisted under the ESA on November 4, 2013 (78 FR 66140). On September 4, 2013, based on its negligible impact determination dated August 28, 2013, NMFS issued a permit for a period of three years to authorize the incidental taking of humpback whales by the sablefish pot fishery (78 FR 54553). This proposed rule was developed after meaningful collaboration, through the Council process, with the tribal representative on the Council. The proposed regulations have no direct effect on the tribes; these proposed regulations were deemed by the Council as ''necessary or appropriate'' to implement the FMP as amended.

**List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, and Indian fisheries.

Dated: February 10, 2015.

**Samuel D. Rauch III,**

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

For the reasons stated in the preamble, 50 CFR part 660 is proposed to be amended as follows:

## PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.131, revise paragraph (b)(2)(iii)(C) to read as follows:

### § 660.131 Pacific whiting fishery management measures.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(C) *Shorebased IFQ Program.* The start of the Shorebased IFQ Program primary whiting season is:

(*1*) North of 40°30′ N. lat.—May 15;

(*2*) South of 40°30′ N. lat.—April 15.

* * * * *

[FR Doc. 2015–03079 Filed 2–13–15; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register
Vol. 80, No. 31
Tuesday, February 17, 2015

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

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–427–818]**

### Low Enriched Uranium from France: Initiation of Expedited Changed Circumstances Review, and Preliminary Results of Changed Circumstances Review

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** Pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216 and 351.221(c)(3), the Department of Commerce (the Department) is initiating a changed circumstances review (CCR) of the antidumping duty order on low-enriched uranium (LEU) from France with respect to Eurodif SA and AREVA Inc. (collectively, AREVA). Moreover, the Department has determined that it is appropriate to conduct this CCR on an expedited basis. We invite interested parties to comment on these preliminary results.

**DATES:** *Effective Date:* February 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4261.

**SUPPLEMENTARY INFORMATION:**

#### Background

On February 13, 2002, the Department published an order on LEU from France.[1] The order expressly excludes from the scope LEU that meets the requirements for re-exportation, including re-exportation within 18 months of entry.[2]

On December 5, 2011, AREVA requested that the Department initiate and conduct an expedited CCR to amend the scope of the order to extend by 18 months the deadline for re-exporting an entry of LEU for which AREVA reported it would not be able to meet the deadline for re-exportation.[3] At the time of entry, the LEU at issue met the requirements for exclusion from the scope outlined above. On April 2, 2012, the Department published the final results of the CCR, extending the deadline for re-exportation of this sole entry by 18 months, to no later than November 1, 2013.[4]

On July 8, 2013, AREVA requested that the Department initiate a CCR in order to further extend the period for the re-exportation this sole entry of LEU from November 1, 2013, until November 1, 2015.[5] AREVA also requested that the Department conduct the review on an expedited basis. On November 7, 2013 the Department published the final results of the CCR, extending the deadline for re-exportation of this sole entry until November 1, 2015.[6] The Department further determined that this would be the final extension for re-exportation of this specified entry.[7]

On November 10, 2014, AREVA submitted its third request for a CCR, seeking an extension for an indefinite period of time for the re-exportation of the specified entry of LEU covered in two previous CCRs, and AREVA requested that the Department conduct this CCR on an expedited basis.[8]

#### Scope of the Order

The product covered by the order is all LEU. LEU is enriched uranium hexafluoride ($UF_6$) with a $U^{235}$ product assay of less than 20 percent that has not been converted into another chemical form, such as $UO_2$, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of the order. Specifically, the order does not cover enriched uranium hexafluoride with a $U^{235}$ assay of 20 percent or greater, also known as highly-enriched uranium. In addition, fabricated LEU is not covered by the scope of the order. For purposes of the order, fabricated uranium is defined as enriched uranium dioxide ($UO_2$), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates ($U_3O_8$) with a $U^{235}$ concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a $U^{235}$ concentration of no greater than 0.711 percent are not covered by the scope of the order.

Also excluded from the order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide ($UO_2$) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

#### Initiation of Changed Circumstances Review

Pursuant to section 751(b) of the Act and 19 CFR 351.216 and 351.221(c)(3),

[1] *See Notice of Amended Final Determination and Notice of Antidumping Duty Order: Low Enriched Uranium From France,* 67 FR 6680 (February 13, 2002).

[2] *See id.*

[3] *See* Letter from AREVA, ''Low Enriched Uranium from France,'' dated December 5, 2011.

[4] *See Low Enriched Uranium from France: Final Results of Antidumping Duty Changed Circumstances Review,* 77 FR 19642 (April 2, 2012) (*Final Results of Changed Circumstances Review*).

[5] *See* Letter from AREVA, ''Request for Changed Circumstances Review,'' dated July 8, 2013.

[6] *See Low Enriched Uranium from France: Final Results of Antidumping Duty Changed Circumstances Review,* 78 FR 66898 (November 7, 2013) (*Final Results of Second Changed Circumstances Review*).

[7] *See id.*

[8] *See* Letter from Stuart Rosen Esq., ''Request for Changed Circumstances Review,'' dated November 10, 2014 (Third CCR Request).

the Department is initiating a CCR of the antidumping duty order on LEU from France with respect to AREVA. Based on the information and documentation AREVA submitted in its November 10, 2014 letter, we find that we have received sufficient information to warrant initiation of a review to determine if changed circumstances exist to support the extension of time to re-export the specified entry of LEU.

Section 351.221 (c)(3)(ii) of the Department's regulations permits the Department to combine the notice of initiation of a changed circumstances review and the notice of preliminary results if the Department concludes that expedited action is warranted. In this instance, because we have on the record the information necessary to make a preliminary finding, we find that expedited action is warranted, and have combined the notice of initiation and the notice of preliminary results.

**Preliminary Results of Expedited Changed Circumstances Review**

Based on the Department's analysis of the information provided by AREVA in its request for a CCR, in accordance with 19 CFR 351.216, we preliminarily determine that changed circumstances to extend the time period for re-exportation a third time do not exist, and that AREVA should not be granted an additional extension of time to re-export this one entry of subject merchandise.

In its Third CCR Request, AREVA explained that the Japanese end-user remained unable to take delivery of the subject LEU due to conditions caused by the March 11, 2011 earthquake and tsunami in Japan, that the Japanese end-user was working to comply with ''detailed and lengthy'' regulatory requirements of Japan's Nuclear Regulatory Authority, and that AREVA and the Japanese end-user were unable to confirm when re-export of the subject entry of LEU would be possible.[9]

In the *Final Results of Second Changed Circumstances Review,* the Department stated that ''. . . if the Japanese end-user is unable to take delivery by the November 1, 2015 deadline, AREVA, the U.S. importer as well as the French exporter, will be required to re-export this sole entry to France or pay antidumping duties on the entry at the applicable rate.'' [10] Given that the situation where the Japanese end-user would be unable to take delivery was anticipated in the previous CCR, we do not consider this situation to be ''changed circumstances.''

The Department stated in the *Final Results of Second Changed Circumstances Review,*[11] that this would be the final extension, and further stated in the accompanying decision memorandum that to allow the re-export deadline to be extended indefinitely would mean ''ignoring this aspect of the scope.''[12]

The Department preliminarily determines that changed circumstances do not exist beyond the changed circumstances already recognized in the two previous changed circumstances reviews, and that AREVA will not be granted a further extension to re-export the specified entry of LEU.

**Public Comment**

Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in the case briefs, may be filed no later than 5 days after the submission of case briefs. All written comments shall be submitted in accordance with 19 CFR 351.303. All submissions are to be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), and must also be served on interested parties.[13] ACCESS is available to registered users at *http://access.trade.gov*, and it is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time on the deadline.[14]

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held no later than 37 days after the date of publication of this notice, or the first business day thereafter. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing.

**Notifications to Interested Parties**

Consistent with 19 CFR 351.216(e), we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review is initiated, or within 45 days after the date on which this review is initiated if all parties agree to our preliminary finding. The final results will include the Department's analysis of issues raised in any written comments.

We are issuing and publishing these preliminary results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act and 19 CFR 351.216.

Dated: February 9, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–03194 Filed 2–13–15; 8:45 am]

**BILLING CODE 3510–DS–P**

[9] *See id.* at 3–4.

[10] *See Final Results of Second Changed Circumstances Review,* 78 FR at 66899.

[11] *See id.*

[12] *See* Memorandum to Paul Piquado, ''Decision Memorandum for Final Results of Changed Circumstances Review of Low Enriched Uranium from France,'' October 31, 2013.

[13] See 19 CFR 351.303(f).

[14] *See* 19 CFR 351.303(b).

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–880]**

### Barium Carbonate From the People's Republic of China: Continuation of Antidumping Duty Order

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** As a result of the determinations by the Department of Commerce (the ''Department'') and the International Trade Commission (the ''ITC'') that revocation of the antidumping duty (''AD'') order on barium carbonate from the People's Republic of China (''PRC'') would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order.

**DATES:** *Effective Date:* February 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Irene Gorelik, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6905.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 6, 2003, the Department published the final determination in the AD investigation of barium carbonate from the PRC.[1] On October 1, 2003, the

[1] *See Notice of Final Determination of Sales at Less Than Fair Value: Barium Carbonate From the People's Republic of China,* 68 FR 46577 (August 6, 2003) (''*Final Determination*'').

Department issued the AD order on barium carbonate from the PRC.[2] There have been no administrative reviews since issuance of the *Order.* There have been no related findings or rulings (*e.g.,* changed circumstances review, scope ruling, duty absorption review) since issuance of the *Order.* On January 9, 2009, the Department published the final results of the expedited first sunset review of this *Order*.[3] On March 17, 2009, the Department published the continuation of the *Order*.[4]

On February 3, 2014, the Department initiated the second five-year (''sunset'') review of the AD order on barium carbonate from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act'').[5] As a result of its review, the Department determined that revocation of the antidumping duty order on barium carbonate from the PRC would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[6] On February 6, 2015, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on barium carbonate from the PRC would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[7]

**Scope of the Order**

The merchandise covered by this order is barium carbonate, regardless of form or grade. The product is currently classifiable under subheading 2836.60.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

[2] *See Antidumping Duty Order: Barium Carbonate From the People's Republic of China,* 68 FR 56619 (October 1, 2003) (''*Order*'').

[3] *See Barium Carbonate From the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order,* 74 FR 882 (January 9, 2009).

[4] *See Barium Carbonate From the People's Republic of China: Continuation of Antidumping Duty Order,* 74 FR 11348 (March 17, 2009).

[5] *See Initiation of Five-Year (''Sunset'') Review,* 79 FR 6163 (February 3, 2014).

[6] *See Barium Carbonate From the People's Republic of China: Final Results of Expedited Second Sunset Review of the Antidumping Duty Order,* 79 FR 32221 (June 4, 2014) and accompanying Issues and Decision Memorandum.

[7] *See Barium Carbonate From China: Determination,* 80 FR 6766 (February 6, 2015); *see also* Barium Carbonate from China (Inv. No. 731–TA–1020 (Second Review), USITC Publication 4518, February 2015).

**Continuation of the Order**

As a result of the determinations by the Department and the ITC that revocation of the AD order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD order on barium carbonate from the PRC. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year (''sunset'') review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: February 9, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–03197 Filed 2–13–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

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

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Southeast Region Vessel and Gear Identification Requirements.

*OMB Control Number:* 0648–0358.

*Form Number(s):* None.

*Type of Request:* Regular (revision and extension of a currently approved information collection).

*Number of Respondents:* 7,825.

*Average Hours per Response:* Vessel marking, 75 minutes; gear marking varies from 10 seconds for cultured live rocks, to 20 minutes for mackerel gillnet buoys.

*Burden Hours:* 50,575.

*Needs and Uses:* This request is for a regular submission (revision and extension of a currently approved information collection). With this request, OMB Control No. 0648–0359, Southeast Region Gear Identification Requirements is being merged into OMB Control No. 0648–0358, Southeast Region Vessel Identification Requirements.

The National Marine Fisheries Service (NMFS) Southeast Region manages the U.S. fisheries in the exclusive economic zone (EEZ) of the South Atlantic, Caribbean, and Gulf of Mexico regions under various Fishery Management Plans (FMPs). The Regional Fishery Management Councils prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The regulations implementing the FMPs are located at 50 CFR part 622.

The recordkeeping and reporting requirements at 50 CFR part 622 form the basis for this collection of information. NMFS Southeast Region requires that all permitted fishing vessels must mark their vessel with the official identification number or some form of identification. A vessel's official number, under most regulations, is required to be displayed on the port and starboard sides of the deckhouse or hull, and weather deck. The official number and color code identifies each vessel and should be visible at distances from the sea and in the air. These markings provide law enforcement personnel with a means to monitor fishing, at-sea processing, and other related activities, to ascertain whether the vessel's observed activities are in accordance with those authorized for that vessel. The identifying number is used by NMFS, the United States Coast Guard (USCG) and other marine agencies in issuing violations, prosecutions, and other enforcement actions. Vessels that qualify for particular fisheries are readily identified, gear violations are more readily prosecuted, and this allows for more cost-effective enforcement.

Requirements, also at 50 CFR part 622, that fishing gear be marked, are also essential to facilitate enforcement. The ability to link fishing gear to the vessel owner is crucial to enforcement of regulations issued under the authority of the Magnuson-Stevens Act. The marking of fishing gear is also valuable in actions concerning damage, loss, and civil proceedings. The requirements imposed in the Southeast Region are for coral aquacultured live rock; golden crab traps; mackerel gillnet floats; spiny lobster traps; black sea bass pots; and buoy gear.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* On occasion.

*Respondent's Obligation:* Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: February 11, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–03151 Filed 2–13–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

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

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* West Coast Groundfish Trawl Economic Data Collection.

*OMB Control Number:* 0648–0618.

*Form Number(s):* None.

*Type of Request:* Regular (extension of a currently approved information collection).

*Number of Respondents:* 207.

*Average Hours per Response:* Catcher vessels, catcher processors and motherships, 8 hours each; shorebased processors and first receivers, 20 hours.

*Burden Hours:* 2,208.

*Needs and Uses:* This request is for extension of a currently approved information collection. This information collection is needed in order to meet the monitoring requirements of the Magnuson-Stevens Act (MSA). In particular, the Northwest Fisheries Science Center (NWFSC) needs economic data on all harvesters, first receivers, shorebased processors, catcher processors, and motherships participating in the West Coast groundfish trawl fishery.

The currently approved collection covers collection of data for the 2011, 2012, and 2013 operating years. The renewed approval will cover years 2014–2016. Data will be collected from all catcher vessels registered to a limited entry trawl endorsed permit, catcher processors registered to catcher processor permits, and motherships registered to mothership permits, first receivers, and shorebased processors that received round or head-and-gutted IFQ groundfish or whiting from a first receiver to provide the necessary information for analyzing the effects of the West Coast Groundfish Trawl Catch Share Program.

As stated in 50 CFR 660.114, the EDC forms due on September 1, 2015 will provide data for the 2014 operating year.

*Affected Public:* Business or other for profit organizations.

*Frequency:* Annually.

*Respondent's Obligation:* Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: February 11, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–03150 Filed 2–13–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; NOAA Customer Surveys

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before April 20, 2015.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Sarah Brabson, NOAA Office of the Chief Information Officer, (301) 628–5751 or *sarah.brabson@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

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

This collection follows the guidelines contained in the OMB Resource Manual for Customer Surveys. In accordance with Executive Order 12862, the National Performance Review, and good management practices, NOAA offices seek approval to continue to gather customer feedback on services and/or products, which can be used in planning for service/product modification and prioritization. Under this generic clearance, individual offices would use approved questionnaires and develop new questionnaires, as needed, by selecting subsets of the approved set of collection questions and tailoring those specific questions to be meaningful for their particular programs. These proposed questionnaires would then be submitted to OMB using a fast-track request for approval process, for which separate **Federal Register** notices are not required. Surveys currently being conducted include Web site satisfaction surveys, a Chart Users survey, and a Coastal Services Center Training Evaluation.

The generic clearance will not be used to survey any bodies NOAA regulates unless precautions are taken to ensure that the respondents believe that they are not under any risk for not responding or for the contents of their responses; *e.g.,* in no survey to such a population will the names and addresses of respondents be required.

#### II. Method of Collection

Information will be collected via mail, email or online.

#### III. Data

*OMB Control Number:* 0648–0342.

*Form Number(s):* None.

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

*Affected Public:* Individuals or households; not-for-profit institutions; state, local or tribal government; business or other for-profit organizations.

*Estimated Number of Respondents:* 24,000.

*Estimated Time per Response:* Response times averages 5–10 minutes.

*Estimated Total Annual Burden Hours:* 22,500.

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

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 11, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–03129 Filed 2–13–15; 8:45 am]

**BILLING CODE 3510–12–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; U.S. Fishermen Fishing in Russian Waters

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before April 20, 2015.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Mark Wildman, (301) 427–8386 or *mark.wildman@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

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

Regulations at 50 CFR part 300, subpart J, govern U.S. fishing in the Economic Zone of the Russian Federation. Russian authorities may permit U.S. fishermen to fish for allocations of surplus stocks in the Russian Economic Zone. Permit application information is sent to the National Marine Fisheries Service (NMFS) for transmission to Russia. If Russian authorities issue a permit, the vessel owner or operator must submit a permit abstract report to NMFS, and also report 24 hours before leaving the U.S. Exclusive Economic Zone (EEZ) for the Russian Economic Zone and 24 hours before re-entering the U.S. EEZ after being in the Russian Economic Zone.

The permit application information is used by Russian authorities to determine whether to issue a permit. NMFS uses the other information to help ensure compliance with Russian and U.S. fishery management regulations.

**II. Method of Collection**

Paper forms are used for applications. Submission of copies of permits, vessel abstract reports, and departure and return messages are provided by fax.

**III. Data**

*OMB Control Number:* 0648–0228.

*Form Number(s):* None.

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

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 1.

*Estimated Time per Response:* 30 minutes.

*Estimated Total Annual Burden Hours:* 1.

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

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 11, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–03160 Filed 2–13–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Application Forms for Membership on a National Marine Sanctuary Advisory Council

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before April 20, 2015.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Gonzalo Cid, (301) 713–7278 or *Gonzalo.Cid@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

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

Section 315 of the National Marine Sanctuaries Act (16 U.S.C. 1445a) allows the Secretary of Commerce to establish one or more advisory councils to provide advice to the Secretary regarding the designation and management of national marine sanctuaries. Advisory councils are individually chartered for each sanctuary to meet the needs of that sanctuary. Once an advisory council has been chartered, the sanctuary superintendent starts a process to recruit members for that council by providing notice to the public and requesting interested parties to apply for the available seat(s) (*e.g.,* Research, Education) and position(s) (*i.e.,* council member or alternate). The information obtained through this application process will be used to determine the qualifications of the applicant for membership on the sanctuary advisory council.

Two application forms are currently associated with this information collection: (a) National Marine Sanctuary Advisory Council Application form; and (b) National Marine Sanctuary Advisory Council Youth Seat Application form. These application forms are currently being revised to ensure consistency between forms, as well as clarify the information and supplemental materials to be submitted by applicants. Application form instructions will specify requirements imposed upon the agency when reviewing applicants as potential council members or alternates, including the need to assess potential conflicts of interest (or other issues) and the applicant's status as a federally registered lobbyist. Specific questions posed to applicants will be reordered, reworded and, at times, condensed to improve the organization of applicant responses and, thereby, simplify the applicant review process.

**II. Method of Collection**

Complete applications may be submitted electronically via email (with attachments), by mail, or by facsimile transmission.

**III. Data**

*OMB Control Number:* 0648–0397.

*Form Number(s):* None.

*Type of Review:* Regular submission (revision and extension of a currently approved information collection).

*Affected Public:* Individuals or households; business or other for-profit organizations; not-for-profit institutions.

*Estimated Number of Respondents:* 520.

*Estimated Time per Response:* 1 hour.

*Estimated Total Annual Burden Hours:* 520.

*Estimated Total Annual Cost to Public:* $1,040 in recordkeeping/reporting costs.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 11, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–03130 Filed 2–13–15; 8:45 am]

**BILLING CODE 3510–NK–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Seafood Inspection and Certification Requirements

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before April 20, 2015.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to James Appel, (301) 427–8310 or *James.Appel@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

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

The National Marine Fisheries Service (NMFS) operates a voluntary fee-for-service seafood inspection program (Program) under the authorities of the Agricultural Marketing Act of 1946, as amended, the Fish and Wildlife Act of 1956, and the Reorganization Plan No. 4 of 1970. The regulations for the Program are contained in 50 CFR part 260. The program offers inspection grading and certification services, including the use of official quality grade marks which indicate that specific products have been Federally inspected. Those wishing to participate in the program must request the services and submit specific compliance information. In July 1992, NMFS announced new inspection services, which were fully based on guidelines recommended by the National Academy of Sciences, known as Hazard Analysis Critical Control Point (HACCP). The information collection requirements fall under § 260.15 of the regulations. These guidelines required that a facility's quality control system have a written plan of the operation, identification of control points with acceptance criteria and a corrective action plan, as well as identified personnel responsible for oversight of the system.

**II. Method of Collection**

Respondents have a choice of either electronic or paper forms. Methods of submittal include email of electronic forms, and mail and facsimile transmission of paper forms.

**III. Data**

*OMB Control Number:* 0648–0266.

*Form Numbers:* 89–800, 89–814, 89–819.

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

*Affected Public:* Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government.

*Estimated Number of Respondents:* 4,260.

*Estimated Time per Response:* Contract Request, 15 minutes; label approval, 15 minutes; Inspection Request, 30 minutes.

*Estimated Total Annual Burden Hours:* 10,679.

*Estimated Total Annual Cost to Public:* $106,790 in recordkeeping/reporting costs.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 11, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–03131 Filed 2–13–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD772**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) will hold an EMERGENCY public meeting of the Council via webinar regarding blueline tilefish.

**DATES:** The meeting will be held Wednesday, February 25, 2015, from 1:30 p.m. until 4 p.m. via webinar. For agenda details, see **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** The EMERGENCY meeting will be held via webinar with a telephone-only connection option.

*Council address:* Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to consider requesting emergency action by National Marine Fisheries Service under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) for deepwater snapper/grouper species, including blueline tilefish, within the Mid-Atlantic Fishery Management Council's jurisdiction. Several developments precipitated this request, including:

1. In discussions with NMFS headquarters, the Agency confirmed that the Council can directly request emergency action on these species within our Council's jurisdiction.

2. Council Chairman Rick Robins was contacted by a commercial North Carolina long-liner who indicated that he intends to begin directing on blueline tilefish in June of this year, within our Council's jurisdiction, and intends to land the fish in New Jersey, where there are no landing limits.

3. New Jersey has indicated, preliminarily, that they will not be able to implement state regulations before the fishery begins this summer. Connecticut has also indicated that they will not have regulations in place in time for this year's fishery, if at all.

4. Further communications with the South Atlantic Fishery Management Council staff confirmed that they are scheduled to consider requesting emergency federal action at their March meeting to protect blueline tilefish within the Mid-Atlantic Council's jurisdictional boundaries.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Act, those issues may not be the subject of formal action during this meeting. Actions 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 Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: February 11, 2015.

**Tracey L. Thompson,**

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

[FR Doc. 2015–03126 Filed 2–13–15; 8:45 am]

**BILLING CODE 3510–22–P**

## BUREAU OF CONSUMER FINANCIAL PROTECTION

**[Docket No: CFPB–2015–0003]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Notice and request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing a new information collection request titled, ''Consumer and College Credit Card Agreements.''

**DATES:** Written comments are encouraged and must be received on or before March 19, 2015 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- Electronic: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- OMB: Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or fax to (202) 395–5806. Mailed or faxed comments to OMB should be to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection.

*Please note that comments submitted after the comment period will not be accepted.* In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

**FOR FURTHER INFORMATION CONTACT:** Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link active on the day following publication of this notice). Select ''information Collection Review,'' under ''Currently under review, use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov. Please do not submit comments to this email box.*

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Consumer and College Credit Card Agreements.

*OMB Control Number:* 3170–XXXX.

*Type of Review:* Request for a new OMB control number for an existing collection without OMB approval.

*Affected Public:* Private sector.

*Estimated Number of Respondents:* 430.

*Estimated Total Annual Burden Hours:* 430.

*Abstract:* Sections 204 and 305 of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) and 12 CFR 226.57(d) and 226.58 require card issuers to submit to the Consumer Financial Protection Bureau (CFPB):

- Agreements between the issuer and a consumer under a credit card account for an open-end consumer credit plan; and
- any college credit card agreements to which the issuer is a party and certain additional information regarding those agreements.

The data collections enable the CFPB to provide consumers with a centralized depository for consumer and college credit card agreements. It also presents information to the public regarding the arrangements between financial institutions and institutions of higher education.

*Request for Comments:* The Bureau issued a 60-day **Federal Register** notice on October 17, 2014, (79 FR 62421). Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: February 3, 2015.

**Ashwin Vasan,**

*Chief Information Officer, Bureau of Consumer Financial Protection.*

[FR Doc. 2015–03084 Filed 2–13–15; 8:45 am]

**BILLING CODE 4810–AM–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

**[Docket ID: USA–2015–0007]**

### Privacy Act of 1974; System of Records

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

**ACTION:** Notice to add a new System of Records.

**SUMMARY:** The Department of the Army proposes to add a new system of records, A0025–2 PMG (DFBA) DoD, entitled ''Defense Biometric Identification Records System'' to facilitate biometric identification (*i.e.,* automated identity verification of individuals by reference to their measurable physiological and/or behavioral characteristics) of U.S. persons who seek access to DoD property, installations, or information; U.S. persons who pose a threat to DoD personnel, assets or missions, or to national security; U.S. persons who are captured, detained, or otherwise encountered by DoD forces during military operations; and U.S. persons for whom DoD has the responsibility to recover or account during or as a result of DoD operations. Information is collected to support DoD military missions, detainee affairs, personnel recovery, force protection, antiterrorism, special operations, stability operations, homeland defense, counterintelligence, and intelligence efforts around the world.

**DATES:** Comments will be accepted on or before March 19, 2015. This proposed action will be effective 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. Leroy Jones, Jr., Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905 or by calling (703) 428–6185.

**SUPPLEMENTARY INFORMATION:** The Department of the Army 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 *http://dpcld.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 December 16, 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 6428).

Dated: February 11, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**A0025–2 PMG (DFBA) DoD**

**SYSTEM NAME:**

Defense Biometric Identification Records System

**SYSTEM LOCATION:**

Department of Defense, Defense Forensics and Biometrics Agency,

Biometrics Identity Management Activity, 347 West Main Street, Clarksburg, WV 26306–2947.

Any DoD location at which any DoD activity operates biometric data collection and/or storage systems (for which notice is not provided elsewhere) that receives, compares, retains, accesses, uses, or forwards biometric data and related information to or from the above-referenced database.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals covered include members of the U.S. Armed Forces; DoD civilian and contractor personnel; military reserve personnel; Army and Air National Guard personnel; U.S. persons requiring or requesting access to DoD, DoD-controlled, and/or DoD contractor operated, controlled or secured data, information systems, equipment, facilities or installations.

DoD-affiliated U.S. persons who have been declared missing or prisoners of war; DoD-affiliated U.S. persons who are being detained or held hostage by hostile forces, or non-DoD affiliated U.S. persons known or suspected to be held under such circumstances in an area of DoD operations; U.S. persons recovered from hostile control by DoD personnel or as a result of DoD operations; U.S. persons within the purview of the DoD personnel recovery mission which supports U.S. military, DoD civilian, and DoD contractor personnel while hostilities are ongoing.

U.S. persons within the purview of the DoD personnel accounting mission which supports U.S. military, DoD civilian, and DoD contractor personnel once hostilities cease; U.S. persons in DoD custody as a result of military operations overseas or due to maritime intercepts; U.S. persons otherwise encountered by DoD forces during military operations.

U.S. persons lawfully assessed by appropriate authority in accordance with applicable law and policy to pose a potential threat to DoD personnel, installations, assets, information and/or operations.

U.S. persons who are the subject of pending queries against the subject record system.

U.S. persons identified during a biometric screening process as a possible identity match to the subject of an existing record within the system, *i.e.,* data regarding persons for whom DoD has good reason to believe there is potential substantive justification for retention, but have not yet been able to absolutely confirm.

U.S. persons who are misidentified as a possible identity match to the subject of an existing record within the system (''misidentified persons'').

U.S. persons who are the subject of a redress inquiry that is pending resolution.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system includes identity records established to support automated identification, authentication, or verification including biometric information and related biographic, contextual, and other information, reports, and data in paper and/or electronic format.

Records include biometric information, such as images, photos and templates of biological (anatomical and physiological) and/or behavioral characteristics that can be used for automated recognition, including, fingerprints, palm prints, facial images, iris images, DNA, and voice samples.

Biographic information including name, date of birth, place of birth, height, weight, eye color, hair color, race, gender, social security number, and similar relevant information;

Contextual information including organization, telephone number, office symbol, security clearance, level of access, and location of collection.

User information including subject interest codes; user identification codes; globally unique identifiers; data files retained by users; assigned passwords; magnetic tape reel identification; abstracts of computer programs and names and phone numbers of contributors, and similar relevant information;

Information concerning DoD-affiliated persons who are being detained or held hostage by hostile forces, or non-DoD affiliated U.S. persons known or suspected to be held under such circumstances in an area of DoD operations, such as biographic data, casualty reports, and debriefing reports;

Information from and electronic images of international federal, state, tribal, or state issued individual identity documents.

**Note:** This system expressly does not maintain any record or information that is subject to Executive Order 12333, United States intelligence activities; DoDD 5240.01, DoD Intelligence Activities and/or Army Regulation 381–10, U.S. Army Intelligence Activities.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 113, Secretary of Defense; 10 U.S.C. 3013, Secretary of the Army; Homeland Security Presidential Directive (HSPD)-6, Integration and Use of Screening Information; HSPD–11, Comprehensive Terrorist-Related Screening Procedures; National Security Presidential Directive (NSPD)-59/HSPD–24, Biometrics for Identification and Screening to Enhance National Security; DoD Instruction (DoDI) 2000.12, DoD Antiterrorism (AT) Program; DoD Instruction 2310.05, Accounting for Missing Persons; DoD Directive (DoDD) 2310.07, Personnel Accounting—Losses Due to Hostile Acts; DoDD 5110.10 Defense Prisoner of War/Missing Office Personnel Office (DPMO); DoDI 5200.08, Security of DoD Installations and Resources and the DoD Physical Security Review Board (PSRB); DoDD 8521.01E, Department of Defense Biometrics; DoDD 8500.01, Cybersecurity; DoD 5200.08–R, Physical Security Program; AR 25–2, Information Assurance; AR 190–8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees; and AR 525–13, Antiterrorism.

**PURPOSE(S):**

To facilitate biometric identification (*i.e.,* automated identity verification of individuals by reference to their measurable physiological and/or behavioral characteristics) of U.S. Persons who seek access to DoD property, installations, or information; U.S. Persons who pose a threat to DoD personnel, assets or missions, or to national security; U.S. Persons who are captured, detained, or otherwise encountered by DoD forces during military operations; and U.S. Persons for whom DoD has the responsibility to recover or account during or as a result of DoD operations. Information is collected to support DoD military missions, detainee affairs, personnel recovery, identification of remains, force protection, antiterrorism, special operations, stability operations, homeland defense, counterintelligence, and intelligence efforts around the world (excluding those intelligence activities identified in the **NOTE** above).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act 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:

To Federal, State, tribal, local, foreign or international agencies, task forces or organizations, for the purposes of law enforcement, counterterrorism, immigration management and control, force protection, personnel recovery and homeland security as authorized by U.S. Law or Executive Order; or for the

purpose of protecting the territory, people, and interests of the United States of America against breaches of security related to DoD controlled information or facilities.

To those federal agencies that have agreed to provide support to DFBA for purposes of ensuring the continuity of DFBA operations.

To any Federal, State, tribal, local, territorial, foreign, or multinational agency, entity or organization that is engaged in, or is planning to engage in, terrorism screening, or national security threat screening, authorized by the U.S. Government, for the purpose of development, testing, or modification of information technology systems used or intended to be used during or in support of the screening process; whenever practicable, however, DFBA, to the extent possible, will substitute anonymized or de-identified data, such that the identity of the individual cannot be derived from the data.

To any person or entity in either the public or private sector, domestic or foreign, when reasonably necessary to elicit information or cooperation from the recipient for use by DFBA in the performance of an authorized function, such as obtaining information from data sources as to the thoroughness, accuracy, currency, or reliability of the data provided so that DFBA may review the quality and integrity of its records for quality assurance or redress purposes, and may also assist persons misidentified during a screening process.

To any Federal, State, tribal, local, territorial, foreign, multinational agency or task force, or any other entity or person that receives information from the U.S. Government for terrorism screening purposes, or national security threat screening purposes, in order to facilitate DFBA's or the recipient's review, maintenance, and correction of DFBA data for quality assurance or redress purposes, and to assist persons misidentified during a screening process.

To any agency, organization or person for the purposes of (1) performing authorized security, audit, or oversight operations of the DoD, Office of the Provost Marshal General, DFBA, or any agency, organization, or person engaged in or providing information used for terrorism screening, or possible national security threat screening, that is supported by DFBA, and (2) meeting related reporting requirements.

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders and electronic storage media.

**RETRIEVABILITY:**

Name, DNA, biometric template, fingerprints, facial image, iris image.

**SAFEGUARDS:**

Computerized records are maintained in a controlled area accessible only to authorized personnel. Physical entry is restricted by the use of locks and guards, and is permitted only to authorized personnel. Physical and electronic access is restricted to designated individuals requiring such access in the performance of official duties. Access to computerized data is restricted by use of common access cards (CACs), and is permitted only to users with authorized accounts. The system and electronic backups are maintained within controlled facilities that employ physical restrictions and safeguards, such as security guards, identification badges, key cards, and locks.

**RETENTION AND DISPOSAL:**

Records in this system will be retained and disposed of in accordance with the records schedule approved by the National Archives and Records Administration. In general, records in the Automated Biometric Identification System are destroyed seventy-five years after the end of the calendar year in which the record was submitted or last updated, or when they are no longer needed for military operations or DoD business functions, whichever is later.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Defense Forensics and Biometrics Agency, 251 18th Street South, Suite 244, Arlington, VA 22202–3532.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Director, Defense Forensics and Biometrics Agency, 251 18th Street South, Suite 244, Arlington, VA 22202–3532.

The requester should provide full name, current address and telephone number, and 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:**

Individuals seeking access to information about themselves contained in this system should address written inquiries to Director, Defense Forensics and Biometrics Agency, 251 18th Street South, Suite 244, Arlington, VA 22202–3532.

The requester should provide full name, current address and telephone number, and 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).'

**CONTESTING RECORD PROCEDURES:**

The Army's rule for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Information in this system may be provided by the individual; from Military Department, Combatant Command, and other DoD component systems; the Department of Justice, including the Federal Bureau of Investigation (FBI), the Department of Homeland Security, the Department of State, and foreign governments in accordance with applicable law, policy, agreements, and published routine uses.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be

eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

Exempt materials from other sources listed above may become part of the case records in this system of records. To the extent that copies of exempt records from other sources listed above are entered into these case records, the Department of the Army hereby claims the same exemptions, (j)(2) and (k)(2), for the records as claimed by the source systems, specifically to the extent that copies of exempt records may become part of these records from JUSTICE/FBI–019 Terrorist Screening Records System, the Department of the Army hereby claims the same exemptions for the records as claimed at their source (JUSTICE/FBI–019, Terrorist Screening Records System).

An exemption rule for this exemption has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 2015–03123 Filed 2–13–15; 8:45 am]

BILLING CODE 3710–08–P

## DEPARTMENT OF ENERGY

**[FE Docket No. 14–98–LNG]**

## SCT&E LNG, LLC; Amendment of Notice of Application for Long-Term, Multi-Contract Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Countries

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Amended notice of application and extension of comment period.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) is amending a notice of application filed by SCT&E LNG, LLC (SCT&E LNG) on July 24, 2014, and published in the **Federal Register** on December 19, 2014 (Notice).[1] The amended notice adds two environmental documents to the record in the SCT&E LNG docket. It also extends the Public Comment Period, ending February 17, 2015, by 20 days, to March 12, 2015, to ensure that interested parties have sufficient opportunity to review the documents in filing any protests, motions to intervene, notices of intervention, or written comments in response to the Application.

**DATES:** The Public Comment Period, ending February 17, 2015, is extended by 20 days to March 12, 2015. Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section of the Notice (79 FR 75796) no later than 4:30 p.m., Eastern time.

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

**Electronic Filing by Email**

*fergas@hq.doe.gov.*

**Regular Mail**

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

**Hand Delivery or Private Delivery Services**

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Larine Moore or Marc Talbert, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–7991.

Cassandra Bernstein, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9793.

**SUPPLEMENTARY INFORMATION:** On December 19, 2014, DOE/FE gave notice of receipt of an application (Application), filed on July 24, 2014 (79 FR 75796). The Application, filed under section 3(a) of the Natural Gas Act (NGA), requests long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) to any country with which the United States does not have a free trade agreement requiring national treatment for trade in natural gas and with which trade is not prohibited by U.S. law or policy (non-FTA countries). As set forth in the Notice, SCT&E LNG seeks authorization to export the LNG in a volume up to 12 million metric tons per annum, which SCT&E LNG states is equivalent to approximately 1.6 billion cubic feet (Bcf) per day of natural gas (or 584 Bcf per year). SCT&E LNG seeks authorization to export the LNG by vessel from its proposed LNG terminal, which SCT&E LNG intends to construct, own, and operate on Monkey Island in the Calcasieu Ship Channel in Cameron Parish, Louisiana.[2]

In the prior Notice, DOE/FE invited protests, motions to intervene, notices of intervention, and written comments on the Application during a 60-day Public Comment Period, which is currently scheduled to close no later than 4:30 p.m., Eastern time, February 17, 2015. After publication of the Notice, however, DOE/FE determined that it had inadvertently omitted two environmental documents from the record in the SCT&E LNG docket that potentially bear on SCT&E LNG's requested authorization. Therefore, DOE/FE is amending one section of the Notice, entitled ''DOE/FE Evaluation,'' to add the two documents identified below to the SCT&E LNG docket. Additionally, to provide interested parties with sufficient opportunity to review these documents in filing any protests, motions to intervene, notices of intervention, or written comments, DOE/FE is extending the comment period by 20 days. All other provisions and procedures of the Notice remain the same. The ''DOE/FE Evaluation'' section of the Notice is now amended to read as follows:

**FDOE/FE Evaluation**

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation, the U.S. balance of trade, and international considerations; and whether the authorization is consistent

[1] Dep't of Energy, SCT&E LNG, LLC: Application for Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries, 79 FR 75796 (Dec. 19, 2014).

[2] Additional details can be found in SCT&E LNG's Application, posted on the DOE/FE Web site at: *http://energy.gov/fe/downloads/scte-lng-llc-14-98-lng.*

with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Additionally, DOE will consider the following environmental documents:

• *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014); [3] and

• *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014).[4]

Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Issued in Washington, DC, on February 10, 2015.

**John A. Anderson,**

*Director, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.*

[FR Doc. 2015–03145 Filed 2–13–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Commission to Review the Effectiveness of the National Energy Laboratories

**AGENCY:** Department of Energy.

**ACTION:** Request for comments.

**SUMMARY:** This notice announces an opportunity to comment on the proposed Interim Report of the Commission to Review the Effectiveness of the National Energy Laboratories (Commission). The Commission was created pursuant section 319 of the Consolidated Appropriations Act, 2014, Public Law 113–76, and in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. 2. The report will be posted to the Web site: *http://energy.gov/labcommission* on Friday, February 13, 2015.

**DATES:** Interested persons are invited to submit written comments on or before Friday, February 20, 2015. There will also be the opportunity to provide public comment in person at the Commission meeting on February 24, 2015 (9:00 a.m.–12:00 p.m.).

**ADDRESSES:** Comments should be:

• *Emailed to: crenel@hq.doe.gov.*

• *Or mailed to:* Karen Gibson, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

• For those interested in providing public comment in person, the February 24th public meeting will take place at the Hilton at Mark Center, Birch Conference Room, 500 Seminary Road, Alexandria VA.

**FOR FURTHER INFORMATION CONTACT:** Karen Gibson, Designated Federal Officer; email *crenel@hq.doe.gov;* telephone (202) 586–3787.

**SUPPLEMENTARY INFORMATION:**

*Background:* The Commission was established to provide advice to the Secretary of Energy on the Department's national laboratories. The Commission will review the DOE national laboratories for alignment with the Department's strategic priorities, clear and balanced missions, unique capabilities to meet current energy and national security challenges, appropriate size to meet the Department's energy and national security missions, and support of other Federal agencies. The Commission will also look for opportunities to more effectively and efficiently use the capabilities of the national laboratories and review the use of laboratory directed research and development (LDRD) to meet the Department's science, energy, and national security goals.

Given the broad scope and aggressive timeline for the report, the Secretary of Energy and Congress agreed to split the study into two phases. The Interim Report contains the preliminary observations and recommendations found in Phase 1 of the study, which consisted of literature review, visits to five of the National Laboratories; interviews with staff from across the National Laboratories, DOE, other Federal agencies, companies, other non-governmental organizations, and additional interested parties; and presentations at public Commission meetings. In Phase 2, the Commission will refine the conclusions of the Interim Report and focus on operational issues affecting the efficiency and effectiveness of the work of the National Laboratories in carrying out their missions. The commissioners will visit the remaining 12 National Laboratories. The Final Report is anticipated in early Fall 2015.

Issued in Washington, DC, on February 10, 2015.

**LaTanya R. Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2015–03142 Filed 2–13–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### International Energy Agency Meetings

**AGENCY:** Department of Energy.

**ACTION:** Notice of meetings.

**SUMMARY:** The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on February 24, 2015, at the headquarters of the IEA in Paris, France in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) on that day, and on February 25, 2015, in connection with a meeting of the SEQ on that day.

**DATES:** February 24–25, 2015.

**ADDRESSES:** 9, rue de la Fédération, Paris, France.

**FOR FURTHER INFORMATION CONTACT:** Diana D. Clark, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, 202–586–3417.

**SUPPLEMENTARY INFORMATION:** In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meetings is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on February 24, 2015, commencing at 9:30 a.m. and continuing at 9:30 a.m. on February 25, 2015. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Markets (SOM) on February 24 at the same location commencing at 9:30 a.m., and at a meeting of the SEQ on February 25 at the same location commencing at 9:30 a.m. The IAB will also hold a preparatory meeting among company representatives at the same location at 8:30 a.m. on February 25. The agenda for this preparatory meeting is to review the agenda for the SEQ meeting.

[3] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[4] The Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

The agenda of the joint meeting of the SEQ and the SOM on February 24 is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the October 21, 2014 Joint Session
3. Reports on Recent Oil Market and Policy Developments in IEA Countries
4. Update on Offshore Installation Manager Projects and Priorities
5. The Current Oil Market Situation
6. Medium-Term Outlook for OPEC and Non-OPEC Supply
7. Medium-Term Outlook for Demand
8. Medium-Term Outlook for Trade, Refining, and Product Supply
9. The Economic Impact of Lower Oil Prices: Focus on the Middle East, North Africa, the Caucasus, and Central Asia
10. The Natural Gas Market in a Low-Oil-Price Environment
11. The Renewables Industry in a Low-Oil-Price Environment
12. Other Business
    —Tentative schedule of upcoming SEQ and SOM meetings:
    —June 23–25, 2015
    —October 13–15, 2015

The agenda of the SEQ meeting on February 25 is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the 143rd Meeting
3. Status of Compliance with IEP Stockholding Obligations
4. Emergency Response Review Program
5. Emergency Response Review of Canada
6. Emegency Response Exercise in China
7. Mid-Term Review of the Netherlands
8. Emergency Response Exercise 7 Evaluation
9. Industry Advisory Board Update
10. Emergency Response Review of Greece
11. Mid-Term Review of Sweden
12. Outreach
    —APSA/Chile/Colombia
13. Association Update
14. Nexus Forum—Resilience Next Steps
15. Other Business
    —Tentative schedule of next meetings:
    —June 23–25, 2015
    —October 13–15, 2015

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Issued in Washington, DC, February 11, 2015.

**Diana D. Clark,**

*Assistant General Counsel for International and National Security Programs.*

[FR Doc. 2015–03181 Filed 2–13–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Electricity Advisory Committee; Meetings

**AGENCY:** Office of Electricity Delivery and Energy Reliability, Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an open meeting of the Electricity Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Thursday, March 26, 2015
12:00 p.m.–5:40 p.m.
Friday, March 26, 2015 8:00 a.m.–12:30 p.m.

**ADDRESSES:** Rural Electric Cooperative Association, 4301 Wilson Boulevard, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** Matthew Rosenbaum, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 8G–017, 1000 Independence Avenue SW., Washington, DC 20585; Telephone: (202) 586–1060 or Email: *matthew.rosenbaum@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Committee:* The Electricity Advisory Committee (EAC) was re-established in July 2010, in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App.2, to provide advice to the U.S. Department of Energy (DOE) in implementing the Energy Policy Act of 2005, executing the Energy Independence and Security Act of 2007, and modernizing the nation's electricity delivery infrastructure. The EAC is composed of individuals of diverse background selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to electricity.

*Tentative Agenda:* The meeting of the EAC is expected to include an update on the programs and initiatives of DOE's Office of Electricity Delivery and Energy Reliability and the DOE Quadrennial Energy Review. The meeting is also expected to include a briefing by National Laboratory Consortium representatives, discussions on grid modernization, and a panel on ARRA-supported smart grid deployment efforts. Additionally, the meeting is expected to include a discussion of the plans and activities of the Cyber Security Working Group, the Smart Grid Subcommittee, the Power Delivery Subcommittee, and the Energy Storage Subcommittee.

**Tentative Agenda: March 26, 2015**

12:00 p.m.–1:00 p.m. EAC Leadership Committee Meeting
12:00 p.m.–1:00 p.m. Registration
1:00 p.m.–1:15 p.m. Welcome, Introductions, Developments since the September 2014 Meeting
1:15 p.m.–1:45 p.m. Update on the DOE Office of Electricity Delivery and Energy Reliability's Programs and Initiatives
1:45 p.m.–2:00 p.m. Opening Remarks
2:00 p.m.–2:30 p.m. Briefing by the National Laboratory Consortium Representatives
2:30 p.m.–2:45 p.m. Break
2:45 p.m.–3:20 p.m. Technology Transfer at DOE
3:20 p.m.–3:55 p.m. ARPA-E Electricity Research Activities and DOE Cross-Agency Plans
3:55 p.m.–4:30 p.m. Grid Architecture
4:30 p.m.–5:05 p.m. Making the Distribution Grid More Open, Efficient, and Resilient
5:05 p.m.–5:25 p.m. EAC Member Discussion of Cyber Security Working Group Plans
5:25 p.m.–5:40 p.m. Wrap-up and Adjourn Day One of March 2015 EAC Meeting

**Tentative Agenda: March 27, 2015**

8:00 a.m.–8:20 a.m. Update on the DOE Quadrennial Energy Review
8:20 a.m.–9:00 a.m. EAC Smart Grid Subcommittee Activities and Plans
9:00 a.m.–9:20 a.m. EAC Member Discussion of Smart Grid Subcommittee Plans
9:20 a.m.–9:30 a.m. Break
9:30 a.m.–10:50 a.m. Panel—ARRA-Supported Smart Grid Deployment Efforts

10:50 a.m.–11:10 a.m. EAC Member Discussion of ARRA-Supported Smart Grid Deployment Efforts
11:10 a.m.–11:20 a.m. EAC Power Delivery Subcommittee Activities and Plans
11:20 a.m.–11:25 a.m. EAC Member Discussion of Power Delivery Subcommittee
11:25 a.m.–11:55 a.m. EAC Energy Storage Subcommittee Activities and Plans
11:55 a.m.–12:10 p.m. EAC Member Discussion of Energy Storage Subcommittee Plans
12:10 p.m.–12:20 p.m. Public Comments (Must register at time of check in)
12:20 p.m.–12:30p.m. Wrap-up and Adjourn March 2015 EAC Meeting

The meeting agenda may change to accommodate EAC business. For EAC agenda updates, see the EAC Web site at: *http://energy.gov/oe/services/electricity-advisory-committee-eac.*

*Public Participation:* The EAC welcomes the attendance of the public at its meetings. Individuals who wish to offer public comments at the EAC meeting may do so on Friday, March 27, 2015, but must register at the registration table in advance. Approximately 10 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed three minutes. Anyone who is not able to attend the meeting, or for whom the allotted public comments time is insufficient to address pertinent issues with the EAC, is invited to send a written statement to Mr. Matthew Rosenbaum.

You may submit comments, identified by ''Electricity Advisory Committee Open Meeting,'' by any of the following methods:

- *Mail/Hand Delivery/Courier:* Matthew Rosenbaum, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 8G– 017, 1000 Independence Avenue SW., Washington, DC 20585.
- *Email: matthew.rosenbaum@hq.doe.gov.* Include ''Electricity Advisory Committee Open Meeting'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and identifier. All comments received will be posted without change to: *http://energy.gov/oe/services/electricity-advisory-committee-eac,* including any personal information provided.

- *Docket:* For access to the docket, to read background documents or comments received, go to: *http://energy.gov/oe/services/electricity-advisory-committee-eac.*

The following electronic file formats are acceptable: Microsoft Word (.doc), Corel Word Perfect (.wpd), Adobe Acrobat (.pdf), Rich Text Format (.rtf), plain text (.txt), Microsoft Excel (.xls), and Microsoft PowerPoint (.ppt). If you submit information that you believe to be exempt by law from public disclosure, you must submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. You must also explain the reasons why you believe the deleted information is exempt from disclosure.

DOE is responsible for the final determination concerning disclosure or nondisclosure of the information and for treating it in accordance with the DOE's Freedom of Information regulations (10 CFR 1004.11).

**Note:** Delivery of the U.S. Postal Service mail to DOE may be delayed by several weeks due to security screening. DOE, therefore, encourages those wishing to comment to submit comments electronically by email. If comments are submitted by regular mail, the Department requests that they be accompanied by a CD or diskette containing electronic files of the submission.

*Minutes:* The minutes of the EAC meeting will be posted on the EAC Web page after 60 days at: *http://energy.gov/oe/services/electricity-advisory-committee-eac.* They can also be obtained by contacting Mr. Matthew Rosenbaum at the address above.

Issued in Washington, DC, on February 10, 2015.

**LaTanya R. Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2015–03132 Filed 2–13–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Biomass Research and Development Technical Advisory Committee; Meeting

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

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation.

**DATES:** *Dates and Times:*
March 5, 2015 8:30 a.m.–5:30 p.m.
March 6, 2015 8:30 a.m.–1:00 p.m.

**ADDRESSES:** Marriott Wardman Park, 2660 Woodley Rd. NW., Washington, DC 20008.

**FOR FURTHER INFORMATION CONTACT:** Elliott Levine, Designated Federal Officer, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; (202) 586–1476; Email: *Elliott.Levine@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; Email: *rtiley@bcs-hq.com.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of Board:* The Committee was established by the Biomass R&D Act of 2000 (Biomass Act), and was subsequently re-authorized in the Agricultural Act of 2014. The Committee provides advice and recommendations to the Secretary of Energy and the Secretary of Agriculture that promote research and development leading to the production of biobased fuels and biobased products.

*Tentative Agenda:* Agenda will include the following:

- Update on USDA Biomass R&D Activities
- Update on DOE Biomass R&D Activities
- Update on the Biomass Research and Development Initiative
- Update on the DOE Bioenergy Technologies Office upcoming Funding Opportunity Announcements
- Committee Plan for 2015

*Public Participation:* In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you must contact Elliott Levine at 202–586–1476; Email: *Elliott.Levine@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; Email: *rtiley@bcs-hq.com at least 5 business days* prior to the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Co-chairs of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Co-chairs will conduct the meeting to facilitate the orderly conduct of business.

*Minutes:* The minutes of the meeting will be available within 60 days for

public review and copying at *http://biomassboard.gov/committee/meetings.html.*

Issued at Washington, DC, on February 10, 2015.

**LaTanya R. Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2015–03133 Filed 2–13–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### State Energy Advisory Board; Meetings

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

**ACTION:** Notice of open teleconference.

**SUMMARY:** This notice announces a teleconference call of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat.770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Thursday, March 19, 2015 from 3:30 p.m. to 4:00 p.m. (EDT). To receive the call-in number and passcode, please contact the Board's Designated Federal Officer at the address or phone number listed below.

**FOR FURTHER INFORMATION CONTACT:** Monica Neukomm, Policy Advisor, Office of Energy Efficiency and Renewable Energy, US Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585. Phone number 202–287–5189, and email *moinca.neukomm@ee.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

*Tentative Agenda:* Receive STEAB Task Force updates on action items and revised objectives for FY 2015, discuss follow-up opportunities and engagement with EERE and other DOE staff as needed to keep Task Force work moving forward, discuss upcoming FY 2015 live Board meetings, and receive updates on member activities within their states.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Monica Neukomm at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

*Minutes:* The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site at: *www.steab.org.*

Issued at Washington, DC, on February 10, 2015.

**LaTanya R. Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2015–03128 Filed 2–13–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Portsmouth; Meeting

**AGENCY:** Department of Energy (DOE).

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Portsmouth. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

**DATES:** Thursday, March 5, 2015, 6:00 p.m.

**ADDRESSES:** Ohio State University, Endeavor Center, Shyville Road, Piketon, Ohio 45661.

**FOR FURTHER INFORMATION CONTACT:** Greg Simonton, Alternate Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, Post Office Box 700, Piketon, Ohio 45661, (740) 897–3737, *Greg.Simonton@lex.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

**Tentative Agenda**

- Call to Order, Introductions, Review of Agenda
- Approval of January Minutes
- Deputy Designated Federal Officer's Comments
- Federal Coordinator's Comments
- Liaison's Comments
- Presentation
- Administrative Issues
- Subcommittee Updates
- Public Comments
- Final Comments from the Board
- Adjourn

*Public Participation:* The meeting is open to the public. The EM SSAB, Portsmouth, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Greg Simonton at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Greg Simonton at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

*Minutes:* Minutes will be available by writing or calling Greg Simonton at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.ports-ssab.energy.gov/.*

Issued at Washington, DC on February 11, 2015.

**LaTanya R. Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2015–03149 Filed 2–13–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RD14–13–000]**

### Commission Information Collection Activities (FERC–725F); Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of information collection and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C.

3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725F (Mandatory Reliability Standard for Nuclear Plant Interface Coordination: Reliability Standard NUC–001–3), as modified in this docket. The Commission previously published a notice in the **Federal Register** (79 FR 69450, 11/21/2014) requesting public comments. The Commission received no comments and is making this notation in its submittal to OMB.

**DATES:** Comments on the collection of information are due March 19, 2015.

**ADDRESSES:** You may submit comments (identified by Docket No. RD14–13–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

**SUPPLEMENTARY INFORMATION:**

*Title:* FERC–725F (Mandatory Reliability Standard for Nuclear Plant Interface Coordination: Reliability Standard NUC–001–3).

*OMB Control No.:* 1902–0249.

*Type of Request:* Three-year extension of the FERC–725F information collection requirements.

*Abstract:* The Commission requires the information collected by the FERC–725F to implement the statutory provisions of section 215 of the Federal Power Act (FPA).[1] On August 8, 2005, the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAct 2005), was enacted into law.[2] EPAct 2005 added a new section 215 to the FPA, which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.[3]

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.[4] Pursuant to Order No. 672, the Commission certified one organization, the North American Electric Reliability Corporation (NERC), as the ERO. The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

On November 19, 2007, NERC filed its petition for Commission approval of the Nuclear Plant Interface Coordination Reliability Standard, designated NUC–001–1. In Order No. 716 the Commission approved the standard while also directing certain revisions.[5] Reliability Standard, NUC–001–2, was approved by the Commission on January 21, 2010.[6] Revised Reliability Standard NUC–001–3 was filed with the Commission by NERC on September 15, 2014.

The purpose of Reliability Standard NUC–001–3 is to require ''coordination between nuclear plant generator operators and transmission entities for the purpose of ensuring nuclear plant safe operation and shutdown.'' [7] Reliability Standard NUC–001–3 applies to nuclear plant generator operators (generally nuclear power plant owners and operators, including licensees of the U.S. Nuclear Regulatory Commission) and ''transmission entities,'' defined in the Reliability Standard as including a nuclear plant's suppliers of off-site power and related transmission and distribution services. Reliability Standard NUC–001–3 requires a nuclear power plant operator and its suppliers of back-up power and related transmission and distribution services to coordinate concerning nuclear licensing requirements for safe nuclear plant operation and shutdown and system operating limits. Information collection requirements include establishing and maintaining interface agreements, including record retention requirements.

*Type of Respondents:* Nuclear power plant owners, operators, and transmission entities

*Estimate of Annual Burden:* [8] The Commission estimates for the annual public reporting burden for the Reliability Standard NUC–001–3 are unchanged from the estimates in the public notices issued for Reliability Standard NUC–001–2 on 10/30/2014 [9] and 1/28/2015 [10] in Docket No. IC14–16–000.

Reliability Standard NUC–001–3 represents the implementation of recommendations made by the NERC Five Year Review Team to revise Reliability Standard NUC–001–2. These recommendations include clarifying and conforming changes to update the standard for current use of terminology implemented in other areas of the Reliability Standards, as well as updated violation risk factors and violation severity levels for the evaluation of violations of the Reliability Standard. The burden of complying with the requirements under Reliability Standard NUC–001–3 will not change because the changes from the previous Reliability Standard NUC–001–2 are substantially administrative in nature.

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of

[1] 16 U.S.C. 824*o* (2012).

[2] Energy Policy Act of 2005, Pub. L. 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), 16 U.S.C. 824*o.*

[3] 16 U.S.C. 824*o*(e)(3).

[4] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[5] *Mandatory Reliability Standard for Nuclear Plant Interface Coordination,* Order No. 716, 125 FERC ¶ 61,065, at P 189 & n.90 (2008), *order on reh'g,* Order No. 716–A, 126 FERC ¶ 61,122 (2009).

[6] *North American Electric Reliability Corporation,* 130 FERC ¶ 61,051 (2010). When the revised Reliability Standard was approved the Commission, it did not go to OMB for approval. It is assumed that the changes made did not substantively affect the information collection, and therefore a formal submission to OMB was not needed.

[7] *See* Reliability Standard NUC–001–3, *available at http://www.nerc.com/files/NUC-001-3.pdf.*

[8] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. 5 CFR 1320.3 (2014) (explaining what is included in the information collection burden).

[9] 79 FR 61068 (10/9/2014).

[10] 80 FR 6067 (2/4/2015).

the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: February 9, 2015.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2015–03106 Filed 2–13–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC15–1–000]**

### Commission Information Collection Activities (FERC–598 & FERC–716); Comment Request

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Comment request.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collections FERC–598 (Self-Certification for Entities Seeking Exempt Wholesale Generator Status or Foreign Utility Company Status) and FERC–716 [Good Faith Requests for Transmission Service and Good Faith Responses by Transmitting Utilities Under Sections 211(a) and 213(a) of the Federal Power Act (FPA)] to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously issued a Notice in the **Federal Register** (79 FR 68424, 11/17/2014) requesting public comments. The Commission received no comments on either the FERC–598 or the FERC–716 and is making this notation in its submittal to OMB.

**DATES:** Comments on the collection of information are due by March 19, 2015.

**ADDRESSES:** Comments filed with OMB, identified either by the OMB Control No. 1902–0166 (FERC–598) or 1902–0170 (FERC–716) should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–4718.

A copy of the comments should also be sent to the Commission, in Docket No. IC15–1–000, by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

**SUPPLEMENTARY INFORMATION:**

*Type of Request:* Three-year extension of the information collection requirements for all collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

*Comments:* Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

**FERC–598 (Self-Certification for Entities Seeking Exempt Wholesale Generator Status or Foreign Utility Company Status)**

*OMB Control No.:* 1902–0166.

*Abstract:* The Commission uses the data in the FERC–598 information collection to implement the statutory provisions of Title XII, subchapter F of the Energy Policy Act of 2005 (EPAct 2005).[1]

EPAct 2005 repealed the Public Utility Holding Company Act of 1935 (PUHCA 1935) in its entirety, and adopted in its place the Public Utility Holding Company Act of 2005 (PUHCA 2005). This change enabled the Commission to exempt from the requirements of PUHCA 2005 the holding companies that hold responsibility over wholesale generators from PUHCA 2005 on a case-by-case basis. The Commission amended its regulations (in Order No. 667 [2]) to add procedures for self-certification by entities seeking exempt wholesale generator (EWG) and Foreign Utility Company (FUCO) status. This self-certification is similar to the process available to entities that seek qualifying facility status.

An EWG is a ''person engaged directly, or indirectly through one or more affiliates . . . and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.'' [3] A FUCO is a company that ''owns or operates facilities that are not located in any state and that are used for the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, if such company: (1) Derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, within the United States; and (2) neither the company nor any of its subsidiary companies is a public-utility company operating in the United States.''

An EWG, FUCO, or its representative seeking to self-certify its status must file with the Commission a notice of self-certification demonstrating that it satisfies the definition of EWG or FUCO. In the case of EWGs, the person filing a notice of self-certification must also file a copy of the notice of self-certification with the state regulatory authority of the state in which the facility is located and that person must also represent to the Commission in its

[1] Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 594 (2005).

[2] *Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005,* 70 FR 75592 (2005), order on rehearing, Order 667–A, 71 FR 28446 (2006), order on rehearing, Order 667–B, 71 FR 42750 (2006), order on rehearing, Order 667–C, 118 FERC 61133 (2007).

[3] 18 CFR 366.1.

submission that it has filed a copy of the notice with the appropriate state regulatory authority.[4]

Submission of the information collected by FERC–598 is necessary for the Commission to carry out its responsibilities under EPAct 2005.[5] The Commission implements its responsibilities through the Code of Federal Regulations (CFR) Title 18 Part 366. These filing requirements are mandatory for entities seeking to self-certify their EWG or FUCO status.

*Type of Respondent:* EWGs and FUCOs.

*Estimate of Annual Burden:* The Commission estimates the annual public reporting burden for the information collection as:

FERC–598 (SELF-CERTIFICATION FOR ENTITIES SEEKING EXEMPT WHOLESALE GENERATOR STATUS OR FOREIGN UTILITY COMPANY STATUS)

| | Number of respondents (1) | Annual number of responses per respondent (2) | Total number of responses (1)*(2) = (3) | Average burden & cost per response[6] (4) | Total annual burden hours & total annual cost (3)*(4) = (5) | Cost per respondent $ (5) ÷ (1) |
|---|---|---|---|---|---|---|
| EWGs/FUCOs ..... | 102 | 1 | 102 | 6<br>$423 | 612<br>$43,146 | $423 |

[6] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response.
* $70.50 per Hour = Average Cost per Response. The cost per hour figure is the FERC average salary plus benefits. Subject matter experts found that industry employment costs closely resemble FERC's regarding the FERC–598 information collection.

**FERC–716, [Good Faith Requests for Transmission Service and Good Faith Responses by Transmitting Utilities Under Sections 211(a) and 213(a) of the Federal Power Act (FPA)[7]]**

*OMB Control No.:* 1902–0170.

*Abstract:* The Commission uses the information collected under the requirements of FERC–716 to implement the statutory provisions of Sections 211 and Section 213 of the Federal Power Act as amended and added by the Energy Policy Act 1992. FERC–716 also includes the requirement to file a Section 211 request if the negotiations between the transmission requestor and the transmitting utility are unsuccessful. For the initial process, the information is not filed with the Commission. However, the request and response may be analyzed as a part of a Section 211 action. The Commission may order transmission services under the authority of FPA 211.

The Commission's regulations in the Code of Federal Regulations (CFR), 18 CFR 2.20, provide standards by which the Commission determines if and when a valid good faith request for transmission has been made under section 211 of the FPA. By developing the standards, the Commission sought to encourage an open exchange of data with a reasonable degree of specificity and completeness between the party requesting transmission services and the transmitting utility. As a result, 18 CFR 2.20 identifies 12 components of a good faith estimate and 5 components of a reply to a good faith request.

*Type of Respondent:* Transmission Requestors and Transmitting Utilities.

*Estimate of Annual Burden:* The Commission estimates the annual public reporting burden for the information collection as:

FERC–716 (GOOD FAITH REQUESTS FOR TRANSMISSION SERVICE AND GOOD FAITH RESPONSES BY TRANSMITTING UTILITIES UNDER SECTIONS 211(a) AND 213(a) OF THE FEDERAL POWER ACT (FPA))

| | Number of respondents (1) | Annual number of responses per respondent (2) | Total number of responses (1)*(2)=(3) | Average burden and cost per response[8] (4) | Total annual burden hours and total annual cost (3)*(4)=(5) | Cost per respondent ($) (5)÷(1) |
|---|---|---|---|---|---|---|
| Information exchange between parties .... | 3 | 1 | 3 | 100<br>$7050 | 300<br>$21,150 | 7050 |
| Application submitted to FERC if parties' negotiations are unsuccessful ..... | 3 | 1 | 3 | 2.5<br>$176.25 | 7.5<br>$528.75 | 176.25 |
| Total ..... | ..... | ..... | 6 | ..... | 307.5<br>$21,678.75 | 7,226.25 |

Dated: February 11, 2015.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2015–03146 Filed 2–13–15; 8:45 am]

**BILLING CODE 6717–01–P**

[4] 18 CFR 366.7.

[5] 42 U.S.C. 16451 *et seq.*

[7] Previously titled ''Transmission Services (Good Faith Request, Response by Transmitting Utility, and Application) under Sections 211 and 213a of the Federal Power Act''.

[8] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $70.50 per Hour = Average Cost per Response. The cost per hour figure is the FERC average salary plus benefits. Subject matter experts found that industry employment costs closely resemble FERC's regarding the FERC–716 information collection.

## 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: EC14–140–000; EC14–141–000.*

*Applicants:* Dynegy Inc., Dighton Power, LLC, Elwood Energy LLC, EquiPower Resources Management, LLC, Kincaid Generation, L.L.C., Lake Road Generating Company, L.P., Liberty Electric Power, LLC, MASSPOWER, Milford Power Company, LLC, Richland-Stryker Generation LLC, Brayton Point Energy, LLC

*Description:* Response to January 16, 2015 Request for Additional Information and Request for Shortened Comment Period of the Dynegy Applicants.

*Filed Date:* 2/6/15.

*Accession Number:* 20150206–5215.

*Comments Due:* 5 p.m. ET 2/23/15.

*Docket Numbers: EC14–140–000; EC14–141–000.*

*Applicants:* Dynegy Inc., Dighton Power, LLC, Elwood Energy LLC, EquiPower Resources Management, LLC, Kincaid Generation, L.L.C., Lake Road Generating Company, L.P., Liberty Electric Power, LLC, MASSPOWER, Milford Power Company, LLC, Richland-Stryker Generation LLC, Brayton Point Energy, LLC.

*Description:* Supplement to September 11, 2014 Section 203 Joint Applications of the Dynegy Applicants Regarding Settlement with the Independent Market Monitor for PJM Interconnection, L.L.C.

*Filed Date:* 2/6/15.

*Accession Number:* 20150206–5216.

*Comments Due:* 5 p.m. ET 2/23/15.

*Docket Numbers:* EC15–69–000.

*Applicants:* Palouse Wind, LLC.

*Description:* Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Palouse Wind, LLC.

*Filed Date:* 2/6/15.

*Accession Number:* 20150206–5283.

*Comments Due:* 5 p.m. ET 2/27/15.

*Docket Numbers:* EC15–70–000.

*Applicants:* Utah Red Hills Renewable Park, LLC.

*Description:* Application for Authorization for Disposition of Jurisdictional Facilities and Requests for Waivers and Confidential Treatment of Utah Red Hills Renewable Park, LLC.

*Filed Date:* 2/6/15.

*Accession Number:* 20150206–5288.

*Comments Due:* 5 p.m. ET 2/27/15.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2331–030; ER14–630–007; ER10–2319–023; ER10–2317–023; ER10–2326–028; ER14–1468–007; ER13–1351–005; ER10–2330–029.

*Applicants:* J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA LLC, Cedar Brakes I, L.L.C., KMC Thermo, LLC, Florida Power Development LLC, Utility Contract Funding, L.L.C.

*Description:* Supplement to January 20, 2015 Notice of Non-Material Change in Status of the J.P. Morgan Sellers.

*Filed Date:* 2/9/15.

*Accession Number:* 20150209–5089.

*Comments Due:* 5 p.m. ET 3/2/15.

*Docket Numbers:* ER10–2543–003; ER14–1153–002; ER11–2159–004; ER10–2604–008; ER10–2602–011; ER10–2609–010; ER10–2606–010.

*Applicants:* Verso Androscoggin LLC, Verso Androscoggin Power LLC, Verso Maine Energy LLC, Luke Paper Company, New Page Energy Services, Inc., Consolidated Water Power Company, Escanaba Power Company.

*Description:* Notice of Non-Material Change in Status of the Verso MBR and NewPage MBR Entities.

*Filed Date:* 2/6/15.

*Accession Number:* 20150206–5281.

*Comments Due:* 5 p.m. ET 2/27/15.

*Docket Numbers:* ER12–1179–022.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Compliance filing per 35: Amendment in Docket ER12–1179–021—Integrated Marketplace to be effective 3/1/2014.

*Filed Date:* 2/6/15.

*Accession Number:* 20150206–5239.

*Comments Due:* 5 p.m. ET 2/27/15.

*Docket Numbers:* ER14–2445–004.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Compliance filing per 35: 2015–02–06 Hurdle Rate Errata Compliance Filing to be effective 7/17/2014.

*Filed Date:* 2/6/15.

*Accession Number:* 20150206–5228.

*Comments Due:* 5 p.m. ET 2/27/15.

*Docket Numbers:* ER15–1011–000.

*Applicants:* Nevada Power Company.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Rate Schedule143 NPC Concurrence with CAISO to be effective 2/25/2015.

*Filed Date:* 2/6/15.

*Accession Number:* 20150206–5229.

*Comments Due:* 5 p.m. ET 2/27/15.

*Docket Numbers:* ER15–1012–000.

*Applicants:* L'Anse Warden Electric Company.

*Description:* Compliance filing per 35: Tariff Amendment to be effective 4/7/2015.

*Filed Date:* 2/6/15.

*Accession Number:* 20150206–5235.

*Comments Due:* 5 p.m. ET 2/27/15.

Take notice that the Commission received the following public utility holding company filings:

*Docket Numbers:* PH15–9–000.

*Applicants:* Apollo Management VI, L.P., Verso Corporation.

*Description:* Apollo Management VI, L.P., et. al. submits FERC 65–B Waiver Notification.

*Filed Date:* 2/6/15.

*Accession Number:* 20150206–5299.

*Comments Due:* 5 p.m. ET 2/27/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 9, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–03107 Filed 2–13–15; 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 rate filings:

*Docket Numbers: EL15–22–000;* ER10–2475–006; ER13–521–002; ER13–520–002; ER13–1442–002; ER13–1441–002; ER13–1273–002; ER13–1272–002; ER13–1271–002; ER13–1270–002; ER13–1269–002; ER13–1268–002; ER13–1267–002; ER13–1266–003; ER12–21–013; ER12–1626–003; ER10–3246–003; ER10–2605–006; ER10–2474–006.

*Applicants:* Nevada Power Company, Sierra Pacific Power Company,

PacifiCorp, Agua Caliente Solar, LLC, Pinyon Pines Wind I, LLC, Pinyon Pines Wind II, LLC, Solar Star California XIX, LLC, Solar Star California XX, LLC, Topaz Solar Farms LLC, CalEnergy, LLC, CE Leathers Company, Del Ranch Company, Elmore Company, Fish Lake Power LLC, Salton Sea Power Generation Company, Salton Sea Power L.L.C., Vulcan/BN Geothermal Power Company, Yuma Cogeneration Associates.

*Description:* Response to Show Cause Order of the Berkshire Hathaway Energy MBR Sellers.

*Filed Date:* 2/9/15.

*Accession Number:* 20150209–5120.

*Comments Due:* 5 p.m. ET 3/2/15.

*Docket Numbers:* ER10–1285–005.

*Applicants:* Craven County Wood Energy Limited Partnership.

*Description:* Notice of Non-Material Change in Status of Craven County Wood Energy Limited Partnership.

*Filed Date:* 2/9/15.

*Accession Number:* 20150209–5177.

*Comments Due:* 5 p.m. ET 3/2/15.

*Docket Numbers:* ER13–1523–002; *ER12–1875–003.*

*Applicants:* Blythe Energy Inc., AltaGas Renewable Energy Colorado LLC.

*Description:* Notice of Change in Status of Blythe Energy Inc. and AltaGas Renewable Energy Colorado LLC.

*Filed Date:* 2/9/15.

*Accession Number:* 20150209–5186.

*Comments Due:* 5 p.m. ET 3/2/15.

*Docket Numbers:* ER15–372–001.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Tariff Amendment per 35.17(b): Response to Request for Additional Information and Errata, PJM SA 1141 to be effective 10/10/2014.

*Filed Date:* 2/9/15.

*Accession Number:* 20150209–5202.

*Comments Due:* 5 p.m. ET 3/2/15.

*Docket Numbers:* ER15–1013–000.

*Applicants:* WSPP Inc.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 2015 Normal to be effective 4/10/2015.

*Filed Date:* 2/9/15.

*Accession Number:* 20150209–5087.

*Comments Due:* 5 p.m. ET 3/2/15.

*Docket Numbers:* ER15–1014–000.

*Applicants:* The Connecticut Light and Power Company, Public Service Company of New Hampshire, Western Massachusetts Electric Company.

*Description:* Northeast Utilities Service Company on behalf of The Connecticut Light and Power Company, et. al. submits Notice of Cancellation of Service Agreements.

*Filed Date:* 2/9/15.

*Accession Number:* 20150209–5130.

*Comments Due:* 5 p.m. ET 3/2/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 9, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–03108 Filed 2–13–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP15–14–000]**

### Texas Gas Transmission, LLC; Supplemental Notice of Intent To Prepare an Environmental Assessment for the Proposed Southern Indiana Market Lateral Project and Request for Comments on Environmental Issues

On January 9, 2015, the Federal Energy Regulatory Commission (FERC or Commission) issued a ''*Notice of Intent to Prepare an Environmental Assessment for the Proposed Southern Indiana Market Lateral Project and Request for Comments on Environmental Issues''* (NOI). The entire environmental mailing list was not provided copies of the NOI; therefore, the Commission is issuing this Supplemental NOI to extend the scoping period and provide additional time for interested parties to file comments on environmental issues.

The staff of the Commission will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Southern Indiana Market Lateral Project involving construction and operation of facilities by Texas Gas Transmission, LLC (Texas Gas) in Henderson County, Kentucky and Posey County, Indiana. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

The Commission continues to gather input from the public and interested agencies on the project. This process is referred to as scoping. Your input will help the Commission staff determine what issues they need to evaluate in the EA. The NOI identified February 9, 2015 as the close of the scoping period. Please note that the scoping period is now extended and will close on March 12, 2015.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Texas Gas provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

**Summary of the Proposed Project**

Texas Gas proposes to construct and operate a new approximately 29.9-mile-long, 20-inch-diameter natural gas pipeline lateral and an approximate 0.9-mile-long, 10-inch-diameter natural gas pipeline lateral extending from Texas Gas' facilities in Henderson County, Kentucky to interconnections with two industrial facilities in Posey County, Indiana. The Southern Indiana Market Lateral Project would provide about 166,000 million British thermal units per day of firm transportation capacity. According to Texas Gas, its project would provide two new customers with natural gas service.

The Southern Indiana Market Lateral Project would consist of the following facilities:

- About 29.9 miles of 20-inch-diameter natural gas pipeline lateral;
- about 0.9 mile of 10-inch-diameter natural gas pipeline lateral; and
- a mainline inspection launcher, mainline valve, and two meter and regulator stations.

The general location of the project facilities is shown in appendix 1.[1]

**Land Requirements for Construction**

Construction of the proposed facilities would disturb about 611.2 acres of land for the aboveground facilities and the pipeline. Following construction, Texas Gas would maintain about 198.4 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. About 6 percent of the proposed pipeline route parallels existing pipeline, utility, or road rights-of-way.

**The EA Process**

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species; and
- public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

**Consultations Under Section 106 of the National Historic Preservation Act**

In accordance with the Advisory Council on Historic Preservation's implementing regulations for Section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under Section 106.

**Public Participation**

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before March 12, 2015.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP15–14–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

**Environmental Mailing List**

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

project purposes or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

**Becoming an Intervenor**

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

**Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP15–14). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: February 10, 2015.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2015–03147 Filed 2–13–15; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–RCRA–2014–0925, FRL–9922–93–OSWER]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System (EPA ICR No. 0801.20, OMB Control No. 2050–0039) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through May 31, 2015. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before April 20, 2015.

**ADDRESSES:** Submit your comments, referencing by Docket ID No. EPA–HQ–RCRA–2014–0925, online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Bryan Groce, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, (5304P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 308–8750; fax number: (703) 308–0514; email address: *groce.bryan@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* This ICR covers recordkeeping and reporting activities for the hazardous waste manifest paper system, under the Resource Conservation and Recovery Act (RCRA). EPA's authority to require use of a manifest system stems primarily from

RCRA 3002(a)(5) (also RCRA Sections 3003(a)(3) and 3004.) Regulations are found in 40 CFR part 262 (registrant organizations and generators), part 263 (transporters), and parts 264 and 265 (TSDFs). The manifest lists the wastes that are being shipped and the treatment, storage, or disposal facility (TSDF) to which the wastes are bound. Generators, transporters, and TSDFs handling hazardous waste are required to complete the data requirements for manifests and other reports primarily to: (1) Track each shipment of hazardous waste from the generator to a designated facility; (2) provide information requirements sufficient to allow the use of a manifest in lieu of a Department of Transportation (DOT) shipping paper or bill of lading, thereby reducing the duplication of paperwork to the regulated community; (3) provide information to transporters and waste management facility workers on the hazardous nature of the waste; (4) inform emergency response teams of the waste's hazard in the event of an accident, spill, or leak; and (5) ensure that shipments of hazardous waste are managed properly and delivered to their designated facilities.

On February 7, 2014, EPA published the electronic manifest (e-Manifest) Final Rule. The final rule established new manifest requirements that authorized the use of electronic manifests (or e-Manifests) as a means to track off-site shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste. EPA is taking action now to establish the national e-Manifest system, but unknown variables (*e.g.,* funding contingencies for e-Manifest system development) could delay the actual deployment of the system. Therefore, until EPA announces that the e-Manifest system is available for use in a subsequent **Federal Register** document, all respondents under the information collection requirements covered in this ICR (*i.e.,* hazardous waste generators, transporters, and treatment, storage, and disposal facilities (TSDFs)) must continue to comply with the current paper-based manifest system and use the existing paper manifests forms for the off-site transportation of hazardous waste shipments. The EPA anticipates that the initial system will become available for use no later than spring 2018.

*Form Numbers:* Form 8700–22 and 8700–22A.

*Respondents/affected entities:* Business or other for-profit.

*Respondent's obligation to respond:* mandatory (RCRA 3002(a)(5)).

*Estimated number of respondents:* 161,720.

*Frequency of response:* each shipment.

*Total estimated burden:* 3,473,577 hours. Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $105,622,281, which includes $974,463 annualized labor costs and $2,092,291 annualized capital or O&M costs.

*Changes in Estimates:* The burden hours are likely to stay substantially the same.

Dated: February 5, 2015.

**Barnes Johnson,**

*Director, Office of Resource Conservation and Recovery.*

[FR Doc. 2015–03153 Filed 2–13–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–RCRA–2014–0926, FRL–9922–92–OSWER]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Facility Ground-Water Monitoring Requirements

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Facility Ground-Water Monitoring Requirements (EPA ICR No. 0959.15, OMB Control No. 2050–0033) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through May 31, 2015. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before April 20, 2015.

**ADDRESSES:** Submit your comments, referencing by Docket ID No. EPA–HQ–RCRA–2014–0926, online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Peggy Vyas, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–5477; fax number: 703–308–8433; email address: *vyas.peggy@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* Subtitle C of the Resource Conservation and Recovery Act (RCRA) creates a comprehensive program for the safe management of hazardous waste. Section 3004 of RCRA requires owners and operators of facilities that treat,

store, or dispose of hazardous waste to comply with standards established by EPA that are to protect the environment. Section 3005 provides for implementation of these standards under permits issued to owners and operators by EPA or authorized States. Section 3005 also allows owners and operators of facilities in existence when the regulations came into effect to comply with applicable notice requirements to operate until a permit is issued or denied. This statutory authorization to operate prior to permit determination is commonly known as ''interim status.'' Owners and operators of interim status facilities also must comply with standards set under Section 3004.

This ICR examines the ground-water monitoring standards for permitted and interim status facilities at 40 CFR parts 264 and 265, as specified. The ground-water monitoring requirements for regulated units follow a tiered approach whereby releases of hazardous contaminants are first detected (detection monitoring), then confirmed (compliance monitoring), and if necessary, are required to be cleaned up (corrective action). Each of these tiers requires collection and analysis of ground-water samples. Owners or operators that conduct ground-water monitoring are required to report information to the oversight agencies on releases of contaminants and to maintain records of ground-water monitoring data at their facilities. The goal of the ground-water monitoring program is to prevent and quickly detect releases of hazardous contaminants to groundwater, and to establish a program whereby any contamination is expeditiously cleaned up as necessary to protect human health and environment.

*Form Numbers:* None.

*Respondents/affected entities:* Entities potentially affected by this action are Business or other for-profit; and State, Local, or Tribal Governments.

*Respondent's obligation to respond:* Mandatory (RCRA 3004).

*Estimated number of respondents:* 818.

*Frequency of response:* Quarterly, semi-annually, and annually.

*Total estimated burden:* 84,391 hours. Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $18,322,083, which includes $3,770,485 annualized labor costs and $14,551,598 annualized capital or O&M costs.

*Changes in Estimates:* The burden hours are likely to stay substantially the same.

Dated: February 2, 2015.

**Barnes Johnson,**

*Director, Office of Resource Conservation and Recovery.*

[FR Doc. 2015–03158 Filed 2–13–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2013–0677; FRL–9922–58]**

## Receipt of Test Data Under the Toxic Substances Control Act

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

**ACTION:** Notice.

**SUMMARY:** EPA is announcing its receipt of test data submitted pursuant to a test rule issued by EPA under the Toxic Substances Control Act (TSCA). As required by TSCA, this document identifies each chemical substance and/or mixture for which test data have been received; the uses or intended uses of such chemical substance and/or mixture; and describes the nature of the test data received. Each chemical substance and/or mixture related to this announcement is identified in Unit I. under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Kathy Calvo, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8089; email address: *calvo.kathy@epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Chemical Substances and/or Mixtures

Information about the following chemical substance and/or mixture is provided in Unit IV.: *D-erythro-hex-2-enonic acid, gamma,-lactone, monosodium salt* (*CAS No. 6381–77–7*).

### II. Federal Register Publication Requirement

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under TSCA section 4 (15 U.S.C. 2603).

### III. Docket Information

A docket, identified by the docket identification (ID) number EPA–HQ–OPPT–2013–0677, has been established for this **Federal Register** document that announces the receipt of data. Upon EPA's completion of its quality assurance review, the test data received will be added to the docket for the TSCA section 4 test rule that required the test data. Use the docket ID number provided in Unit IV. to access the test data in the docket for the related TSCA section 4 test rule.

The docket for this **Federal Register** document and the docket for each related TSCA section 4 test rule is available electronically at *http://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

### IV. Test Data Received

This unit contains the information required by TSCA section 4(d) for the test data received by EPA. *D-erythro-hex-2-enonic acid, gamma,-lactone, monosodium salt* (*CAS No. 6381–77–7*):

*1. Chemical uses:* Antioxidant in food applications for which the vitamin activity of ascorbic acid (Vitamin C) is not required. Specifically, the compound is most frequently used to develop and retain the coloring and taste in meat products. It is also used for seafood products, fruit, and vegetable preservation, in beverages, and as a developing agent in photographic applications.

2. *Applicable test rule:* Chemical testing requirements for second group of high production volume chemicals (HPV2), 40 CFR 799.5087.

3. *Test data received:* The following listing describes the nature of the test data received. The test data will be added to the docket for the applicable TSCA section 4 test rule and can be found by referencing the docket ID number provided. EPA reviews of test data will be added to the same docket upon completion.

*Ready Biodegredation.* The docket ID number assigned to this data is EPA–HQ–OPPT–2007–0531.

**Authority:** 15 U.S.C. 2601 *et seq.*

Dated: February 10, 2015.

**Maria J. Doa,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 2015–03154 Filed 2–13–15; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[3060–1126]**

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before April 20, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Benish Shah, FCC, via email *PRA@fcc.gov* and to *Benish.Shah@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact *Benish.Shah@fcc.gov,* (202) 418–7866.

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060–1126.

*Title:* Section 10.350, Testing Requirements for the Commercial Mobile Alert System (CMAS).

*Form No.:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Businesses or other for-profit.

*Number of Respondents and Responses:* 146 respondents; 1,752 responses.

*Estimated Time per Response:* 0.00114155251 hours (2.5 seconds).

*Frequency of Response:* Monthly and on occasion reporting requirement and recordkeeping requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i) and (o), 201, 303(r), 403 and 606 of the Communications Act of 1934, as amended, as well as by sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act.

*Total Annual Burden:* 2 hours.

*Total Annual Cost:* None.

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

*Nature and Extent of Confidentiality:* There is no need for confidentiality.

*Needs and Uses:* As required by the Warning, Alert, and Response Network (WARN) Act, Public Law 109–347, the Federal Communications Commission adopted final rules to establish a Commercial Mobile Alert System (CMAS), under which Commercial Mobile Service (CMS) providers may elect to transmit emergency alerts to the public, *see Second Report and Order and Further Notice of Proposed Rulemaking, FCC 08–164.* In order to ensure that the CMAS operates efficiently and effectively, the Commission will require participating CMS providers to receive required monthly test messages initiated by the Federal Alert Gateway Administrator, to test their infrastructure and internal CMAS delivery systems by distributing the monthly message to their CMAS coverage area, and to log the results of the tests. The Commission will also require periodic testing of the interface between the Federal Alert Gateway and each CMS Provider Gateway to ensure the availability and viability of both gateway functions. The CMS Provider Gateways must send an acknowledgement to the Federal Alert Gateway upon receipt of these interface test messages.

The Commission, the Federal Alert Gateway and participating CMS providers will use this information to ensure the continued functioning of the CMAS, thus complying with the WARN Act and the Commission's obligation to promote the safety of life and property through the use of wire and radio communication.

Federal Communications Commission.

**Sheryl A. Segal,**

*Associate Secretary for Information Management, Office of the Secretary, Office of the Managing Director.*

[FR Doc. 2015–03081 Filed 2–13–15; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0414]**

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to

any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before April 20, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Number:* 3060–0414.

*Title:* Terrain Shielding Policy.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities, not-for-profit institutions, State, Local or Tribal Government.

*Number of Respondents and Responses:* 25 respondents; 25 responses.

*Estimated Time per Response:* 1 hour.

*Frequency of Response:* On occasion reporting requirement; Third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 Sections 154(i) and 303 of the Communications Act of 1934, as amended.

*Total Annual Burden:* 25 hours.

*Total Annual Cost:* $56,250.

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

*Nature and Extent of Confidentiality:* There is no need for confidentiality and respondents are not being asked to submit confidential information to the Commission.

*Needs and Uses:* The terrain shielding policy requires respondents to submit either a detailed terrain study, or to submit letters of assent from all potentially affected parties and graphic depiction of the terrain when intervening terrain prevents a low power television applicant from interfering with other low power television or full-power television stations. FCC staff uses the data to determine if terrain shielding can provide adequate interference protection and if a waiver of 47 CFR 74.705 and 74.707 of the rules is warranted.

Federal Communications Commission.

**Sheryl A. Segal,**

*Associate Secretary for Information Management, Office of the Secretary, Office of the Managing Director.*

[FR Doc. 2015–03080 Filed 2–13–15; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 3, 2015.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *William Shanks, Versailles, Ohio, individually and The Shanks Family Control Group consisting of William Shanks, Margaret Shanks, Elizabeth Blevins, all of Versailles, Kentucky, and Willard Wickstrom,* Louisville, Kentucky; to retain voting shares of Citizens Commerce Bancshares, and thereby indirectly retain voting shares of Citizens Commerce National Bank, both in Versailles, Kentucky.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Sally F. Duncan, Mt. Zion, Illinois, individually and as trustee of the Henry M. B. Wilson Irrevocable Trust, Henry M.B. Wilson, Sullivan, Illinois, individually and as beneficiary with the power to remove any trustee of the Henry M. B. Wilson Irrevocable Trust, and the Henry M. B. Wilson Irrevocable Trust,* Sullivan, Illinois; individually and all of the foregoing as a group acting in concert to acquire voting shares of Sullivan Bancshares, Inc., and thereby indirectly acquire voting shares of First National Bank of Sullivan, both in Sullivan, Illinois.

Board of Governors of the Federal Reserve System, February 11, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–03120 Filed 2–13–15; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 3, 2015.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *David B. Pogrund, Chicago, Illinois, and Randy L. Green, Highland Park, Illinois, as co-trustees of 153 trusts for family members of the late Sanford Takiff, and acting in concert with the Takiff Family Foundation, Glencoe, Illinois, an Illinois not-for-profit corporation, controlled by its directors, Sherri Zirlin, Glencoe, Illinois; Elizabeth Scheinfeld, Glencoe, Illinois; Jill Hirsh, Glencoe, Illinois; and Bobette Takiff, Glencoe, Illinois; and Sherri Zirlin, individually; Elizabeth Scheinfeld, individually; and Jill Hirsh, individually, to retain all the outstanding voting stock of Bank of Highland Park Financial Corp., Highland Park, Illinois, and thereby indirectly control First Bank of Highland Park, Highland Park, Illinois.*

B. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *HopFed Bancorp 2015 Employee Stock Ownership Plan with John E. Peck and Billy C. Duvall* as trustees, all of Hopkinsville, Kentucky; to acquire voting shares of HopFed Bancorp, Inc., Hopkinsville, Kentucky and thereby indirectly acquire share of Heritage

Bank, USA, Inc., Hopkinsville, Kentucky.

2. *Wanda L. Rednour, individually, and as trustee of the Bypass Trust UWO John E. Rednour*; to retain voting shares of Perry County Bancorp, Inc., and thereby indirectly retain voting shares of Du Quoin State Bank, all of Du Quoin, Illinois.

Board of Governors of the Federal Reserve System, February 10, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–03083 Filed 2–13–15; 8:45 am]

**BILLING CODE 6210–01–P**

## GENERAL SERVICES ADMINISTRATION

**[Notice–2015–PM–01; Docket No. 2015–0002; Sequence No. 1]**

### Notice of Intent To Prepare a Supplemental Draft Environmental Impact Statement for the Federal Bureau of Investigation Central Records Complex in Winchester County, Virginia

**AGENCY:** U.S. General Services Administration (GSA).

**ACTION:** Notice.

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations, the GSA announces its intent to prepare a Supplement to the Final Environmental Impact Statement (EIS), from May 2007, analyzing the environmental impacts of site acquisition and development of the Federal Bureau of Investigation (FBI), Central Records Complex (CRC), in Winchester County, Virginia.

**DATES:** February 17, 2015.

**ADDRESSES:** Submit public comments by March 19, 2015. Written comments may be mailed to Courtenay Hoernemann, Project Environmental Planner, 20 N 8th Street, Philadelphia, PA 19107, or via email to *frederick.va.siteacquisition@gsa.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* GSA began the site selection process for an approximately 100 acre site in Frederick County, Virginia in 2006 in order to procure via lease construction a central records storage facility for the FBI. The facility, referred to as the CRC, would consolidate FBI's records currently housed within the Washington DC area, in addition to field offices and information technology centers nationwide.

The project requirements were 947,000 rentable square feet consisting of three buildings; an office building, a records storage facility, and a data center. The center would accommodate 1,300 employees and 1,225 parking spaces. Three sites were considered for site selection. As part of the site selection process, GSA prepared an Environmental Impact Statement (EIS) and Record of Decision (ROD) completed in May 2007 for the selected alternative, the Sempeles Site. GSA continued with the procurement process, however was unable to successfully award a lease due to market conditions and the specialized nature of the facility.

FBI then determined that the records storage piece of the project was the number one priority, and it was decided that the best way to move forward with meeting this mission critical function was through a federal construction funding request. The revised project requirements are now for an overall square footage of 256,425 gross square feet, to include the records storage building, support area, visitor's screening facility, service center, and guard booth; parking would be at 427 spaces.

*Current Efforts:* In 2014, federal funding was approved, and a notice was put out on FedBizOps for expressions of interest for sites at a minimum of 40 acres and a maximum of 108 acres. As a result of GSA's and FBI's evaluations, including environmental reconnaissance and application of site criteria, a short list of three (3) sites has been reached, one of which was in the 2007 EIS, the Sempeles Site, now referred to as Whitehall Commerce Center.

The Supplemental Draft EIS will evaluate potential direct, indirect, and cumulative impacts from construction at the three site alternatives, as well as the no action alternative. Relevant and reasonable measures that could avoid or mitigate environmental effects will also be analyzed. Additionally, GSA will undertake any consultations required by applicable laws or regulations, including the National Historic Preservation Act.

The Supplemental Draft EIS is being prepared to address changes to the proposed action that are relevant to environmental concerns, as required under NEPA (40 CFR 1502.9), and the following three sites will serve as alternatives:

*Alternative 1:* Arcadia Route 50 Property, 2117 Millwood Pike, Winchester VA.

*Alternative 2:* Blackburn Limited Partnership, Apple Valley Road, Winchester, VA.

*Alternative 3:* Whitehall Commerce Center, Route 669 & Route 11, Clear Brook, VA.

The Supplemental Draft EIS will incorporate by reference and build upon the analyses presented in the 2007 Final EIS, and will document the Section 106 process under the National Historic Preservation Act of 1966, as amended (36 CFR part 800).

A public scoping period and public scoping meeting for the proposed action were held in January 2006. However, in light of the amount of time that has transpired, changes to project requirements, and new site alternatives, a public comment period will commence on the date of this notice and be open for 30 days to allow the public to submit comments concerning the project.

Future notices will be published to announce the availability of the Supplemental Draft EIS and additional opportunities for public input.

No decision will be made to implement any alternative until the NEPA process is completed and a Record of Decision is signed.

Dated: February 5, 2015.

**Toby Tobin,**

*Acting Division Director, Facilities Management & Services Programs Division, U.S. GSA, Mid-Atlantic Region.*

[FR Doc. 2015–02974 Filed 2–13–15; 8:45 am]

**BILLING CODE 6820–89–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

**[Document Identifier: HHS–OS–0990–new–30D]**

### Agency Information Collection Activities; Proposed Collection; Public Comment Request

**AGENCY:** Office of the Assistant Secretary for Health, Office of Adolescent Health, 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 a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). 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 March 19, 2015.

**ADDRESSES:** Submit your comments to *Information.Collection Clearance@hhs.gov* or by calling (202) 690–6162.

**FOR FURTHER INFORMATION CONTACT:** Information Collection Clearance staff, *Information.Collection Clearance@hhs.gov* or (202) 690–6162.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the document identifier HHS–OS–0990–New–30D for reference.

*Information Collection Request Title:* Positive Adolescent Futures (PAF) Implementation Study

*Abstract:* The Office of Adolescent Health (OAH), U.S. Department of Health and Human Services (HHS) is requesting approval by OMB on a new collection. The Positive Adolescent Futures (PAF) Study will provide information about program design, implementation, and impacts through a rigorous assessment of program impacts and implementation. This proposed information collection request includes instruments related to the in-depth implementation study that complements the impact study. The data collected from these instruments will provide a detailed understanding of program implementation.

*Need and Proposed Use of the Information:* The data will serve two main purposes. First, the information will enable the study team to produce clear, detailed descriptions of each intervention that is evaluated and the counterfactual in each site. This documentation is critical for understanding the meaning of impact estimates. Second, the data will be used to assess fidelity of implementation and the quality of program delivery. This information is essential for determining whether the interventions were implemented well and whether the evaluation provided a good test of each site's intervention.

*Likely Respondents:* The 105 program administrators and case managers and 200 youth participants in 3 impact study sites.

The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

| Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|
| Semi-structured interview | 8 | 2 | 1 | 16 |
| Staff focus group | 13 | 1 | 1 | 13 |
| Staff survey | 35 | 1 | .6 | 21 |
| Program attendance and content coverage protocol | 2 | 12 | .5 | 12 |
| Youth focus group | 67 | 1 | 1.5 | 100.5 |
| Total | | | | 162.5 |

OS 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. 2015–03103 Filed 2–13–15; 8:45 am]

**BILLING CODE 4168–11–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Applications for New Awards; National Institute on Disability, Independent Living, and Rehabilitation Research Community Living and Participation and, Health and Function

**AGENCY:** Administration for Community Living, Department of Health and Human Services.

**ACTION:** Notice.

**Overview Information**

National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR)—Disability and Rehabilitation Research Projects (DRRPs)—Community Living and Participation, and Health and Function Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Numbers: Health and Function of Individuals with Disabilities: 84.133A–3 (Research) and 84.133A–8 (Development); Community Living and Participation of Individuals with Disabilities: 84.133A–4 (Research) and 84.133A–9 (Development).

**Note:** This notice invites applications for separate competitions. For funding and other key information for each of these competitions, see the chart in the *Award Information* section of this notice.

**DATES:**

*Applications Available:* February 17, 2015.

**Note:** On July 22, 2014, President Obama signed the Workforce Innovation Opportunity Act (WIOA). WIOA was effective immediately. One provision of WIOA transferred the National Institute on Disability and Rehabilitation Research (NIDRR) from the Department of Education to the Administration for Community Living (ACL) in the Department of Health and Human Services. In addition, NIDRR's name was changed to the Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR). For FY 2015, all NIDILRR priority notices will be published as ACL notices, and ACL will make all NIDILRR awards. During this transition period, however, NIDILRR will continue to review grant applications using Department of Education tools. NIDILRR will post previously-approved application kits to grants.gov, and NIDILRR applications submitted to grants.gov will be forwarded to the Department of Education's G–5 system for peer review. We are using Department of Education application kits and peer review systems during this transition year in order to provide for a smooth and orderly process for our applicants.

*Date of Pre-Application Meeting:* March 10, 2015.

*Deadline for Notice of Intent To Apply:* March 24, 2015.

*Deadline for Transmittal of Applications:* April 20, 2015.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities to develop methods, procedures, and rehabilitation

technology. The Program's activities are designed to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

*Disability and Rehabilitation Research Projects (DRRPs)*

The purpose of DRRPs, which are under NIDILRR's Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended, by developing methods, procedures, and rehabilitation technologies that advance a wide range of independent living and employment outcomes for individuals with disabilities, especially individuals with the most severe disabilities. DRRPs carry out one or more of the following types of activities, as specified and defined in 34 CFR 350.13 through 350.19: Research, training, demonstration, development, dissemination, utilization, and technical assistance. Additionally information on DRRPs can be found at: *http://www2.ed.gov/programs/drrp/index.html.*

*Priorities:* There are three priorities for the grant competitions announced in this notice. Three priorities are from the notice of final priorities and definitions for this program, published in the **Federal Register** on May 7, 2013 (78 FR 26513). One priority is from the notice of final priorities for the Disability and Rehabilitation Research Projects and Centers Program, published in the **Federal Register** on April 28, 2006 (71 FR 25472).

*Absolute Priorities:* For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from these competitions, these priorities are absolute priorities. Under 45 CFR part 75 we consider only applications that meet these program priorities.

These priorities are:

*Priority 1—DRRP on Community Living and Participation of Individuals With Disabilities*

*Priority 2—DRRP on Health and Function of Individuals With Disabilities*

**Note:** The full text of these priorities is included in the notice of final priorities and definitions published in the **Federal Register** on May 7, 2013 (78 FR 26513) and in the application package for these competitions.

*Priority 3—General DRRP Requirements*

**Note:** The full text of this priority is included in the notice of final priorities for the Disability and Rehabilitation Research Projects and Centers Program, published in the **Federal Register** on April 28, 2006 (71 FR 25472) and in the application package for these competitions.

**Program Authority:** 29 U.S.C. 764(a).

**Applicable Regulations:** (a) The Department of Health and Human Services General Administrative Regulations in 45 CFR part 75 (b) Audit Requirements for Federal Awards in 45 CFR part 75 Subpart F; (c) 45 CFR part 75 Non-procurement Debarment and Suspension; (d) 45 CFR part 75 Requirement for Drug-Free Workplace (Financial Assistance); (e) The regulations for this program in 34 CFR part 350; (f) The notice of final priorities for the Disability and Rehabilitation Research Projects and Centers program published in the **Federal Register** on April 28, 2006 (71 FR 25472); and (g) The notice of final priorities and definitions for this program, published in the **Federal Register** on May 7, 2013 (78 FR 26513).

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* $2,000,000.

*Maximum Award:* See chart.

*Estimated Number of Awards:* See chart.

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

*Project Period:* See chart.

| CFDA number and name | Applications available | Deadline for transmittal of applications | Estimated available funds | Maximum award amount (per year) [1] [2] [3] | Estimated number of awards | Project period (months) |
|---|---|---|---|---|---|---|
| 84.133A–4 (Research) and 84.133A–9 (Development), Community Living and Participation of Individuals with Disabilities. | February 17, 2015 | April 20, 2015 ..... | $500,000 | $500,000 | 2 | 60 |
| 84.133A–3 (Research) and 84.133A–8 (Development), Health and Function of Individuals with Disabilities. | February 17, 2015 | April 20, 2015 ..... | 500,000 | 500,000 | 2 | 60 |

[1] Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 and any subsequent year from the list of unfunded applicants from these competitions.

[2] We will reject any application that proposes a budget exceeding the Maximum Amount. The Administrator of the Administration for Community Living may change the maximum amount through a notice published in the **Federal Register.**

[3] The maximum award amount includes both direct and indirect costs.

## III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; IHEs; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* Cost sharing for this program is required by 34 CFR 350.62(a). NIDILRR requires that grantees provide cost sharing in the amount of at least 1% of Federal funds.

3. *Other:* Different selection criteria are used for DRRP research grants and development grants. Applicants under each priority must clearly indicate in the application whether they are applying for a research grant (84.133A–3 or 84.133A–4) or a development grant (84.133A–8, or 84.133A–9) and must address the selection criteria relevant to that grant type. Without exception, NIDILRR will review each application based on the grant designation made by the applicant. Applications will be determined ineligible and will not be reviewed if they do not include a clear designation as a research grant or a development grant.

**IV. Application and Submission Information**

1. *Address to Request Application Package:* You can obtain an application package via grants.gov, or by contacting Patricia Barrett: U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov*.

If you request an application from Patricia Barrett, be sure to identify these competitions as follows: CFDA number 84.133A–3 (Research) or 84.133A–8 Development; 84.133A–4 (Research), or 84.133A–9 (Development).

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

Notice of Intent to Apply: Due to the open nature of the DRRP priorities announced here, and to assist with the selection of reviewers for this competition, NIDILRR is requesting all potential applicants to submit a letter of intent (LOI). The submission is not mandatory and the content of the LOI will not be peer reviewed or otherwise used to rate an applicant's application.

Each LOI should be limited to a maximum of four pages and include the following information: (1) The title of the proposed project, the name of the applicant, the name of the Project Director or Principal Investigator (PI), and the names of partner institutions and entities; (2) a brief statement of the vision, goals, and objectives of the proposed project and a description of its proposed activities at a sufficient level of detail to allow NIDILRR to select potential peer reviewers; (3) a list of proposed project staff including the Project Director or PI and key personnel; (4) a list of individuals whose selection as a peer reviewer might constitute a conflict of interest due to involvement in proposal development, selection as an advisory board member, co-PI relationships, etc.; and (5) contact information for the Project Director or PI. Submission of a LOI is not a prerequisite for eligibility to submit an application.

NIDILRR will accept the optional LOI via mail (through the U.S. Postal Service or commercial carrier) or email, by March 24, 2015. The LOI must be sent to: Carolyn Baron, U.S. Department of Health and Human Services, 550 12th Street SW., Room 5134, PCP, Washington, DC 20202; or by email to: *Carolyn.Baron@ed.gov*.

For further information regarding the LOI submission process, contact Carolyn Baron at (202) 245–6211.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 75 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative. You are not required to double space titles, headings, footnotes, references, and captions, or text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative section (Part III).

An applicant should consult NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 FR 20299) (Plan) when preparing its application. The Plan is organized around the following research domains: (1) Community Living and Participation; (2) Health and Function; and (3) Employment.

3. *Submission Dates and Times:*

Applications Available: February 17, 2015.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDILRR staff. The pre-application meeting will be held on March 10, 2015. Interested parties may participate in this meeting by conference call with NIDILRR staff from the Administration for Community Living between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDILRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference call or to arrange for an individual consultation, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Deadline for Notice of Intent to Apply: March 24, 2015.

Deadline for Transmittal of Applications: April 20, 2015.

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

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

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

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372.

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

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

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

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

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

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

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number

can be created within one-to-two business days.

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

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

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

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

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

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

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

*a. Electronic Submission of Applications*

Applications for grants under the Community Living and Participation, and Health and Function DRRP competitions, CFDA numbers 84.133A–4 (Research) and 84.133–9 (Development); and 84.133A–3 (Research) and 84.133A–8 (Development), must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

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

You may access the electronic grant application for the Community Living and Participation, and Health and Function DRRP competitions at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.133, not 84.133A).

Please note the following:

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

• We may request that you provide us original signatures on forms at a later date.

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

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

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

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

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

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

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

Address and mail or fax your statement to: Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700. FAX: (202) 245–7323.

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

*b. Submission of Paper Applications by Mail*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133A–3 (Research) or 84.133A–8 (Development); 84.133A–4 (Research) or 84.133A–9 (Development); 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

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

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

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

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

(4) Any other proof of mailing acceptable to the Administrator of the Administration for Community Living of the U.S. Department of Health and Human Services.

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

(1) A private metered postmark.

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

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

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

**Note for Mail of Paper Applications:** If you mail your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 350.54 and are listed in the application package.

2. *Review and Selection Process:* Final award decisions will be made by the Administrator, ACL. In making these decisions, the Administrator will take into consideration: Ranking of the review panel; reviews for programmatic and grants management compliance; the reasonableness of the estimated cost to the government considering the available funding and anticipated results; and the likelihood that the proposed project will result in the benefits expected. Under Section 75.205, item (3) history of performance is an item that is reviewed.

In addition, in making a competitive grant award, the Administrator of the Administration for Community Living also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Health and Human Services 45 CFR part 75.

3. *Special Conditions:* Under 45 CFR part 75 the Administrator of the Administration for Community Living may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 45 CFR part 75, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we send you a Notice of

Award (NOA); or we may send you an email containing a link to access an electronic version of your NOA. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the NOA. The NOA also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 45 CFR part 75 should you receive funding under the competition. This does not apply if you have an exception under 45 CFR part 75.

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Administrator of the Administration for Community Living. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Administrator of the Administration for Community Living under 45 CFR part 75. All NIDILRR grantees will submit their annual and final reports through NIDILRR's online reporting system and as designated in the terms and conditions of your NOA. The Administrator of the Administration for Community Living may also require more frequent performance reports under 45 CFR part 75. For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) FFATA and FSRS Reporting

The Federal Financial Accountability and Transparency Act (FFATA) requires data entry at the FFATA Subaward Reporting System (*http://www.FSRS.gov*) for all sub-awards and sub-contracts issued for $25,000 or more as well as addressing executive compensation for both grantee and sub-award organizations.

For further guidance please see the following link: *http://www.acl.gov/Funding_Opportunities/Grantee_Info/FFATA.aspx*

If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information. Annual and Final Performance reports will be submitted through NIDILRR's online Performance System and as designated in the terms and conditions of your NOA. At the end of your project period, you must submit a final performance report, including financial information.

**Note:** NIDILRR will provide information by letter to successful grantees on how and when to submit the report.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDILRR assesses the quality of its funded projects through a review of grantee performance and accomplishments. Each year, NIDILRR examines a portion of its grantees to determine:

- The number of products (*e.g.,* new or improved tools, methods, discoveries, standards, interventions, programs, or devices developed or tested with NIDILRR funding) that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award based on NIDILRR-funded research and development activities in refereed journals.
- The percentage of new NIDILRR grants that assess the effectiveness of interventions, programs, and devices using rigorous methods.

NIDILRR uses information submitted by grantees as part of their Annual Performance Reports for these reviews.

5. *Continuation Awards:* In making a continuation award, the Administrator of the Administration for Community Living may consider, under 45 CFR part 75, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Administrator also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department. Continuation funding is also subject to availability of funds.

## VII. Agency Contact

**FOR FURTHER INFORMATION CONTACT:** Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

## VIII. Other Information

*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.

**John Tschida,**

*Director, National Institute on Disability, Independent Living, and Rehabilitation Research.*

[FR Doc. 2015–03121 Filed 2–13–15; 8:45 am]

**BILLING CODE 4154–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Applications for New Awards; National Institute on Disability, Independent Living, and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Engineering Research Centers

**AGENCY:** Administration for Community Living, Department of Health and Human Services.

**ACTION:** Notice.

### Overview Information

National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR)—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Engineering Research Centers (RERCs)—Individual Mobility

and Manipulation, Information and Communication Technologies Access, and Physical Access and Transportation.

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.133E–1, 84.133E–3, and 84.133E–5.

**Note:** This notice invites applications for three separate competitions. For funding and other key information for each of the three competitions, see the chart in the *Award Information* section of this notice.

**DATES:**

*Applications Available:* February 17, 2015.

**Note:** On July 22, 2014, President Obama signed the Workforce Innovation Opportunity Act (WIOA). WIOA was effective immediately. One provision of WIOA transferred the National Institute on Disability and Rehabilitation Research (NIDRR) from the Department of Education to the Administration for Community Living (ACL) in the Department of Health and Human Services. In addition, NIDRR's name was changed to the Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR). For FY 2015, all NIDILRR priority notices will be published as ACL notices, and ACL will make all NIDILRR awards. During this transition period, however, NIDILRR will continue to review grant applications using Department of Education tools. NIDILRR will post previously-approved application kits to grants.gov, and NIDILRR applications submitted to grants.gov will be forwarded to the Department of Education's G–5 system for peer review. We are using Department of Education application kits and peer review systems during this transition year in order to provide for a smooth and orderly process for our applicants.

*Date of Pre-Application Meeting:* March 10, 2015.

*Deadline for Notice of Intent To Apply:* March 24, 2015.

*Deadline for Transmittal of Applications:* April 20, 2015.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The purpose of the Disability and Rehabilitation Research Projects and Centers Program (Program) is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology. The Program's activities are designed to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

*Rehabilitation Engineering Research Centers Program*

The purpose of the RERCs program, which is funded through the Program, is to improve the effectiveness of services authorized under the Rehabilitation Act. The RERCs program encourages advanced engineering research, develops and evaluates innovative technologies, facilitates service delivery system changes, stimulates the production and distribution of new technologies and equipment in the private sector, and provides training opportunities. RERCs seek to solve rehabilitation problems and remove environmental barriers to improvements in employment, community living and participation, and health and function outcomes of individuals with disabilities.

The general requirements for RERCs are set out in subpart D of 34 CFR part 350 (What Rehabilitation Engineering Research Centers Does the Secretary Assist?).

Additional information on the RERCs program can be found at: *www.ed.gov/rschstat/research/pubs/index.html.*

*Priorities:* NIDILRR has established three priorities for the three competitions announced in this notice. These priorities are from the notice of final priorities for this program, published in the **Federal Register** on June 11, 2013 (78 FR 34897).

*Absolute Priorities:* For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from these competitions, these priorities are absolute priorities. Under 45 CFR part 75, for each competition, we consider only applications that meet the program priority designated for that competition.

These priorities are:

| Absolute priority | Corresponding competition CFDA No. |
|---|---|
| Individual Mobility and Manipulation | 84.133E–1 |
| Information and Communication Technologies Access | 84.133E–3 |
| Physical Access and Transportation | 84.133E–5 |

**Note:** The full text of these priorities is included in the notice of final priorities published in the **Federal Register** on June 11, 2013 (78 FR 34897) and in the applicable application package.

*Program Authority:* 29 U.S.C. 762(g) and 764(b)(3)(A).

*Applicable Regulations:* (a) The Department of Health and Human Services General Administrative Regulations in 45 CFR part 75 (b) Audit Requirements for Federal Awards in 45 CFR part 75 Subpart F; (c) 45 CFR part 75 Non-procurement Debarment and Suspension; (d) 45 CFR part 75 Requirement for Drug-Free Workplace (Financial Assistance); The regulations for this program in 34 CFR part 350; and (f) The notice of final priorities for this program, published in the **Federal Register** on June 11, 2013 (78 FR 34897).

**II. Award Information**

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* $2,775,000.

*Maximum Award:* See chart.

*Estimated Number of Awards:* See chart.

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

*Project Period:* See chart.

| CFDA Number and name | Applications available | Deadline for transmittal of applications | Estimated available funds[1] | Maximum award amount (per year)[2 3] | Estimated number of awards | Project period (months) |
|---|---|---|---|---|---|---|
| 84.133E–1, Individual Mobility and Manipulation. | February 17, 2015 ..... | April 20, 2015 ..... | $925,000 | $925,000 | 1 | 60 |

| CFDA Number and name | Applications available | Deadline for transmittal of applications | Estimated available funds[1] | Maximum award amount (per year)[2 3] | Estimated number of awards | Project period (months) |
|---|---|---|---|---|---|---|
| 84.133E–3, Information and Communication Technologies Access. | February 17, 2015 ..... | April 20, 2015 ..... | 925,000 | 925,000 | 1 | 60 |
| 84.133E–5, Physical Access and Transportation. | February 17, 2015 ..... | April 20, 2015 ..... | 925,000 | 925,000 | 1 | 60 |

[1] Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 or any subsequent year from the list of unfunded applicants from this competition.

[2] We will reject any application that proposes a budget exceeding the maximum amount. The Administration for Community Living may change the maximum amount through a notice published in the **Federal Register**.

[3] The maximum award amount includes both direct and indirect costs.

## III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; IHEs; and Indian tribes and tribal organizations.

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

## IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via grants.gov, or by contacting Patricia Barrett: U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov.*

If you request an application from Patricia Barrett, be sure to identify these competitions as follows: CFDA number 84.133E–1 Individual Mobility and Manipulation; 84.133E–3 Information and Communication Technologies Access; or 84.133E–5 Physical Access and Transportation.

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

*Notice of Intent to Apply:* Due to the open nature of the priorities in these competitions, and to assist with the selection of reviewers for these competitions, NIDILRR is requesting all potential applicants submit a letter of intent (LOI). The submission is not mandatory and the content of the LOI will not be peer reviewed or otherwise used to rate an applicant's application.

Each LOI should be limited to a maximum of four pages and include the following information: (1) The priority to which the potential applicant is responding; (2) the title of the proposed project, the name of the applicant, the name of the Project Director or Principal Investigator (PI), and the names of partner institutions and entities; (3) a brief statement of the vision, goals, and objectives of the proposed project and a description of its proposed activities at a sufficient level of detail to allow NIDILRR to select potential peer reviewers; (4) a list of proposed project staff including the Project Director or PI and key personnel; (5) a list of individuals whose selection as a peer reviewer might constitute a conflict of interest due to involvement in proposal development, selection as an advisory board member, co-PI relationships, etc.; and (6) contact information for the Project Director or PI. Submission of a LOI is not a prerequisite for eligibility to submit an application.

NIDILRR will accept the optional LOI via mail (through the U.S. Postal Service or commercial carrier) or email, by March 24, 2015. The LOI must be sent to: Carolyn Baron, U.S. Department of Health and Human Services, 550 12th Street SW., Room 5134, PCP, Washington, DC 20202; or by email to: *Carolyn.Baron@ed.gov.*

For further information regarding the LOI submission process, contact Carolyn Baron at (202) 245–6211. Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 100 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative. You are not required to double space titles, headings, footnotes, references, and captions, or text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative section (Part III).

An applicant should consult NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 FR 20299) (Plan) when preparing its application. The Plan is organized around the following research domains: (1) Community Living and Participation; (2) Health and Function; and (3) Employment.

3. *Submission Dates and Times:*

*Applications Available:* February 17, 2015.

*Date of Pre-Application Meeting:* Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDILRR staff. The pre-application meeting will be held on March 10, 2015. Interested parties may participate in this meeting by conference call with NIDILRR staff between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDILRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference call or to arrange for an individual consultation, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

*Deadline for Notice of Intent To Apply:* March 24, 2015. *Deadline for Transmittal of Applications:* April 20, 2015.

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

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

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

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. *Electronic Submission of Applications.*

Applications for grants under the RERC competitions (CFDA numbers 84.133E–1, 84.133E–3 and 84.133E–5) must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

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

You may access an electronic grant application for the RERC competitions (CFDA numbers 84.133E–1, 84.133E–3 and 84.133E–5) at *www.Grants.gov.* You must search for the downloadable application package for the applicable competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.133, not 84.133E).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures

pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.*

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

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

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

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

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

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

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

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

Address and mail or fax your statement to: Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., room 5142, PCP, Washington, DC 20202–2700. FAX: (202) 245–7323.

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

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133E–1, 84.133E–3 or 84.133E–5), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

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

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

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

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

(4) Any other proof of mailing acceptable to the Administrator of the Administration for Community Living of the U.S. Department of Health and Human Services.

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

(1) A private metered postmark.

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

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

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

*Note for Mail of Paper Applications:* If you mail your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

**V. Application Review Information**

1. *Selection Criteria:* The selection criteria for the competitions announced in this notice are from 34 CFR 350.54 and are listed in the application package.

2. *Review and Selection Process:* Final award decisions will be made by the Administrator, ACL. In making these decisions, the Administrator will take into consideration: The rank order of the peer review panel; reviews for programmatic and grants management compliance; the reasonableness of the estimated cost to the government considering the available funding and anticipated results; and the likelihood that the proposed project will result in the benefits expected. Under 45 part Section 75.205, item (3) history of performance is an item that is reviewed.

In addition, in making a competitive grant award, the Administrator of the Administration for Community Living also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Health and Human Services.

3. *Special Conditions:* Under 45 CFR part 75, the Administrator of the Administration for Community Living may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 45 CFR part 75, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

**VI. Award Administration Information**

1. *Award Notices:* If your application is successful, we send you a Notice of Award (NOA); or we may send you an email containing a link to access an electronic version of your NOA. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the NOA. The NOA also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 45 CFR part 75 should you receive funding under the competition. This does not apply if you have an exception under 45 CFR part 75.

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Administrator of the Administration for Community Living. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Administrator of the Administration for Community Living under 45 CFR part 75. All NIDILRR grantees will submit their annual and final reports through NIDILRR's online reporting system and as designated in the terms and conditions of your NOA. The Administrator of the Administration for Community Living may also require more frequent performance reports under 45 CFR part 75. For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) FFATA and FSRS Reporting

The Federal Financial Accountability and Transparency Act (FFATA) requires data entry at the FFATA Subaward Reporting System (*http://www.FSRS.gov*) for all sub-awards and sub-contracts issued for $25,000 or more as well as addressing executive compensation for both grantee and sub-award organizations.

For further guidance please see the following link: *http://www.acl.gov/Funding_Opportunities/Grantee_Info/FFATA.aspx*

If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information. Annual and Final Performance reports will be submitted through NIDILRR's online Performance System and as designated in the terms and conditions of your NOA. At the end of your project period, you must submit a final performance report, including financial information.

**Note:** NIDILRR will provide information by letter to successful grantees on how and when to submit the report.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDILRR assesses the quality of its funded projects through a review of grantee performance and accomplishments. Each year, NIDILRR examines a portion of its grantees to determine:

- The number of products (*e.g.*, new or improved tools, methods, discoveries, standards, interventions, programs, or devices developed or tested with NIDILRR funding) that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award based on NIDILRR-funded research and development activities in refereed journals.
- The percentage of new NIDILRR grants that assess the effectiveness of interventions, programs, and devices using rigorous methods.

NIDILRR uses information submitted by grantees as part of their Annual Performance Reports for these reviews.

5. *Continuation Awards:* In making a continuation award, the Administrator of the Administration for Community Living may consider, under 45 CFR part 75, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Administrator also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department. Continuation funding is also subject to availability of funds.

**VII. Agency Contact**

**FOR FURTHER INFORMATION CONTACT:** Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**VIII. Other Information**

*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.

**John Tschida,**

*Director, National Institute on Disability, Independent Living, and Rehabilitation Research.*

[FR Doc. 2015–03122 Filed 2–13–15; 8:45 am]

**BILLING CODE 4154–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–5514–N]**

### Medicare Program; Oncology Care Model: Request for Applications

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces a request for applications (RFA) for organizations to participate in the Oncology Care Model (OCM) beginning in 2016.

**DATES:** *Letter of Intent Submission Deadline:* As described on the CMS Innovation Center Web site at *http://innovation.cms.gov/initiatives/Oncology-Care/,* interested payers must submit a nonbinding letter of intent by 5:00 p.m. Eastern Daylight Time (EDT) on March 19, 2015. Interested practices must submit a nonbinding letter of intent by 5:00 p.m. EDT on April 23, 2015.

*Application Submission Deadline:* Applications for payers and practices must be received by 5:00 p.m. EDT on June 18, 2015. Application materials and instructions are available at *http://innovation.cms.gov/initiatives/Oncology-Care/.*

**ADDRESSES:** Letter of Intent forms must be submitted electronically in the PDF fillable format to *OncologyCareModel@cms.hhs.gov.* Letters of Intent will only be accepted via email. Applicants that submit a timely, complete Letter of Intent will be sent an authenticated web link and password with which to access the electronic, web-based application.

**FOR FURTHER INFORMATION CONTACT:** *OncologyCareModel@cms.hhs.gov* for questions regarding the application process of OCM.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Center for Medicare and Medicaid Innovation (Innovation Center), within the Centers for Medicare & Medicaid Services (CMS), was created to test innovative payment and service delivery models to reduce program expenditures while preserving or enhancing the quality of care for Medicare, Medicaid, and Children's Health Insurance Program (CHIP) beneficiaries.

We are committed to continuous improvement for Medicare, Medicaid and CHIP beneficiaries. The goal of the Oncology Care Model (OCM) is to improve the health outcomes for people with cancer, improve the quality of cancer care, and reduce spending for cancer treatment. We expect that physician practices selected for participation in the model will be able to transform care delivery for their patients undergoing chemotherapy, leading to improved quality of care for beneficiaries at a decreased cost to payers. Through this care transformation, practices participating in OCM can reduce Medicare expenditures while improving cancer care for Medicare Fee-for-Service (FFS) beneficiaries.

Beneficiaries can experience improved health outcomes when health care providers work in a coordinated and person-centered manner. We are interested in partnering with payers and practitioners who are working to redesign care to deliver these aims. Episode-based payment approaches that reward practitioners who improve the quality of care they deliver, lower costs, and engage with quality and cost data that will inform their provision of care are potential mechanisms for CMS to further emphasize care coordination and enhanced care through practice transformation.

OCM will test episode-based payment for oncology care, using a retrospective performance-based payment for an episode of chemotherapy. The request for applications (RFA) requests applications to test a model centered around a chemotherapy episode of care. For more details, see the RFA available on the Innovation Center Web site at *http://innovation.cms.gov/initiatives/Oncology-Care/.*

#### II. Provisions of the Notice

The Innovation Center is operating this model under the authority of section 1115A of the Social Security Act (the Act). This RFA is directed to physician practices that provide oncology care as well as public and other health care payers. The Innovation Center hopes to engage at least 100 physician practices that, in aggregate, will furnish care for approximately 175,000 cancer care episodes for Medicare beneficiaries over the course of this 5-year model.

The Innovation Center sees the following as key opportunities within OCM:

- Promote shared decision-making, person-centered communication, evidence-based care, beneficiary access to care, and coordination across providers and settings.
- Reduce complications of cancer and cancer treatments, as well as associated costs, through advanced care planning, increased use of high-value treatments, and reduction of inappropriate payment incentives.
- Collect structured clinical data and integrate clinical trial enrollment into processes of care to facilitate quality improvement and accelerate clinical research.
- Support the development and reporting of meaningful outcome measures.
- Develop and monitor refined approaches to care delivery, which may improve the research infrastructure (for example, by facilitating improvement in the quality of evidence for existing therapies).
- Encourage delivery of care in the lowest-cost medically-appropriate setting.
- Refine a value-based payment system that encourages team-based care and workforce innovation.

Participating practices must be able to meet the following practice requirements during the performance period:

1. Treat patients with therapies consistent with nationally recognized clinical guidelines.
2. Provide and attest to 24 hours a day, 7 days a week patient access to an appropriate clinician who has real-time access to practice's medical records.
3. Use of ONC-certified electronic health record (EHR) technology as described in the RFA.
4. Utilize data for continuous quality improvement.
5. Provide core functions of patient navigation.
6. Document a care plan that contains the 13 components in the Institute of Medicine Care Management Plan.

Participating practices in OCM will continue to receive standard Medicare FFS payments during OCM episodes.

OCM will also provide an opportunity for participating practices to receive retrospective episode-based performance payments. After calculating the benchmark for each OCM participant, CMS will set a target price for chemotherapy episodes, which includes a discount. Participants whose Medicare expenditures are below the target price may receive semi-annual lump-sum performance-based payments, subject to the achievement of quality measures. In addition to the performance-based payments, participants will receive a Per-Beneficiary-Per-Month payment (PBPM) for Medicare beneficiaries with nearly all cancer types for each of the 6 months of the episode. The monthly PBPM payment is intended to pay for the enhanced services driven by the practice requirements, aimed at transforming practices towards comprehensive, person-centered, and coordinated care. The OCM PBPM is $160 per OCM beneficiary per month for the duration of each 6-month episode, and will remain constant for the 5-year model.

OCM also aims to incorporate other payers in addition to Medicare, such as commercial insurers and state Medicaid agencies. Payers must also be able to meet the following requirements for participation in the model:

1. Commit to participation in OCM for its 5-year duration, and start performance period no later than 90 days after OCM–FFS' performance period.

2. Sign a Memorandum of Understanding with the Innovation Center.

3. Enter into agreements with physician practices participating in OCM that include requirements to provide high quality care.

4. Share model methodologies with the Innovation Center.

5. Provide payments to practices for enhanced services and performance as required in the RFA.

6. Align practice quality and performance measures with OCM, when possible.

7. Provide participating practices with aggregate and patient-level data about payment and utilization for their patients receiving care in OCM, at regular intervals.

The OCM start date is expected to be in spring 2016.

For more specific details regarding OCM (including the RFA), we refer applicants to the informational materials on the Innovation Center Web site at: *http://innovation.cms.gov/initiatives/Oncology-Care/*. Applicants are responsible for monitoring the Web site to obtain the most current information available.

## III. Collection of Information Requirements

Section 1115A(d)(3) of the Act, as added by section 3021 of the Affordable Care Act (Pub. L. 111–148), states that chapter 35 of title 44, United States Code (the Paperwork Reduction Act of 1995), shall not apply to the testing and evaluation of models or expansion of such models under this section. Consequently, this document need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

Dated: December 22, 2014.

**Marilyn Tavenner,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2015–03060 Filed 2–12–15; 11:15 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request

*Title:* Uniform Project Description (UPD) Program Narrative Format for Discretionary Grant Application Forms.

*OMB No.:* 0970–0139.

*Description:* The proposed information collection would renew the Administration for Children and Families (ACF) Uniform Project Description (UPD). The UPD provides a uniform grant application format for applicants to submit project information in response to ACF discretionary funding opportunity announcements. ACF uses this information, along with other OMB-approved information collections (Standard Forms), to evaluate and rank applications. Use of the UPD helps to protect the integrity of ACF's award selection process. All ACF discretionary grant programs are required to use this application format. An ACF application consists of general information and instructions; the Standard Form 424 series, which requests basic information, budget information, and assurances; the Project Description that requests the applicant to describe how program objectives will be achieved; a rationale for the project's budgeted costs; and other assurances and certifications. Guidance for the content of information requested in the Project Description is based in OMB Circular 45 CFR 75.203.

*Respondents:* Applicants to ACF Discretionary Funding Opportunity Announcements.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| ACF Uniform Project Description | 4,850 | 1 | 60 | 291,000 |

*Estimated Total Annual Burden Hours:* 291,000.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

ACF specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use

of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2015–03144 Filed 2–13–15; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2012–D–0148]**

### Complicated Urinary Tract Infections: Developing Drugs for Treatment; 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 ''Complicated Urinary Tract Infections: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the clinical development of drugs for the treatment of complicated urinary tract infections (cUTIs). This guidance finalizes the revised draft guidance of the same name issued on February 24, 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, 10001 New Hampshire Ave., Hillandale Bldg., 4th Floor, Silver Spring, MD 20993. 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:** Joseph G. Toerner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6244, Silver Spring, MD 20993–0002, 301–796–1300.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

FDA is announcing the availability of a guidance for industry entitled ''Complicated Urinary Tract Infections: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the development of drugs for the treatment of cUTIs.

This guidance includes recommendations for an efficacy endpoint and noninferiority trial design. The efficacy endpoint, based on resolution of clinical symptoms and eradication of bacteria from the urinary tract, was derived from previously conducted clinical trials for the treatment of cUTI. The guidance provides a scientific justification for a noninferiority margin based on historical observational data compared to the results of previously conducted clinical trials. After careful consideration of comments received in response to the revised draft guidance issued on February 24, 2012, important clarifications about trial populations and endpoints for cUTI were included in this guidance. In addition, this guidance reflects recent developments in scientific information that pertain to drugs being developed for the treatment of cUTI.

Issuance of this guidance fulfills a portion of the requirements of title VIII, section 804, of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), which requires FDA to review and, as appropriate, revise not fewer than three guidance documents per year for the conduct of clinical trials with respect to antibacterial and antifungal drugs.

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 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. 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 (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

#### 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.*

#### IV. 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: February 10, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–03100 Filed 2–13–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–N–0001]**

### Society of Clinical Research Associates—Food and Drug Administration; ''Food and Drug Administration Clinical Trial Requirements, Regulations, Compliance and Good Clinical Practice''

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of Public Workshop.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the following conference: Educational Conference co-sponsored with the Society of Clinical Research Associates (SOCRA). The public workshop FDA's clinical trial requirements is designed to aid the Clinical Research Professional's understanding of the mission, responsibilities and authority of the FDA and to facilitate interaction with FDA representatives. The program will focus on the relationships among the FDA and clinical trial staff, investigators and institutional review boards (IRB). Individual FDA representatives will discuss the informed consent process and informed consent documents; regulations relating to drugs, devices and biologics, as well as inspections of

clinical investigators, of IRB, and of research sponsors.

*Date and Time:* The conference will be held on March 11 and 12, (Wednesday and Thursday) 2015, from 8:00 a.m. to 5 p.m.

*Location:* The conference will be held at the Holiday Inn Golden Gateway Hotel, 1500 Van Ness Ave., San Francisco, CA 91409, 415–441–4000.

Attendees are responsible for their own accommodations. Please mention SOCRA to receive the hotel room rate of $159.00 plus applicable taxes (available until February 13, 2015, or until the SOCRA room block is filled).

*Contact Person:* Jane Kreis, Food and Drug, Administration, 1301 Clay St., Suite 1180N, Oakland, CA 94612, 510–287–2708, FAX: 510–287–2739 or Society of Clinical Research Associates (SOCRA), 530 West Butler Ave., Suite 109, Chalfont, PA 18914. 800–762–7292 or 215–822–8644, FAX: 215–822–8633, email: *Office@socra.org* Web site: *www.socra.org.* (FDA has verified the Web site addresses throughout this document, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**).

*Registration:* The registration fee will cover actual expenses including refreshments, lunch, materials and speaker expenses. Seats are limited; please submit your registration as soon as possible. Workshop space will be filled in order of receipt of registration. Those accepted into the workshop will receive confirmation. The cost of the registration is as follows: SOCRA member—$575, SOCRA nonmember (includes membership)—$650, Federal Government member—$450.00, Federal Government nonmember—$525.00, FDA Employee—(free) Fee Waived.

If you need special accommodations due to a disability, please contact SOCRA (see Contact Person) at least 21 days in advance.

Extended periods of question and answer and discussion have been included in the program schedule. SOCRA designates this education activity for a maximum of 13.3 Continuing Education Credits for SOCRA continuing education (CE) and Nurse continuing nurse education (CNE), SOCRA designates this live activity for a maximum of 13.3 *American Medical Association Physician's Recognition Award* Category 1 Credit(s)™. Physicians should claim only the credit commensurate with the extent of their participation. Continuing medical education (CME) for Physicians: SOCRA is accredited by the Accreditation Council for Continuing Medical Education to provide CME for physicians. CNE for Nurses: Society of Clinical Research Associates is accredited as a provider of continuing nursing education by the American Nurses Credentialing Center's Commission on Accreditation.

*Registration Instructions:* To register, please submit a registration form with your name, affiliation, mailing address, telephone, FAX number, and email, along with a check or money order payable to ''SOCRA''. Mail to: SOCRA(see Contact Person for address). To register via the Internet, go to *http://www.socra.org/html/FDA_Conference.htm.* Payment by major credit card is accepted (Visa/MasterCard/AMEX only). For more information on the meeting registration, or for questions on the workshop, contact SOCRA (see Contact Person).

**SUPPLEMENTARY INFORMATION:** The public workshop helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health. The workshop will provide those engaged in FDA-regulated (human) clinical trials with information on a number of topics concerning FDA requirements related informed consent, clinical investigation requirements, institutional review board inspections, electronic record requirements, and investigator initiated research Topics for discussion include the following: (1) The Role of the FDA District Office Relative to the Bioresearch Monitoring Program (BIMO); (2) Modernizing FDA's Clinical Trials/BIMO Programs; (3) What FDA Expects in a Pharmaceutical Clinical Trial: (4) Medical Device Aspects of Clinical Research; (5) Adverse Event Reporting—Science, Regulation, Error and Safety; (6) Working with FDA's Center for Biologics Evaluation and Research; (7) Ethical Issues in Subject Enrollment; (8) Keeping Informed and Working Together; (9) FDA Conduct of Clinical Investigator Inspections; (10) Investigator Initiated Research; (11) Meetings with the FDA—Why, When and How; (12) Part 11 Compliance—Electronic Signatures; (13) IRB Regulations and FDA Inspections; (14) Informed Consent Regulations; (15) The Inspection is Over—What Happens Next? Possible FDA Compliance Actions; (16) Question and Answer Session/Panel Discussion.

FDA has made education of the drug and device manufacturing community a high priority to help ensure the quality of FDA-regulated drugs and devices. The workshop helps to achieve objectives set forth in section 406 of the FDA Modernization Act of 1997 (21 U.S.C. 393) which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The workshop also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), as outreach activities by Government Agencies to small businesses.

Dated: February 10, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–03118 Filed 2–13–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–N–0001]**

### Orthopaedic and Rehabilitation Panel of the Medical Devices Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee:* Orthopaedic and Rehabilitation Panel of the Medical Devices Advisory Committee.

*General Function of the Committee:* To provide advice and recommendations to the Agency on FDA's regulatory issues.

*Date and Time:* The meeting will be held on February 20, 2015, from 8 a.m. to 6 p.m.

*Location:* Hilton/Washington DC North, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

*Contact Person:* Sara Anderson, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm.1643, Silver Spring, MD 20993–0002, *sara.anderson@fda.hhs.gov,* 301–796–7047, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot

always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

*Agenda:* On February 20, 2015, the committee will discuss, make recommendations, and vote on information regarding the premarket approval application (PMA) for the Superion InterSpinous Spacer device sponsored by Vertiflex Inc. The proposed indication for use for the Superion InterSpinous Spacer device, as stated in the PMA, is as follows: The Superion InterSpinous Spacer (the Superion ISS) is intended to treat skeletally mature patients suffering from pain, numbness, and/or cramping in the legs (neurogenic intermittent claudication) secondary to a diagnosis of moderate lumbar spinal stenosis, with or without grade 1 spondylolisthesis, confirmed by x ray, magnetic resonance imaging, and/or computed tomography evidence of thickened ligamentum flavum, narrowed lateral recess, and/or central canal or foraminal narrowing. The Superion ISS is indicated for those patients with impaired physical function who experience relief in flexion from symptoms of leg/buttock/groin pain, numbness, and/or cramping, with or without back pain. The Superion ISS may be implanted at one or two adjacent lumbar (L) levels in patients in whom treatment is indicated at no more than two levels, from L1 to L5.

The meeting was originally scheduled for December 12, 2014. The meeting date is being postponed from December 12, 2014, until February 20, 2015, due to FDA needing additional time to review information supplied by sponsor.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 18, 2015. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 13, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 17, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Anne Marie Williams at *Annmarie.Williams@fda.hhs.gov* or 301–796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

FDA regrets that it was unable to publish this notice 15 days prior to the February 20, 2015, Orthopaedic and Rehabilitation Panel of the Medical Devices Advisory Committee meeting. Because the Agency believes there is some urgency to bring these issues to public discussion and qualified members of the Orthopaedic and Rehabilitation Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: *February 10, 2015.*

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–03155 Filed 2–13–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–N–0001]**

### Food and Drug Administration/Xavier University Global Medical Device Conference; Public Conference

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public conference.

The Food and Drug Administration (FDA) Cincinnati District, in cosponsorship with Xavier University, is announcing a public conference entitled ''FDA/Xavier University Global Medical Device Conference (MedCon).'' This 3-day public conference includes presentations from key FDA officials and industry experts with small group breakout sessions. The conference is intended for companies of all sizes and employees at all levels.

**DATES:** *Dates and Times:* The public conference will be held on May 6, 2015, from 8:30 a.m. to 5 p.m.; May 7, 2015, from 8:30 a.m. to 5 p.m.; and May 8, 2015, from 8:30 a.m. to 12:30 p.m.

*Location:* The public conference will be held on the campus of Xavier University, 3800 Victory Pkwy., Cincinnati, OH 45207, 513–745–3016.

*Contact Persons: For information regarding this notice:* Gina Brackett, Food and Drug Administration, 6751 Steger Dr., Cincinnati, OH 45237, 513–679–2700, FAX: 513–679–2771, email: *gina.brackett@fda.hhs.gov.*

*For information regarding the conference and registration:* Mason Rick, Xavier University, 3800 Victory Pkwy., Cincinnati, OH 45207–5471, 513–745–3016, email: *rickm@xavier.edu,* or visit *http://www.XavierMedCon.com.*

*Registration:* There is a conference registration fee which covers the cost of the presentations, training materials, receptions, breakfasts, and lunches for the 3 days of the conference. Advanced registration begins February 6, 2015. Standard registration begins March 6, 2015. There will be onsite registration. The cost of registration is as follows:

TABLE 1—REGISTRATION FEES [1]

| Attendee type | Advanced rate (2/6/15 to 3/5/15) | Standard rate (after 3/5/15) |
|---|---|---|
| Industry | $1,495 | $1,695 |
| Small Business (<100 Employees) | 1,000 | 1,200 |
| Startup Manufacturer | 250 | 300 |
| Academic | 250 | 300 |
| FDA/Government Employee | Free | Free |

[1] The following forms of payment will be accepted: American Express, Visa, MasterCard, and company checks.

To register online for the public conference, please visit the ''Registration'' link on the conference Web site at *http://www.XavierMedCon.com.* FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.

To register by mail, please send your name, title, firm name, address, telephone, email, and payment information for the fee to Xavier University, Attention: Mason Rick, 3800 Victory Pkwy., Cincinnati, OH 45207–5471. An email will be sent confirming your registration.

Attendees are responsible for their own accommodations. The conference headquarters hotel is the Downtown Hilton Cincinnati Netherland Plaza, 35 West Fifth St., Cincinnati, OH 45202, 513–421–9100. Special conference block rates are available through April 16, 2015. To make reservations online, please visit the ''Venue/Logistics'' link at *http://www.XavierMedCon.com.*

If you need special accommodations due to a disability, please contact Mason Rick (see *Contact Persons*) at least 7 days in advance of the conference.

**SUPPLEMENTARY INFORMATION:** The public conference helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health. The conference will provide those engaged in FDA-regulated medical devices (for humans) with information on the following topics:

- Center Director Corner: Strategic Priorities for 2015 and Beyond
- Office of Compliance Strategic Priorities
- Advancements in Medical Device Software Technology
- Understanding and Preparing for the Revision of ISO13485
- Update from FDA's Office of Combination Products
- Unique Device Identification—Implementation
- FDA Inspections and Insights
- Understanding the Current Activities of the International Medical Device Regulators Forum
- European Union Medical Device/In Vitro Diagnostics Regulation Review
- Update from the Office of Device Evaluation
- Regulatory Submissions and Strategies
- Complaints, Corrective and Preventive Actions, and Recalls
- Regulatory Challenges in Asia
- Action Plan Writing
- Lunch Networking by Topic

FDA has made education of the drug and device manufacturing community a high priority to help ensure the quality of FDA-regulated drugs and devices. The conference helps to achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393), which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The conference also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121) by providing outreach activities by Government agencies to small businesses.

Dated: February 10, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–03116 Filed 2–13–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–N–0001]**

### In Motion: Science Transforming Policy in Food, Drug, and Medical Device Regulation

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public conference.

The Food and Drug Administration (FDA) Detroit District Office, in cosponsorship with the Association of Food and Drug Officials (AFDO), is announcing a public conference entitled ''In Motion: Science Transforming Policy in Food, Drug, and Medical Device Regulation.'' The conference Web site is *http://indy.afdo.org/.* This conference is intended to provide information about FDA food, drug, and device regulation to the regulated industry.

*Date and Time:* The public conference will be held on June 20 to 24, 2015. Times will vary.

*Location:* The conference will be held at the Sheraton Indianapolis Hotel at Keystone Crossing, Indianapolis, 8787 Keystone Crossing, Indianapolis, IN 46240, 317–846–2700 or toll-free 888–627–7814; *www.sheratonindianapoliskeystonecrossing.com.*

Attendees are responsible for their own accommodations. To make reservations at the Sheraton Indianapolis Hotel at the reduced conference rate, please call 303–295–1234 and mention ''AFDO Conference'' before May 20, 2015. All the hotel information needed to call or reserve online is available at *http://indy.afdo.org/hotel.html.*

*AFDO contact information:* Randy Young, Association of Food and Drug Officials, 2550 Kingston Rd., suite 311, York, PA 17402, 717–757–2888, FAX: 717–650–3650, email: *ryoung@afdo.org.*

*Registration:* You are encouraged to register by May 20, 2015. The AFDO registration fees cover the cost of facilities, materials, and breaks. Seats are limited; therefore, please submit your registration as soon as possible. Course space will be filled in order of receipt of registration. Those accepted into the course will receive confirmation. Registration will close after the course is filled. Registration at the site is not guaranteed but may be possible on a space available basis on the day of the conference beginning at 8 a.m. The cost of registration follows:

Cost of Registration:

Member—$475.00
Non-Member—$575.00

*A $100 late fee will be added if payment is postmarked after June 1, 2015.

If you need special accommodations due to a disability, please contact Randy Young (see *AFDO contact information*)

at least 21 days in advance of the conference.

*Registration Instructions:* To register, please complete and submit an AFDO Conference Registration Form, along with a check or money order payable to ''AFDO''. Please mail your completed registration form and payment to: AFDO, 2550 Kingston Rd., suite 311, York, PA 17402. To register online, please visit *http://indy.afdo.org/register.html.* (FDA has verified the Web site address but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.)

The registrar will also accept payment through Visa and MasterCard credit cards. For more information on the conference, or for questions about registration, please contact AFDO at 717–757–2888, FAX: 717–650–3650, or email: *afdo@afdo.org.*

**SUPPLEMENTARY INFORMATION:** The conference helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health. The conference will provide FDA-regulated drug and device entities with information on a number of topics concerning FDA requirements related to the production and marketing of drugs and/or devices. Topics for discussion include, but are not limited to, the following:

- Medical Device Single Audit Program
- Contract Manufacturing Arrangements for Drugs: Quality Agreements
- Compliance Question and Answer Panel
- Draft Guidance: Distinguishing Medical Device Recalls from Product Enhancements and Associated Reporting Requirements
- Compounding Pharmacies
- Overview of Global Device/Drug Requirements v. U.S. System
- Case for Quality Initiative Update
- Unique Device Identifier (UDI) Implementation Update
- Metric, Data, and Analysis; Biometrics
- Pharmaceutical Inspection Cooperation Scheme
- Biosimilar Regulations

FDA has made education of the food, feed, drug, and device manufacturing community a high priority to help ensure the quality of FDA-regulated products. The conference helps to achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393), which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The conference also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), as outreach activities by government agencies to small businesses.

Dated: February 10, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–03115 Filed 2–13–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0824]**

### Regulatory Site Visit Training Program

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration's (FDA's) Center for Biologics Evaluation and Research (CBER) is announcing an invitation for participation in its Regulatory Site Visit Training Program (RSVP). This training program is intended to give CBER regulatory review, compliance, and other relevant staff an opportunity to visit biologics facilities. These visits are intended to allow CBER staff to directly observe routine manufacturing practices and to give CBER staff a better understanding of the biologics industry, including its challenges and operations. The purpose of this document is to invite biologics facilities to contact CBER for more information if they are interested in participating in this program.

**DATES:** Submit either an electronic or written request for participation in this program by March 19, 2015. The request should include a description of your facility relative to products regulated by CBER. Please specify the physical address(es) of the site(s) you are offering.

**ADDRESSES:** If your biologics facility is interested in offering a site visit, submit either an electronic request to *http://www.regulations.gov* or a written request to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. If you previously responded to earlier requests to participate in this program and you continue to be interested in participating, please renew your request through a submission to the Division of Dockets Management.

**FOR FURTHER INFORMATION CONTACT:** Loni Warren Henderson, Division of Manufacturers Assistance and Training, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. G112, Silver Spring, MD 20993–0002, 240–402–7800, FAX: 301–595–1243, *Industry.Biologics@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

CBER regulates certain biological products including blood and blood products, vaccines, and cellular, tissue, and gene therapies. CBER is committed to advancing the public health through innovative activities that help ensure the safety, effectiveness, and availability of biological products to patients. To support this primary goal, CBER has initiated various training and development programs, including programs to further enhance performance of its compliance staff, regulatory review staff, and other relevant staff. CBER seeks to continuously enhance and update review efficiency and quality, and the quality of its regulatory efforts and interactions, by providing CBER staff with a better understanding of the biologics industry and its operations. Further, CBER seeks to enhance: (1) Its understanding of current industry practices and regulatory impacts and needs and (2) communication between CBER staff and industry. CBER initiated its RSVP in 2005. Through these annual notices, CBER is requesting that those firms that have previously applied and are still interested in participating reaffirm their interest. CBER is also requesting that new interested parties apply.

## II. RSVP

### *A. Regulatory Site Visits*

In this program, over a period of time to be agreed upon with the facility, small groups of CBER staff may observe operations of biologics establishments, including for example, blood and tissue establishments. The visits may include the following: (1) Packaging facilities, (2) quality control and pathology/toxicology laboratories, and (3) regulatory affairs operations. These visits, or any part of the program, are not intended as a mechanism to inspect, assess, judge, or perform a regulatory function, but are meant to improve mutual understanding and to provide an avenue for open dialogue between the biologics industry and CBER.

### *B. Site Selection*

CBER will be responsible for all travel expenses associated with the site visits.

Therefore, selection of potential facilities will be based on the coordination of CBER's priorities for staff training as well as the limited available resources for this program. In addition to logistical and other resource factors to consider, a key element of site selection is a successful compliance record with FDA or another Agency with which we have a memorandum of understanding. If a site visit involves a visit to a separate physical location of another firm under contract to the applicant, the other firm also needs to agree to participate in the program, as well as have a satisfactory compliance history.

**III. Requests for Participation**

Identify requests for participation with the docket number found in brackets in the heading of this document. Received requests are available for public examination in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: *February 10, 2015.*

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–03117 Filed 2–13–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Prospective Grant of Exclusive License: Start-up Evaluation License for the Development of Theranostic Kits for Taxane-based Chemotherapy

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** This is notice, in accordance with 35 U.S.C. 209 and 37 CFR part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant to Taxor Diagnostics, LLC of an exclusive evaluation option license to practice the inventions embodied in the following US Patent, US Patent Application, and International Patent Application (and all foreign counterparts): US Patent No. 8,546,091, issued 01 October 2013, entitled, ''Akt Phosphorylation at SER473 as an Indicator for Taxane-based Chemotherapy'' [HHS Ref. E–191–2009/0–US–07]; US Patent Application serial no. 14/031,699, of the same name, filed 19 September 2013 [HHS Ref. E–191–2009/0–US–08]; and International (PCT) Patent Application no. PCT/US2010/035816, of the same name, filed 21 May 2010 [HHS Ref. E–191–2009/0–PCT–02]. The patent rights in this invention have been assigned to the Government of the United States of America.

The prospective exclusive evaluation option license territory may be worldwide, and the field of use may be limited to:

1. Exclusive use of the Licensed Patent Rights to develop a test kit approved by the FDA as a Class III medical device under the Premarket approval (PMA) process, such test kit to be distributed in commerce for the purpose of identifying subgroups of breast cancer, colorectal cancer, and non-small cell lung cancer patients that may benefit from treatment with a taxane therapy; and

2. Non-exclusive use of the Licensed Patent Rights to develop a test kit for which the FDA issues an order, in the form of a letter, which finds Licensee's device to be substantially equivalent to one or more similar legally marketed devices, and states that the Licensee's device can be marketed in the U.S. (*i.e.,* 510(k) cleared), such test kit to be distributed in commerce for the purpose of identifying subgroups of breast cancer, colorectal cancer, and non-small cell lung cancer patients that may benefit from treatment with a taxane therapy.

Upon the expiration or termination of the exclusive evaluation option license, Taxor Diagnostics, LLC will have the exclusive right to execute an exclusive commercialization license which will supersede and replace the exclusive evaluation option license with no greater field of use and territory than granted in the exclusive evaluation option license.

**DATES:** Only written comments or applications for a license (or both) which are received by the NIH Office of Technology Transfer on or before March 4, 2015 will be considered.

**ADDRESSES:** Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive evaluation option license should be directed to: Patrick McCue, Ph.D., Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5560; Facsimile: (301) 402–0220; Email: *mccuepat@mail.nih.gov.*

**SUPPLEMENTARY INFORMATION:** The technology describes a method of identifying cancer patients that will respond favorably to and benefit from treatment with taxane-based therapy depending on the phosphorylation status of protein Akt-Serine 473 in patient's tumor biopsy sample.

The prospective exclusive evaluation license is being considered under the small business initiative launched on 1 October 2011, and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive evaluation option license, and a subsequent exclusive commercialization license, may be granted unless 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 within fifteen (15) days from the date of this published notice.

Complete 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 evaluation option 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: February 9, 2015.

**Richard U. Rodriguez,**

*Acting Director, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2015–03088 Filed 2–13–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; 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 Environmental Health Sciences Special Emphasis Panel; Worker Health and Safety Training Review.

*Date:* March 9–10, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sheraton Chapel Hill Hotel, One Europa Drive, Chapel Hill, NC 27517.

*Contact Person:* Sally Eckert-Tilotta, Ph.D., Scientific Review Officer, National Institute of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446, *eckertt1@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: February 10, 2015.

**Carolyn Baum,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–03094 Filed 2–13–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Aging Special Emphasis Panel, April 06, 2015, 11:00 a.m. to April 06, 2015, 1:00 p.m., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892 which was published in the **Federal Register** on February 9, 2015, 80 FR 7003.

The meeting notice is amended to change the date of the meeting from April 6, 2015 to March 30, 2015. The meeting is closed to the public.

Dated: February 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–03091 Filed 2–13–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer 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 and/or proposal 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 Cancer Institute Special Emphasis Panel; R13 Conference Grant Review.

*Date:* March 3, 2015.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W556, Rockville, MD 20850, (Telephone Conference Call).

*Contact Person:* Bratin K. Saha, Ph.D., Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W556, Rockville, MD 20850, 240–276–6411, *sahab@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Core Infrastructure & Methodological Research for Cancer Epidemiology Cohorts (U01).

*Date:* March 12, 2015.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 6W032, Rockville, MD 20850, (Telephone Conference Call).

*Contact Person:* Viatcheslav A. Soldatenkov, Ph.D., M.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W254, Bethesda, MD 20892–8329, 240–276–6378, *soldatenkovv@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Vacutubes to Preserve the Viability of Circulating Tumor Cells.

*Date:* March 19, 2015.

*Time:* 10:30 a.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W538, Rockville, MD 20850, (Telephone Conference Call).

*Contact Person:* Ivan Ding, M.D., Health Scientist Administrator, Program & Review Extramural Staff Training Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W534, Bethesda, MD 20892–9750, 240–276–6444, *dingi@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Predictive Biomarkers of Adverse Reactions to Radiation Treatment.

*Date:* March 20, 2015.

*Time:* 11:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W538, Rockville, MD 20850, (Telephone Conference Call).

*Contact Person:* Ivan Ding, M.D. Health Scientist Administrator, Program & Review Extramural Staff Training Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W534, Bethesda, MD 20892–9750, 240–276–6444, *dingi@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI Small Grants Program for Cancer Research.

*Date:* March 24–25, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Viatcheslav A. Soldatenkov, Ph.D., M.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Bethesda, MD 20892–8329, 240–276–6378, *soldatenkovv@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; AIDs Malignancy Consortium (AMC).

*Date:* March 26–27, 2015.

*Time:* 6:30 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda North Marriott Hotel & Conference Center 5701 Marinelli Road, Bethesda, MD 20852.

*Contact Person:* Bratin K. Saha, Ph.D., Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W556, Rockville, MD 20850, 240–276–6411, *sahab@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Cancer Intervention and Surveillance Modeling.

*Date:* April 1–2, 2015.

*Time:* 12:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W554, Rockville, MD 20850, (Telephone Conference Call).

*Contact Person:* Christopher L. Hatch, Ph.D., Chief, Health Scientific Administrator, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W554, Rockville, MD 20850, 240–276–6454, *ch29v@nih.gov*.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction;

93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–03092 Filed 2–13–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; 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 Institute on Drug Abuse Special Emphasis Panel; Extracellular Vesicles in HIV/AIDS and Substance Abuse (R01, R21).

*Date:* February 26, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Jagadeesh S. Rao, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 02892, 301–443–9511, *jrao@nida.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:* National Institute on Drug Abuse Special Emphasis Panel; Exploratory Studies of Smoking Cessation Interventions for People with Schizophrenia (R21/R33).

*Date:* March 3, 2015.

*Time:* 12:00 p.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Jagadeesh S. Rao, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 02892, 301–443–9511, *jrao@nida.nih.gov.*

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; NIDA Core ''Center of Excellence'' Grant Program (P30).

*Date:* March 10, 2015.

*Time:* 8:30 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIAID Conference Center, 5609 Fisher's Lane, Rockville, MD 20852.

*Contact Person:* Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, *rogersn2@nida.nih.gov.*

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; NIDA Research ''Center of Excellence'' Grant Program (P50).

*Date:* March 11, 2015.

*Time:* 8:30 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIAID Conference Center, 5609 Fisher's Lane, Rockville, MD 20852.

*Contact Person:* Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, *rogersn2@nida.nih.gov.*

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; R13 Conference Grant Review (PA13–347).

*Date:* March 17, 2015.

*Time:* 2:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

*Contact Person:* Minna Liang, Ph.D., Scientific Review Officer, Grants Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4226, MSC 9550, Bethesda, MD 20892–9550, 301–435–1432, *liangm@nida.nih.gov.*

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Loan Repayment 2015.

*Date:* March 30, 2015.

*Time:* 9:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

*Contact Person:* Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov.*

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Interventions for Youth Who Misuse/Abuse Prescription Stimulant Medications in High School and/or College-Attending Youth (U01).

*Date:* March 31, 2015.

*Time:* 8:30 a.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

*Contact Person:* Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, 301–435–1426, *mcguireso@mail.nih.gov.*

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; The National Drug Abuse Treatment Clinical Trials Network (UG1).

*Date:* March 31, 2015.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate cooperative agreement applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

*Contact Person:* Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Avenir Award Program for Genetics or Epigenetics of Substance Abuse (DP2).

*Date:* April 13, 2015.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

*Contact Person:* Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: February 9, 2015.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–03095 Filed 2–13–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 10, 2015, 8:00 a.m. to March 10, 2015, 6:00 p.m., Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on February 9, 2015, 80 FR 7004.

The meeting date has changed to April 14, 2015. The meeting time and location remain the same. The meeting is closed to the public.

Dated: February 10, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–03093 Filed 2–13–15; 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; Centers for Medical Countermeasures Against Radiation Consortium (U19).

*Date:* March 4, 2015.

*Time:* 1:00 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Room 3F100, 5635 Fishers Lane, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Louis A. Rosenthal, Ph.D., Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID/DEA, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–402–8399, *rosenthalla@niaid.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: February 9, 2015.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–03089 Filed 2–13–15; 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 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 Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

*Date:* March 6, 2015.

*Time:* 11:30 a.m. to 6:30 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, Room 2C100, 5601 Fisher Lane, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* James T. Snyder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane, Rockville, MD 20852, 240–669–5060, *james.snyder@nih.gov*.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

*Date:* March 10, 2015.

*Time:* 1:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Room 4H100, 5601 Fisher Lane, Rockville, MD 20892.

*Contact Person:* Maryam Feili-Hariri, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane, Rockville, MD 20852, 240–669–5026, *haririmf@niaid.nih.gov*.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; HLA and KLR Region Genomics in Immune-Mediated Diseases (U01 & U19).

*Date:* March 10–11, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sheraton Silver Spring Hotel, The Cedar Room, 8777 Georgia Avenue, Silver Spring, MD 20910.

*Contact:* Andrea L. Wurster, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 3259, 5601 Fishers Lane, Rockville, MD 20852, 240–669–5062, *wurstera@mail.nih.gov*.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Development of Novel Therapeutics for Select Pathogens (/R21/R33).

*Date:* March 11–12, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), Room Ballroom CD, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Lynn Rust, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 5601 Fishers Lane, Rockville, MD 20852, 240–669–5069, *lr228v@nih.gov*.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

*Date:* March 13, 2015.

*Time:* 11:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Room 4H100, 5601 Fishers Lane, Rockville, MD 20852.

*Contact Person:* Maryam Feili-Hariri, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane, Rockville, MD 20852, 240–669–5026, *haririmf@niaid.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: February 9, 2015.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–03090 Filed 2–13–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[USCG–2015–0005; OMB Control Numbers 1625—(0032, 0043, 0044, 0081, 0113)]**

### Information Collection Request to Office of Management and Budget

**AGENCY:** Coast Guard, DHS.

**ACTION:** Sixty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collections of information: 1625–0032, Vessel Inspection Related Forms and Reporting Requirements under Title 46 U.S. Code; 1625–0043, Ports and Waterways Safety—Title 33 CFR subchapter P; 1625–0044, Outer Continental Shelf Activities—Title 33 CFR subchapter N; 1625–0081, Alternate Compliance Program; and 1625–0113, Crewmember Identification Documents. Our ICRs describes the information we seek to collect from the public. Before submitting these ICRs to OIRA, the Coast Guard is inviting comments as described below.

**DATES:** Comments must reach the Coast Guard on or before April 20, 2015.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2015–0005] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) Online: *http://www.regulations.gov.*

(2) Mail: DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) Fax: 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2703 MARTIN LUTHER KING JR AVE SE STOP 7710, WASHINGTON DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

**SUPPLEMENTARY INFORMATION:**

#### Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collections. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–0005], and must be received by April 20, 2015. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

#### Submitting Comments

If you submit a comment, please include the docket number [USCG–2015–0005], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2015–0005'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

*Viewing comments and documents:* To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2015–0005'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of

the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act**

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

**Information Collection Requests**

1. *Title:* Vessel Inspection Related Forms and Reporting Requirements Under Title 46 U.S.C.

*OMB Control Number:* 1625–0032.

*Summary:* This collection of information requires owners, operators, agents or masters of certain inspected vessels to obtain and/or post various forms as part of the Coast Guard's Commercial Vessel Safety Program.

*Need:* The Coast Guard's Commercial Vessel Safety Program regulations are found in 46 CFR, including parts 2, 26, 31, 71, 91, 107, 115, 126, 169, 176 and 189 as authorized in Title 46 U.S.C. A number of reporting and recordkeeping requirements are contained therein.

*Forms:* CG–841, CG–854, CG–948, CG–949, CG–950, CG–950A, CG–2832.

*Respondents:* Owners, operators, agents and master of vessels.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has increased from 1,601 hours to 1,642 hours a year due to an increase in the estimated annual number of respondents.

2. *Title:* Ports and Waterways Safety—Title 33 CFR subchapter P.

*OMB Control Number:* 1625–0043.

*Summary:* This collection of information allows the master, owner, or agent of a vessel affected by these rules to request a deviation from the requirements governing navigation safety equipment to the extent that there is no reduction in safety.

*Need:* Provisions in 33 CFR chapter I, subchapter P, allow any person directly affected by the rules in that subchapter to request a deviation from any of the requirements as long as it does not compromise safety. This collection enables the Coast Guard to evaluate the information the respondent supplies, to determine whether it justifies the request for a deviation.

*Forms:* NONE.

*Respondents:* Master, owner, or agent of a vessel.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has decreased from 2,447 hours to 2,110 hours a year due to a decrease in the estimated annual number of responses.

3. *Title:* Outer Continental Shelf Activities—Title 33 CFR subchapter N.

*OMB Control Number:* 1625–0044.

*Summary:* The Outer Continental Shelf Lands Act, as amended, authorizes the Coast Guard to promulgate and enforce regulations promoting the safety of life and property on OCS facilities. These regulations are located in 33 CFR chapter I, subchapter N.

*Need:* The information is needed to ensure compliance with the safety regulations related to OCS activities. The regulations contain reporting and recordkeeping requirements for annual inspections of fixed OCS facilities, employee citizenship records, station bills, and emergency evacuation plans.

*Forms:* CG–5432.

*Respondents:* Operators of facilities and vessels engaged in activities on the OCS.

*Burden Estimate:* The estimated burden has increased from 6,304 hours to 8,407 hours a year due to an increase in the estimated annual number of responses.

4. *Title:* Alternate Compliance Program.

*OMB Control Number:* 1625–0081.

*Summary:* This information is used by the Coast Guard to assess vessels participating in the voluntary Alternate Compliance Program (ACP) before issuance of a Certificate of Inspection.

*Need:* Sections 3306 and 3316 of 46 U.S.C. authorize the Coast Guard to establish vessel inspection regulations and inspection alternatives. Part 8 of 46 CFR contains the Coast Guard regulations for recognizing classification societies and enrollment of U.S.-flag vessels in ACP.

*Forms:* NONE.

*Respondents:* Owners and operators of U.S.-flag inspected vessels.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has decreased from 176 hours to 152 hours a year due to a decrease in the estimated annual number of respondents.

5. *Title:* Crewmember Identification Documents.

*OMB Control Number:* 1625–0113.

*Summary:* This information collection covers the requirement that crewmembers on vessels calling at U.S. ports must carry and present on demand an identification that allows the identity of crewmembers to be authoritatively validated.

*Need:* Title 46 U.S.C. 70111 mandated that the Coast Guard establish regulation about crewmember identification. The regulations are in 33 CFR part 160 subpart D.

*Forms:* NONE.

*Respondents:* Crewmembers and operators of certain vessels.

*Frequency:* On occasion.

*Burden Estimate:* The estimated burden has increased from 30,275 hours to 34,293 hours a year due to an increase in the estimated time to acquire an acceptable identification document.

*Authority:* The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: February 6, 2015.

**Thomas P. Michelli,**

*U.S. Coast Guard, Chief Information Officer, Acting.*

[FR Doc. 2015–03192 Filed 2–13–15; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[USCG–2014–0414]**

### Cook Inlet Regional Citizens' Advisory Council (CIRCAC) Charter Renewal

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of recertification.

**SUMMARY:** The purpose of this notice is to inform the public that the Coast Guard has recertified the Cook Inlet Regional Citizens' Advisory Council (CIRCAC) as an alternative voluntary advisory group for Cook Inlet, Alaska. This certification allows the CIRCAC to monitor the activities of terminal facilities and crude oil tankers under the Cook Inlet Program established by statute.

**DATES:** This recertification is effective for the period from September 1st, 2014 through August 31, 2015.

**FOR FURTHER INFORMATION CONTACT:** LT Thomas Pauser Seventeenth Coast Guard District (dpi); Telephone (907) 463–2812, email *thomas.e.pauser@uscg.mil*

**SUPPLEMENTARY INFORMATION:**

**Background and Purpose**

As part of the Oil Pollution Act of 1990, Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (the Act), 33 U.S.C. 2732, to foster a long-term partnership among industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals and oil tankers.

On October 18, 1991, the President delegated his authority under 33 U.S.C. 2732(o) to the Secretary of Transportation in Executive Order 12777, section 8(g) (see 56 FR 54757; October 22, 1991) for purposes of certifying advisory councils, or groups, subject to the Act. On March 3, 1992, the Secretary redelegated that authority to the Commandant of the USCG (see 57 FR 8582; March 11, 1992). The Commandant redelegated that authority to the Chief, Office of Marine Safety, Security and Environmental Protection (G–M) on March 19, 1992 (letter #5402).

On July 7, 1993, the USCG published a policy statement, 58 FR 36504, to clarify the factors that shall be considered in making the determination as to whether advisory councils, or groups, should be certified in accordance with the Act.

The Assistant Commandant for Marine Safety and Environmental Protection (CG–5), redelegated recertification authority for advisory councils, or groups, to the Commander, Seventeenth Coast Guard District on February 26, 1999 (letter #16450).

On September 16, 2002, the USCG published a policy statement, 67 FR 58440, that changed the recertification procedures such that applicants are required to provide the USCG with comprehensive information every three years (triennially). For each of the two years between the triennial application procedure, applicants submit a letter requesting recertification that includes a description of any substantive changes to the information provided at the previous triennial recertification. Further, public comment is not solicited prior to recertification during streamlined years, only during the triennial comprehensive review.

**Discussion of Comments**

On May 23, 2014 the USCG published a Notice of Availability; request for comments for recertification of Cook Inlet Regional Citizens' Advisory Council in the **Federal Register** (76 FR 1187). We received 54 comments from the public commenting on the proposed action. No public meeting was requested, and none was held. All 54 comments were positive and in support of recertification. These letters in support of the recertification consistently cited CIRCAC's broad representation of the respective community's interests, appropriate actions to keep the public informed, improvements to both spill response preparation and spill prevention, and oil spill industry monitoring efforts that combat complacency—as intended by the Act. The information provided with the 2014 application package, follow up consultation with CIRCAC and public support through positive comments displayed ample representation of the communities and interests of Cook Inlet and promotion of environmentally safe marine transportation and oil facility operations.

**Recertification**

By letter dated August 27, 2014, the Commander, Seventeenth Coast Guard certified that the CIRCAC qualifies as an alternative voluntary advisory group under 33 U.S.C. 2732(o). This recertification terminates on August 31, 2015.

Dated: 27 Aug. 2014.

**Charles L. Cashin,**

*Captain, U.S. Coast Guard Commander, Seventeenth Coast Guard District, Acting.*

[FR Doc. 2015–03187 Filed 2–13–15; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2014–1020]**

### Guidance on Maritime Cybersecurity Standards

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice; extension of comment period.

**SUMMARY:** The Coast Guard is extending the comment period on the notice with request for comments titled, ''Guidance on Maritime Cybersecurity Standards,'' published on December 18, 2014. We are extending the comment period at the request of several industry participants to ensure stakeholders have adequate time to submit complete responses.

**DATES:** Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before April 15, 2015, or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG–2014–1020 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

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

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or email LT Josephine Long, Coast Guard; telephone 202–372–1109, email *Josephine.A.Long@uscg.mil* or LCDR Joshua Rose, Coast Guard; 202–372–1106, email *Joshua.D.Rose@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation and Request for Comments**

We encourage you to submit comments and related materials on the questions we posed in the notice with request for comments, published on December 18, 2014 (79 FR 75574). All comments received will be posted, without change, to *http://www.regulations.gov,* and will include any personal information you have provided.

*A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (USCG–2014–1020) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* use ''USCG–2014–1020'' as your search term, and follow the instructions on that Web site for submitting comments. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit your comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may

change this proposed rule based on your comments.

If you submit comments, do not send materials that include trade secrets, confidential, commercial, or financial information; or Sensitive Security Information to the public docket. Please submit such comments separately from other comments on the notice. Comments containing this type of information should be appropriately marked as containing such information and submitted by mail to the Coast Guard point of contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

Upon receipt of such comments, the Coast Guard will not place the comments in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. The Coast Guard will hold them in a separate file to which the public does not have access, and place a note in the public docket that the Coast Guard has received such materials from the commenter. If the Coast Guard receives a request to examine or copy this information, we will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552).

*B. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov,* use ''USCG–2014–1020'' as your search term, and follow the instructions on that Web site for viewing documents in the public docket for this notice. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation, West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

*C. Privacy Act*

Anyone can 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

## II. Background

On December 18, 2014, the Coast Guard published a notice with request for comments titled, ''Guidance on Maritime Cybersecurity Standards'' (79 FR 75574). In the notice, the Coast Guard announced that it is developing policy to help vessel and facility operators identify and address cyber-related vulnerabilities that could contribute to a Transportation Security Incident.[1] The notice sought public input from the maritime industry and other interested parties on how to identify and mitigate potential vulnerabilities to cyber-dependent systems. Additionally, the Coast Guard hosted a public meeting on January 15, 2015 in Washington, DC, to provide an opportunity for the public to comment on the development of security assessment methods that might assist vessel and facility owners and operators identify and address cybersecurity vulnerabilities. The Coast Guard intends to consider the public comments from the meeting and in response to the notice in developing relevant guidance, which may include standards, guidelines, and best practices to protect maritime critical infrastructure.

## III. Reason for the Extension

On December 18, 2014, the Coast Guard published a notice with request for comments titled, ''Guidance on Maritime Cybersecurity Standards'' (79 FR 75574). The comment period for the notice was set to expire on February 17, 2015. On January 15, 2015, the Coast Guard hosted a public meeting in Washington, DC on maritime cybersecurity. Several industry participants have contacted the Coast Guard personnel identified in the notice and at the public meeting to request more time to respond to the notice. Accordingly, the Coast Guard is extending the public comment period until April 15, 2015, to ensure that all stakeholders have adequate time to review and fully respond to the questions posed in the December 18, 2014 notice. We encourage all interested members of the public to send comments in response to the notice.

This notice of extension is issued under the authority of 5 U.S.C. 552(a).

Dated: February 10, 2015.

**Andrew Tucci,**

*Chief, Office of Port & Facility Compliance, U.S. Coast Guard.*

[FR Doc. 2015–03205 Filed 2–13–15; 8:45 am]

**BILLING CODE 9110–04–P**

[1] A *Transportation Security Incident* is defined in 33 CFR 101.105 to mean ''a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area.

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2007–0008]**

### National Advisory Council; Meeting

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Committee management; notice of Federal advisory committee meeting.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) National Advisory Council (NAC) will meet in person on March 4 and 5, 2015 in New Orleans, LA. The meeting will be open to the public.

**DATES:** The NAC will meet on Wednesday, March 4, 2015, from 8:30 a.m. to 5:30 p.m. and on Thursday, March 5 from 8:30 a.m. to 12:30 p.m. Central Standard Time (CST). Please note that the meeting may close early if the NAC has completed its business.

**ADDRESSES:** The meeting will be held at the Conference Center at the historic Jackson Barracks located at 6400 St. Claude Avenue, New Orleans, LA 70117. All visitors to the Jackson Barracks are required to register with FEMA prior to the meeting in order to be admitted to the building. Photo identification is required to access the building. Please provide your name, telephone number, email address, title, and organization by close of business on March 2, 2015, to the person listed in **FOR FURTHER INFORMATION CONTACT** below.

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 NAC (see ''Agenda''). Written comments must be submitted and received by 5 p.m. CST on February 27, 2015, identified by Docket ID FEMA–2007–0008, and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FEMA–RULES@fema.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* (540) 504–2331.
- *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 comments received by the NAC, go to *http://www.regulations.gov,* and search for the Docket ID listed above.

A public comment period will be held after each subcommittee report and before NAC voting and again from 4 p.m. to 4:30 p.m. CST. All speakers are requested to limit their comments to 3 minutes. Comments should be addressed to the committee. Any comments not related to the agenda topics will not be considered by the NAC. Contact the individual listed below to register as a speaker by February 27, 2015. Please note that the public comment period may end before the time indicated, following the last call for comments.

**FOR FURTHER INFORMATION CONTACT:** Alexandra Woodruff, Alternate Designated Federal Officer, Office of the National Advisory Council, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472–3184, telephone (202) 646–2700, fax (540) 504–2331, and email *FEMA–NAC@fema.dhs.gov.* The NAC Web site is: *http://www.fema.gov/national-advisory-council.*

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

The NAC advises the FEMA Administrator on all aspects of emergency management. The NAC incorporates State, local, and tribal government, private sector and nongovernmental input in the development and revision of FEMA plans and strategies.

*Agenda:* On Wednesday, March 4, the NAC will be welcomed to FEMA Region VI and introduced to its activities by the Regional Administrator and then engage in an open discussion with the FEMA Administrator. The NAC will receive report outs from its subcommittees on topics related to Federal Insurance and Mitigation, Preparedness and Protection, and Response and Recovery. The NAC will review the information presented on each topic, deliberate on any recommendations presented in the subcommittees' reports, and, if appropriate, vote on recommendations for FEMA's consideration.

The NAC will also receive briefings from FEMA Executive Staff on the following topics:

- FEMA Louisiana Recovery Office;
- Looking Back on Hurricane Katrina; and
- FEMA Office of Response and Recovery Activities and Updates.

On Thursday, March 5, the NAC will engage in an open discussion with the FEMA Deputy Administrator, followed by an update on and discussion with the Federal Insurance and Mitigation Administration, a presentation on recovery from a local perspective, and an update on America's PrepareAthon!.

The full agenda and any related documents for this meeting will be posted on the NAC Web site at *http://www.fema.gov/national-advisory-council.*

Dated: February 10, 2015.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2015–03182 Filed 2–13–15; 8:45 am]

**BILLING CODE 9111–48–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLOR–936000–L14300000–ET0000–14XL1109AF; HAG–14–0137; OR–67907]**

### Notice of Proposed Withdrawal and Opportunity for Public Meeting; Oregon

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** On behalf of the Bureau of Land Management (BLM), the Assistant Secretary for Land and Minerals Management proposes to withdraw, subject to valid existing rights, 3680.29 acres of public lands, including 3,600.29 acres of revested Oregon and California Railroad Grant lands in Josephine County, Oregon, from location and entry under the United States mining laws, but not from leasing under the mineral or geothermal leasing laws, or disposal under the Materials Act of 1947 for a period of 20 years. The proposed withdrawal is needed to protect the geological, fisheries, and wildlife resources within the Crooks Creek Fisheries and Limestone Caves area. This notice temporarily segregates the lands for up to 2 years from location and entry under the United States mining laws and gives the public an opportunity to comment on the proposed withdrawal application and to request a public meeting.

**DATES:** The BLM must receive comments and requests for a public meeting by May 18, 2015.

**ADDRESSES:** Comments and meeting requests should be sent to the BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965 or 1220 SW., 3rd Avenue Portland, Oregon 97204–3264.

**FOR FURTHER INFORMATION CONTACT:** Michael Barnes, BLM Oregon/Washington State Office, 503–808–6155, or Anthony Kerwin, Medford District Office, BLM, 541–618–2402.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM filed an application requesting the Assistant Secretary for Land and Minerals Management to withdraw, subject to valid existing rights, the following described public lands located in Josephine County, Oregon, from location and entry under the United States mining laws, but not from leasing under the mineral or geothermal leasing laws, or disposal under the Materials Act of 1947, to protect geological, fisheries, and wildlife resources within the Crooks Creek Fisheries and Limestone Caves area:

**Willamette Meridian**

**Revested Oregon and California Railroad Lands**

T. 37 S., R. 6 W.,
sec. 31, lots 1 to 4, inclusive, and E½SW¼.
T. 37 S., R. 7 W.,
sec. 35, S½NE¼, N½SW¼, and N½SE¼;
sec. 36.
T. 38 S., R. 6 W.,
sec. 4, lots 3 to 6, inclusive, lots 11 and 12, and SW¼;
sec. 5;
sec. 6, lots 1 to 4 and 7 to 10, inclusive, and SE¼;
sec. 7, NE¼, N½SE¼, and N½SW¼SE¼;
sec. 8;
sec. 9, NW¼NW¼.
T. 39 S., R. 8 W.,
sec. 11, SE¼SE¼.

**Other Public Lands**

T. 39 S., R. 8 W.,
sec. 14, NE¼NE¼ and SE¼NW¼.

The areas described aggregate approximately 3,680.29 acres in Josephine County.

The Assistant Secretary for Land and Minerals Management approved the BLM's petition/application. Therefore,

the petition/application constitutes a withdrawal proposal of the Secretary of the Interior (43 CFR 2310.1–3(e)).

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately constrain mineral location and surface entry which could adversely affect ongoing management activities, and existing and planned capital improvements resulting in land use conflicts as well as irretrievable loss of natural resources.

No water is necessary to fulfill the purpose of the requested withdrawal.

Records relating to this withdrawal application may be examined by contacting the BLM at the above address and phone number.

For a period until May 18, 2015, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the BLM State Director at the address indicated above.

Comments, including names and street addresses of respondents, will be available for public review at the address indicated above during regular business hours. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the BLM State Director at the address indicated above by May 18, 2015. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of the meeting.

For a period until February 17, 2017, the public lands described in this notice will be segregated from location and entry under the United States mining laws, but not from leasing under the mineral or geothermal leasing laws, or disposal under the Materials Act of 1947, unless the application is denied or canceled or the withdrawal is approved prior to that date.

Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature that will not significantly impact the values to be protected by the withdrawal may be allowed with the approval of the authorized officer of the BLM during the temporary segregation period.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

**Christopher DeWitt,**

*Acting Chief, Branch of Land, Mineral, and Energy Resources.*

[FR Doc. 2015–03101 Filed 2–13–15; 8:45 am]

**BILLING CODE 4310–33–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–CR–NAGPRA–17655; PPWOCRADN0, PCU00RP14.R50000]**

### Proposed Information Collection; Native American Graves Protection and Repatriation Regulations

**AGENCY:** National Park Service (NPS), Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (National Park Service) will ask the Office of Management and Budget (OMB) to approve the information collection described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on November 30, 2015. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

**DATES:** To ensure we are able to consider your comments, we must receive them on or before April 20, 2015.

**ADDRESSES:** Send your comments on the IC to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 1849 C Street NW., MS 2601, Washington, DC 20240 (mail); or *madonna_baucum@nps.gov* (email). Please reference OMB Control Number ''1024–0144, NAGPRA'' in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Melanie O'Brien, Acting Manager, National NAGPRA Program, National Park Service, 1201 Eye Street NW., 8th floor, Washington, DC 20005; or via phone at 202/354–2204; or via fax at 202/354–5179; or via email at *Melanie_O'Brien@nps.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The Native American Graves Protection and Repatriation Act (NAGPRA), requires museums to compile certain information (summaries, inventories, and notices) regarding Native American cultural items in their possession or control and provide that information to lineal descendants, likely interested Indian tribes and Native Hawaiian organizations, and the National NAGPRA Program (acting on behalf of the Secretary of the Interior, housed in the National Park Service), to support consultation in the process of publishing notices that establish rights to repatriation. The summaries are general descriptions of the museum's Native American collection, sent to all possibly interested tribes to disclose the collection, should the tribe desire to consult on items and present a claim. The inventories are item-by-item lists of the human remains and their funerary objects, upon which the museum consults with likely affiliated tribes to determine cultural affiliation, tribal land origination, or origination from aboriginal lands of Federal recognized tribes. Consultation and claims for items require information exchange between museums and tribes on the collections. Notices of Inventory Completion, published in the **Federal Register**, indicate the museum decisions of rights of lineal descendants and tribes to receive human remains and funerary objects; Notices of Intent to Repatriate, published in the **Federal Register**, indicate the agreements of museums and tribes to transfer control to tribes of funerary objects, sacred objects and objects of cultural patrimony. Museums identify NAGPRA protected items in the collection through examination of museum records and from consultation with tribes.

The National NAGPRA Program maintains the public databases of summary, inventory and notice information to support consultation. In the first 20 years of the administration of NAGPRA approximately 40,000 Native American human remains, of a possible collection of 180,000 individuals, have been listed in NAGPRA notices. Information collection of previous years is of lasting benefit, diminishing efforts in future years.

#### II. Data

*OMB Number:* 1024–0144.

*Title:* Native American Graves Protection and Repatriation Regulations, 43 CFR part 10.

*Service Form Number:* None.

*Type of Request:* Extension of a currently approved collection of information.

*Description of Respondents:* Museums that receive Federal funds and have possession of or control over Native American cultural items.

*Respondent's Obligation:* Voluntary.

*Frequency of Collection:* On occasion.

| Information collections | Annual respondents | Annual responses | Average time/ response (hr) | Total annual burden hours |
|---|---|---|---|---|
| New Summary/Inventory | | | | |
| —Private Sector | 1 | 1 | 100 hours | 100 |
| —Govt | 2 | 2 | 200 hours | 200 |
| Update Summary/Inventory | | | | |
| —Private Sector | 226 | 226 | 10 hours | 2,260 |
| —Govt | 245 | 245 | 10 hours | 2,450 |
| Notices | | | | |
| —Private Sector | 41 | 41 | 10 hours | 410 |
| —Govt | 64 | 64 | 10 hours | 640 |
| Notify Tribes and Request Information | | | | |
| —Private Sector | 4 | 4 | 30 minutes | 2 |
| —Govt | 10 | 10 | 30 minutes | 5 |
| Respond to Request for Information | | | | |
| —Govt | 16 | 16 | 48 minutes | 13 |
| Totals | 609 | 609 | | 6,080 |

*Estimated Annual Nonhour Burden Cost:* None.

### III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden to respondents, including use of automated information techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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 it will be done.

Dated: February 10, 2015.

**Madonna L. Baucum,**

*Information Collection Clearance Officer, National Park Service.*

[FR Doc. 2015–03111 Filed 2–13–15; 8:45 am]

**BILLING CODE 4310–EH–P**

## DEPARTMENT OF THE INTERIOR

## NATIONAL PARK SERVICE

**[NPS–WASO–NRSS–EQD–SSB–17651; PPWONRADE3, PPMRSNR1Y.NM000]**

## Proposed Information Collection; Comment Request: A Survey of Direct Recreational Uses Along the Colorado River

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** We (National Park Service) are asking the Office of Management and Budget (OMB) to approve the Information Collection Request (ICR) described below. The National Park Service (NPS) is requesting approval of a new collection that will be collected in collaboration with the U.S. Geological Survey's Grand Canyon Monitoring and Research Center and used to provide information concerning the direct recreational uses along the Colorado River—specifically the stretch between the Glen Canyon Dam and Lee's Ferry. To comply with the Paperwork Reduction Act of 1995 and as a part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to comment on this ICR.

**DATES:** To ensure that your comments on this ICR are considered, OMB must receive them on or before March 19, 2015.

**ADDRESSES:** Please submit written comments on this information collection directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, to *OIRA_Submission@omb.eop.gov* (email) or 202–395–5806 (fax); and identify your submission as 1024–DREC. Please also send a copy of your comments to Phadrea Ponds, Information Collection Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Information Collection 1024–DREC in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Phadrea Ponds, Information Collection Review Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Information Collection 1024–DREC in the subject line. You may also access this ICR at *www.reginfo.gov.*

### I. Abstract

We wish to conduct this study to understand the social and economic impacts of water levels on recreation uses of the Colorado River, specifically the areas from Glen Canyon Dam to the head of Lake Mead. We are requesting approval to administer two versions of the key valuation questions (CV and conjoint). The rationale for administering two surveys containing CV and conjoint questions is because the survey design recognizes that the state of the art methods used in non-market valuation have substantially

advanced since these user groups were surveyed on these issues more than 25 years ago. A survey will be mailed to a sample of whitewater floaters and anglers to collect information concerning (1) trip/visit characteristics, (2) activities and (3) opinions on river management. This information collection will be used to provide empirical data that will help NPS managers and planners understand the impacts of direct recreational uses along the Colorado River.

**II. Data**

*OMB Control Number:* 1024–DREC.

*Title:* A Survey of Direct Recreational Uses Along The Colorado River.

*Type of Request:* NEW.

*Affected Public:* General public; individual households.

*Respondent Obligation:* Voluntary.

*Frequency of Collection:* One time.

*Estimated Number of Annual Responses:* 2,340.

*Estimated Annual Burden Hours:* 780 hours.

*Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'':* None.

**III. Request for Comments**

On August 26, 2014, we published a **Federal Register** notice (79 FR 50940) announcing that we would submit this ICR to OMB for approval. Public comments were solicited for 60 days ending October 27, 2014. We received one comment in response to that notice. The commenter suggested that this study is unnecessary because the Socio-Economic Ad Hoc Group (SEAHG) is in the process of developing a study to address the informational needs related to the Glen Canyon Dam operations and the Colorado River in the Grand Canyon. We contend that this study does not cause a conflict because the survey does not duplicate any ongoing or parallel effort but rather is intended to provide information that will be used to update a more than 25 year old study of the same resources.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: February 9, 2015.

**Madonna L. Baucum,**

*Information Collection Clearance Officer, National Park Service.*

[FR Doc. 2015–03096 Filed 2–13–15; 8:45 am]

**BILLING CODE 4310–EH–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–NER–BOHA–17599; PPMPSPD1Z.YM0000] [PPNEBOHAS1]**

### Boston Harbor Islands National Recreation Area Advisory Council

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of annual meeting.

**SUMMARY:** This notice announces the annual meeting of the Boston Harbor Islands National Recreation Area Advisory Council. The agenda includes updates from the Massachusetts Department of Conservation and Recreation, the Boston Harbor Island Alliance, and the National Park Service about project, program, marketing, and water transportation plans for the 2015 Season. There will also be a discussion about the Council's mission, goals, and community outreach initiative. The Council will hold elections for officers and nominate Council representatives to the Boston Harbor Islands Partnership. Superintendent Giles Parker will also give updates about park operations and planning efforts.

**DATES:** March 11, 2015, 6:00 p.m. to 8:00 p.m. (EASTERN).

**ADDRESSES:** Partnership Office, 15 State Street, 2nd Floor Conference Room, Boston, MA 02109.

**FOR FURTHER INFORMATION CONTACT:** Giles Parker, Superintendent and Designated Federal Official (DFO), Boston Harbor Islands National Recreation Area, 15 State Street, Suite 1100, Boston, MA 02109, telephone (617) 223–8669, or email *giles_parker@nps.gov.*

**SUPPLEMENTARY INFORMATION:** This meeting is open to the public. Those wishing to submit written comments may contact the DFO for the Boston Harbor Islands National Recreation Area Advisory Council, Giles Parker, by mail at National Park Service, Boston Harbor Islands, 15 State Street, Suite 1100, Boston, MA 02109 or via email *giles_parker@nps.gov.* 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.

The Council was appointed by the Director of the National Park Service pursuant to 16 U.S.C. 460kkk(g). The purpose of the Council is to advise and make recommendations to the Boston Harbor Islands Partnership with respect to the implementation of a management plan and park operations. Efforts have been made locally to ensure that the interested public is aware of the meeting dates.

Dated: February 10, 2015.

**Alma Ripps,**

*Chief, Office of Policy.*

[FR Doc. 2015–03110 Filed 2–13–15; 8:45 am]

**BILLING CODE 4310–EE–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

**[RR83550000, 14XR0680A1, RX.31580001.0090104]**

### Agency Information Collection; Proposed Revisions to a Currently Approved Information Collection (OMB Control Number 1006–0006)

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** We, the Bureau of Reclamation, intend to submit a request for renewal (with revisions) of an existing approved information collection to the Office of Management and Budget (OMB) titled, Certification Summary Form, Reporting Summary Form for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428, OMB Control Number 1006–0006.

**DATES:** Submit written comments on this revised information collection request on or before April 20, 2015.

**ADDRESSES:** Send written comments or requests for copies of the proposed revised forms to Stephanie McPhee, Bureau of Reclamation, Office of Policy and Administration, 84–55000, P.O. Box 25007, Denver, CO 80225–0007; or via email to *smcphee@usbr.gov.*

**FOR FURTHER INFORMATION CONTACT:** Stephanie McPhee at (303) 445–2897.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This information collection is required under the Reclamation Reform Act of 1982 (RRA), Acreage Limitation Rules and Regulations, 43 CFR part 426, and Information Requirements for Certain Farm Operations In Excess of 960 Acres and the Eligibility of Certain Formerly Excess Land, 43 CFR part 428. The forms in this information collection are to be used by district offices to summarize individual landholder (direct or indirect landowner or lessee) and farm operator certification and reporting forms. This information allows us to establish water user compliance with Federal reclamation law.

**II. Changes to the RRA Forms and Their Instructions**

The changes made to the currently approved RRA forms and the corresponding instructions are of an editorial nature, and are designed to assist the respondents by increasing their understanding of the forms, clarifying the instructions for completing the forms, and clarifying the information that is required to be on the forms. The proposed revisions to the RRA forms will be effective in the 2016 water year.

**III. Data**

*OMB Control Number:* 1006–0006.

*Title:* Certification Summary Form, Reporting Summary Form for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428.

*Form Number:* Form 7–21SUMM–C and Form 7–21SUMM–R.

*Frequency:* Annually.

*Respondents:* Contracting entities that are subject to the acreage limitation provisions of Federal reclamation law.

*Estimated Annual Total Number of Respondents:* 177.

*Estimated Number of Responses per Respondent:* 1.25.

*Estimated Total Number of Annual Responses:* 221.

*Estimated Total Annual Burden on Respondents:* 8,870 hours.

*Estimated Completion Time per Respondent:* See table below.

| Form No. | Burden estimate per form (in hours) | Number of respondents | Annual number of responses | Annual burden on respondents (in hours) |
|---|---|---|---|---|
| 7–21SUMM–C and associated tabulation sheets | 40 | 169 | 211 | 8,450 |
| 7–21SUMM–R and associated tabulation sheets | 40 | 8 | 10 | 420 |
| Totals | | 177 | 221 | 8,870 |

**IV. Request for Comments**

We invite your comments on:

(a) Whether the collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) the accuracy of our estimated time and cost burden of the collection of information, including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including increased use of automated collection techniques or other forms of information technology.

We will summarize all comments received regarding this notice. We will publish that summary in the **Federal Register** when the information collection request is submitted to OMB for review and approval.

**V. 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: January 20, 2015.

**Roseann Gonzales,**

*Director, Policy and Administration.*

[FR Doc. 2015–03136 Filed 2–13–15; 8:45 am]

**BILLING CODE 4332–90–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

**[RR83550000, 14XR0680A1, RX.31580001.0090104]**

### Agency Information Collection; Proposed Revisions to a Currently Approved Information Collection (OMB Control Number 1006–0005)

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** We, the Bureau of Reclamation, intend to submit a request for renewal (with revisions) of an existing approved information collection to the Office of Management and Budget (OMB) titled, Individual Landholder's and Farm Operator's Certification and Reporting Forms for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428, OMB Control Number 1006–0005.

**DATES:** Submit written comments on this revised information collection request on or before April 20, 2015.

**ADDRESSES:** Send written comments or requests for copies of the proposed revised forms to Stephanie McPhee, Bureau of Reclamation, Office of Policy and Administration, 84–55000, P.O. Box 25007, Denver, CO 80225–0007; or via email to *smcphee@usbr.gov.*

**FOR FURTHER INFORMATION CONTACT:** Stephanie McPhee at (303) 445–2897.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This information collection is required under the Reclamation Reform Act of 1982 (RRA), Acreage Limitation Rules and Regulations, 43 CFR part 426, and Information Requirements for Certain Farm Operations In Excess of 960 Acres and the Eligibility of Certain Formerly Excess Land, 43 CFR part 428. This information collection requires certain landholders (direct or indirect landowners or lessees) and farm operators to complete forms demonstrating their compliance with

the acreage limitation provisions of Federal reclamation law. The forms in this information collection are submitted to districts that use the information to establish each landholder's status with respect to landownership limitations, full-cost pricing thresholds, lease requirements, and other provisions of Federal reclamation law. In addition, forms are submitted by certain farm operators to provide information concerning the services they provide and the nature of their farm operating arrangements. All landholders whose entire westwide landholdings total 40 acres or less are exempt from the requirement to submit RRA forms. Landholders who are ''qualified recipients'' have RRA forms submittal thresholds of 80 acres or 240 acres depending on the district's RRA forms submittal threshold category where the land is held. Only farm operators who provide multiple services to more than 960 acres held in trusts or by legal entities are required to submit forms.

**II. Changes to the RRA Forms and Their Instructions**

The changes made to the currently approved RRA forms and the corresponding instructions are of a formatting or editorial nature, and are designed to assist the respondents by increasing their understanding of the forms, clarifying the instructions for completing the forms, and clarifying the information that is required to be on the forms. The proposed revisions to the RRA forms will be effective in the 2016 water year.

**III. Data**

*OMB Control Number:* 1006–0005.

*Title:* Individual Landholder's and Farm Operator's Certification and Reporting Forms for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428.

*Form Number:* Form 7–2180, Form 7–2180EZ, Form 7–2181, Form 7–2184, Form 7–2190, Form 7–2190EZ, Form 7–2191, Form 7–2194, Form 7–21TRUST, Form 7–21PE, Form 7–21PE–IND, Form 7–21FARMOP, Form 7–21VERIFY, Form 7–21FC, Form 7–21XS, Form 7–21XSINAQ, Form 7–21CONT–I, Form 7–21CONT–L, Form 7–21CONT–O, and Form 7–21INFO.

*Frequency:* Annually.

*Respondents:* Landholders and farm operators of certain lands in our projects, whose landholdings exceed specified RRA forms submittal thresholds.

*Estimated Annual Total Number of Respondents:* 13,960.

*Estimated Number of Responses per Respondent:* 1.02.

*Estimated Total Number of Annual Responses:* 14,239.

*Estimated Total Annual Burden on Respondents:* 10,432 hours.

*Estimated Completion Time per Respondent:* See table below.

| Form No. | Burden estimate per form (in minutes) | Number of respondents | Annual number of responses | Annual burden on respondents (in hours) |
|---|---|---|---|---|
| Form 7–2180 | 60 | 3,595 | 3,667 | 3,667 |
| Form 7–2180EZ | 45 | 373 | 380 | 285 |
| Form 7–2181 | 78 | 1,050 | 1,071 | 1,392 |
| Form 7–2184 | 45 | 32 | 33 | 24 |
| Form 7–2190 | 60 | 1,601 | 1,633 | 1,633 |
| Form 7–2190EZ | 45 | 96 | 98 | 73 |
| Form 7–2191 | 78 | 777 | 793 | 1,030 |
| Form 7–2194 | 45 | 4 | 4 | 3 |
| Form 7–21PE | 75 | 135 | 138 | 172 |
| Form 7–21PE–IND | 12 | 4 | 4 | 1 |
| Form 7–21TRUST | 60 | 694 | 708 | 708 |
| Form 7–21VERIFY | 12 | 5,069 | 5,170 | 1,034 |
| Form 7–21FC | 30 | 214 | 218 | 109 |
| Form 7–21XS | 30 | 144 | 147 | 73 |
| Form 7–21FARMOP | 78 | 172 | 175 | 228 |
| Totals | ..... | 13,960 | 14,239 | 10,432 |

**IV. Request for Comments**

We invite your comments on:

(a) Whether the collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) the accuracy of our estimated time and cost burden of the collection of information, including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including increased use of automated collection techniques or other forms of information technology.

We will summarize all comments received regarding this notice. We will publish that summary in the **Federal Register** when the information collection request is submitted to OMB for review and approval.

**V. 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: January 20, 2015.

**Roseann Gonzales,**

*Director, Policy and Administration.*

[FR Doc. 2015–03134 Filed 2–13–15; 8:45 am]

**BILLING CODE 4332–90–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

**[RR83550000, 14XR0680A1, RX.31580001.0090104]**

### Agency Information Collection; Proposed Revisions to a Currently Approved Information Collection (OMB Control Number 1006–0023)

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** We, the Bureau of Reclamation, intend to submit a request for the renewal (with revisions) of an existing approved information collection to the Office of Management and Budget (OMB) titled, Forms to Determine Compliance by Certain Landholders, 43 CFR part 426, OMB Control Number 1006–0023.

**DATES:** Submit written comments on the revised information collection on or before April 20, 2015.

**ADDRESSES:** Send written comments or requests for copies of the proposed revised forms to Stephanie McPhee, Bureau of Reclamation, Office of Policy and Administration, 84–55000, P.O. Box 25007, Denver, CO 80225–0007; or via email to *smcphee@usbr.gov.*

**FOR FURTHER INFORMATION CONTACT:** Stephanie McPhee at (303) 445–2897.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

*Identification of limited recipients*—Some entities that receive Reclamation irrigation water may believe that they are under the Reclamation Reform Act of 1982 (RRA) forms submittal threshold and, consequently, may not submit the appropriate RRA form(s). However, some of these entities may in fact have a different RRA forms submittal threshold than what they believe it to be due to the number of natural persons benefiting from each entity and the location of the land held by each entity. In addition, some entities that are exempt from the requirement to submit RRA forms due to the size of their landholdings (directly and indirectly owned and leased land) may in fact be receiving Reclamation irrigation water for which the full-cost rate must be paid because the start of Reclamation irrigation water deliveries occurred after October 1, 1981 [43 CFR 426.6(b)(2)]. The information obtained through completion of the Limited Recipient Identification Sheet (Form 7–2536) allows us to establish entities' compliance with Federal reclamation law. The Limited Recipient Identification Sheet is disbursed at our discretion.

*Trust review*—In order to administer section 214 of the RRA and 43 CFR 426.7, we are required to review and approve all trusts. Land held in trust generally will be attributed to the beneficiaries of the trust rather than the trustee if the criteria specified in the RRA and 43 CFR 426.7 are met. We may extend the option to complete and submit for our review the Trust Information Sheet (Form 7–2537) instead of actual trust documents when we become aware of trusts with a relatively small landholding (40 acres or less in districts subject to the prior law provisions of Federal reclamation law, 240 acres or less in districts subject to the discretionary provisions of Federal reclamation law). If we find nothing on the completed Trust Information Sheet that would warrant the further investigation of a particular trust, that trustee will not be burdened with submitting trust documents to us for in-depth review. The Trust Information Sheet is disbursed at our discretion.

*Acreage limitation provisions applicable to public entities*—Land farmed by a public entity can be considered exempt from the application of the acreage limitation provisions provided the public entity meets certain criteria pertaining to the revenue generated through the entity's farming activities (43 CFR 426.10 and the Act of July 7, 1970, Pub. L. 91–310). We are required to ascertain whether or not public entities that receive Reclamation irrigation water meet such revenue criteria regardless of how much land the public entities hold (directly or indirectly own or lease) [43 CFR 426.10(a)]. In order to minimize the burden on public entities, standard RRA forms are submitted by a public entity only when the public entity holds more than 40 acres subject to the acreage limitation provisions westwide, which makes it difficult to apply the revenue criteria as required to those public entities that hold less than 40 acres. When we become aware of such public entities, we request those public entities complete and submit for our review the Public Entity Information Sheet (Form 7–2565), which allows us to establish compliance with Federal reclamation law for those public entities that hold 40 acres or less and, thus, do not submit a standard RRA form because they are below the RRA forms submittal threshold. In addition, for those public entities that do not meet the exemption criteria, we must determine the proper rate to charge for Reclamation irrigation water deliveries. The Public Entity Information Sheet is disbursed at our discretion.

*Acreage limitation provisions applicable to religious or charitable organizations*—Some religious or charitable organizations that receive Reclamation irrigation water may believe that they are under the RRA forms submittal threshold and, consequently, may not submit the appropriate RRA form(s). However, some of these organizations may in fact have a different RRA forms submittal threshold than what they believe it to be depending on whether these organizations meet all of the required criteria for full special application of the acreage limitations provisions to religious or charitable organizations [43 CFR 426.9(b)]. In addition, some organizations that (1) do not meet the criteria to be treated as a religious or charitable organization under the acreage limitation provisions, and (2) are exempt from the requirement to submit RRA forms due to the size of their landholdings (directly and indirectly owned and leased land), may in fact be receiving Reclamation irrigation water for which the full-cost rate must be paid because the start of Reclamation irrigation water deliveries occurred after October 1, 1981 [43 CFR 426.6(b)(2)]. The Religious or Charitable Organization Identification Sheet (Form 7–2578) allows us to establish certain religious or charitable organizations' compliance with Federal reclamation law. The Religious or Charitable Organization Identification Sheet is disbursed at our discretion.

## II. Changes to the RRA Forms and Their Instructions

The changes made to the currently approved RRA forms and the corresponding instructions are of an editorial nature, and are designed to assist the respondents by increasing their understanding of the forms, clarifying the instructions for completing the forms, and clarifying the information that is required to be on the forms. The proposed revisions to the Trust Information Sheet also include clarification of the 40-acre and 240-acre thresholds applicable to prior law districts and discretionary provisions districts, respectively. The proposed revisions to the RRA forms will be effective in the 2016 water year.

## III. Data

*OMB Control Number:* 1006–0023.

*Title:* Forms to Determine Compliance by Certain Landholders, 43 CFR part 426.

*Form Number:* Form 7–2536, Form 7–2537, Form 7–2565, and Form 7–2578.

*Frequency:* Generally, these forms will be submitted only once per identified entity, trust, public entity, or religious or charitable organization. Each year, we expect new responses in accordance with the following numbers.

*Respondents:* Entity landholders, trusts, public entities, and religious or charitable organizations identified by Reclamation that are subject to the acreage limitation provisions of Federal reclamation law.

*Estimated Annual Total Number of Respondents:* 500.

*Estimated Number of Responses per Respondent:* 1.0.

*Estimated Total Number of Annual Responses:* 500.

*Estimated Total Annual Burden on Respondents:* 72 hours.

*Estimated Completion Time per Respondent:* See table below.

| Form No. | Burden estimate per form (in minutes) | Number of respondents | Annual number of responses | Annual burden on respondents (in hours) |
|---|---|---|---|---|
| Limited Recipient Identification Sheet | 5 | 175 | 175 | 15 |
| Trust Information Sheet | 5 | 150 | 150 | 13 |
| Public Entity Information Sheet | 15 | 100 | 100 | 25 |
| Religious or Charitable Identification Sheet | 15 | 75 | 75 | 19 |
| Totals | | 500 | 500 | 72 |

## IV. Request for Comments

We invite your comments on:

(a) Whether the collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) the accuracy of our estimated time and cost burden of the collection of information, including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including increased use of automated collection techniques or other forms of information technology.

We will summarize all comments received regarding this notice. We will publish that summary in the **Federal Register** when the information collection request is submitted to OMB for review and approval.

## V. 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: January 20, 2015.

**Roseann Gonzales,**

*Director, Policy and Administration.*

[FR Doc. 2015–03135 Filed 2–13–15; 8:45 am]

**BILLING CODE 4332–90–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Electronic Products, Including Products with Near Field Communication (''NFC'') System-Level Functionality and/or Battery Power-Up Functionality, Components Thereof, and Products Containing Same, DN 3056;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of NXP B.V. and NXP Semiconductors USA, Inc. on February 10, 2015. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic products, including products with near field communication (''NFC'') system-level functionality and/or battery power-up functionality, components thereof, and products containing same. The complaint names as respondent Dell, Inc. of Round Rock, TX. The complainant requests that the Commission issue a limited exclusion order, permanent cease and desist orders, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3056'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Dated: February 11, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–03161 Filed 2–13–15; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Audio Processing Hardware and Software and Products Containing Same, DN 3055;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Andrea Electronics Corp. on February 9, 2015. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain audio processing hardware and software and products containing same. The complaint names as respondents Acer Inc. of Taiwan; Acer America Corp. of San Jose, CA; ASUSTeK Computer Inc. of Taiwan; ASUS Computer International of Fremont, CA; Dell Inc. of Round Rock, TX; Hewlett Packard Co. of Palo Alto, CA; Lenovo Group Ltd. of China; Lenovo Holding Co., Inc. of Morrisville, NC; Lenovo (United States) Inc. of Morrisville, NC; Toshiba Corp. of Japan; Toshiba America, Inc. of New York, NY; Toshiba America Information Systems, Inc. of Irvine, CA; and Realtek Semiconductor Corp. of Taiwan. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3055'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures* [4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Dated: February 10, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–03105 Filed 2–13–15; 8:45 am]

**BILLING CODE 7020–02–P**

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–513 and 731–TA–1249 (Final)]**

### Sugar From Mexico; Cancellation of Hearing

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**DATES:** *Effective Date:* February 9, 2015.

**FOR FURTHER INFORMATION CONTACT:** Amy Sherman (202–205–3289), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:** On November 3, 2014, the Commission established a schedule for the conduct of the final phase of the subject investigations (79 FR 75591, December 18, 2014). The hearing scheduled for Tuesday, March 17, 2015 in the referenced investigations is cancelled. Should there be a need to reschedule the hearing, the Commission will provide notice of the new date and time for the hearing.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Dated: February 10, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–03104 Filed 2–13–15; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms and Explosives

**[OMB Number 1140–0003]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Report of Multiple Sale or Other Disposition of Pistols and Revolvers

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and will be accepted for 60 days until April 20, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Helen Koppe, Firearms Industry Programs Branch, at *fipb-informationcollection@atf.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

• Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection 1140–0003**

1. *Type of Information Collection:* Extension without change of an existing collection.

2. *The Title of the Form/Collection:* Report of Multiple Sale or Other Disposition of Pistols and Revolvers.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 3310.4.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Federal Government, State, Local, or Tribal Government.

Abstract: The information documents certain sales or other dispositions of handguns for law enforcement purposes and determines if the buyer is involved in an unlawful activity, or is a person prohibited by law from obtaining firearms.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 73,799 respondents will take 15 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 82,292 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: February 11, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–03113 Filed 2–13–15; 8:45 am]

**BILLING CODE 4410–FY–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI System Alliance, Inc

Notice is hereby given that, on January 16, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, SMH Technologies Srl, Villotta di Chions PN, ITALY, has been added as a party to this venture.

Also, Sundance Multiprocessor Technology Ltd., Chesham Bucks, England, UNITED KINGDOM, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on

October 28, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 26, 2014 (79 FR 70555).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2015–03086 Filed 2–13–15; 8:45 am]

**BILLING CODE P**

## Department of Justice

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on January 20, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODVA, Inc. (''ODVA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Don Electronics Ltd., Leeds/Yeadon, West Yorkshire, UNITED KINGDOM; NTI AG, Spreitenbach, SWITZERLAND; OEM Technology Solutions, Sydney, AUSTRALIA; Thermo Ramsey Inc., a part of Thermo Fisher Scientific, Waltham, MA, have been added as parties to this venture.

Also, Ethernet Direct, Taipei, TAIWAN; MK Precision Co., Ltd., Seoul, REPUBLIC OF KOREA; Procon Engineering Limited, Sevenoaks, Kent, UNITED KINGDOM; and Shinho System, Seoul, REPUBLIC OF KOREA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on October 15, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 5, 2014 (79 FR 65702).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2015–03085 Filed 2–13–15; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OMB Number 1121–NEW]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement With Change of a Previously Approved Collection for Which Approval Has Expired Methodological Research to Support the National Crime Victimization Survey: Subnational Companion Study—American Crime Survey Field Test

**AGENCY:** Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice.

**ACTION:** 30-day notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at Volume 79, Number 238, pages 73627—73628, on December 11, 2014, allowing for a 60 day comment period.

**DATES:** Comments are encouraged and will be accepted for additional days until March 19, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Michael Planty, Unit Chief, Victimization Statistics, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Michael.Planty@usdoj.gov;* telephone: 202–514–9746). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—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:* New collection under activities related to the National Crime Victimization Survey Redesign Research (NCVS–RR) program: NCVS Subnational Companion Study—American Crime Survey Field Test.

2. *The Title of the Form/Collection:* American Crime Survey (ACS).

3. *The agency form number:* The form numbers are ASC1 and ASC2, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Adults ages 18 or older in 40 largest Core Based Statistical Areas (CBSAs) in the United States, as measured by the number of households. Since 2008, BJS has initiated numerous research projects to assess and improve upon the core NCVS methodology. The purpose of the Companion Survey Field Test will be to test a low-cost alternative self-administered survey for collecting information about violence and property crime to generate subnational, local level estimates of victimization. The goal of this test is to generate a survey that could parallel National Crime Victimization Survey (NCVS) and Uniform Crime Report (UCR) estimates over time, rather than replicate either of them, and could be used to assess whether local initiatives are correlated with changes in crime rates. A secondary goal is to assess change over time, as the Field Test will be administered over two years, with a cross-sectional address-based sample survey in 2015 and a second address-based sample survey in 2016. The rationale for collecting data in two years is that we are able to assess the ability of the instruments to detect change over time. An additional feature of the surveys being tested is the inclusion of a set of questions on perceptions of neighborhood safety, fear of crime, and police effectiveness, which would allow the survey to be used to assess changes in these perceptions as well. This information is not currently available from the NCVS.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Over the two year period approximately 200,400 households are expected to complete the survey. The sample is divided into two groups by instrument version: ASC1 person-level survey and ASC2 incident-level survey. Over the two waves, for both versions, approximately 25% of households interviewed in year 1 will be re-interviewed in year 2.

- The first group of 100,200 households will receive the ASC1, a person-level survey to measure prevalence or the number of adult household members victimized by one or more types of violent crime and the number of households victimized by types of property crime. The expected burden placed on these respondents is 12 minutes per respondent for a total of 20,040 burden hours for both years.
- The second group of 100,200 households will receive the ASC2, an incident-level survey to measure the number of victimization incidents experienced by all adult household members. The expected burden placed on these respondents is 10.5 minutes for a total of 17,535 burden hours.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 37,575 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: February 11, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–03114 Filed 2–13–15; 8:45 am]

**BILLING CODE 4410–18–P**

## LEGAL SERVICES CORPORATION

### Request for Letters of Intent To Apply for 2015 Technology Initiative Grant Funding

**AGENCY:** Legal Services Corporation.

**ACTION:** Notice.

**SUMMARY:** The Legal Services Corporation (LSC) is issuing this Notice to describe the conditions under which Letters of Intent will be received for the Technology Initiative Grant (TIG) program. LSC's TIG program was established in 2000. Since that time, LSC has made 570 grants totaling more than $46 million. This grant program provides an important tool to help achieve LSC's goal of increasing the quantity and quality of legal services available to eligible persons. Projects funded under the TIG program develop, test and replicate innovative technologies that can enable grant recipients and state justice communities to improve low-income persons' access to high quality legal assistance through an integrated and well managed technology system. When submitting Letters of Intent, applicants should consider the growth and continued development of technology and the resulting effects on the practice of law, program management and service delivery.

**DATES:** Letters of Intent must be submitted by 11:59 p.m. EDT on March 20, 2015.

**ADDRESSES:** Letters of Intent must be submitted electronically at *http://lscgrants.lsc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jane Ribadeneyra, Program Analyst, Office of Program Performance, Legal Services Corporation, 3333 K Street NW., Washington, DC, 20007; (202) 295–1554 (phone); *ribadeneyraj@lsc.gov.*

**SUPPLEMENTARY INFORMATION:**

## General Information

All prospective applicants for 2015 funds from the Legal Services Corporation's (LSC) Technology Initiative Grant (TIG) program must submit a ''Letter of Intent'' (LOI) prior to submitting a formal application. The format and contents of a Letter of Intent should conform to the requirements specified below in Section IV.

The submission of a LOI enables a prospective applicant to vet its project ideas with TIG staff, who can then identify those projects that have a reasonable chance of success in the competitive grant process. LSC will solicit full proposals for those projects that have a reasonable chance of success in the grant competition process based on LSC's analysis of the information provided in the LOI.

## LSC Requirements

Technology Initiative Grant funds are subject to all the requirements of the Legal Services Corporation Act of 1974, as amended (LSC Act), any applicable appropriations acts and any other applicable laws, rules, regulations, policies, guidelines, instructions, and other directives of the Legal Services Corporation (LSC), including, but not limited to, *the LSC Audit Guide for Recipients and Auditors, the Accounting Guide for LSC Recipients (2010 Edition), the CSR Handbook (2011 Edition), the 1981 LSC Property Manual* (as amended) and *the Property Acquisition and Management Manual,* with any amendments to the foregoing adopted before or during the period of the grant (see *http://grants.lsc.gov/rin/grantee-guidance*). Before submitting a Letter of Intent, applicants should be familiar with LSC's subgrant and transfer requirements at 45 CFR parts 1610 and 1627 (see *http://www.lsc.gov/about/laws-regulations/lsc-regulations-cfr-45-part-1600-et-seq*), particularly as they pertain to payments of LSC funds to other entities for programmatic activities.

For additional information and resources regarding TIG compliance, including transfers, subgrants, third-party contracting, conflicts of interest, grant modification procedures, and special TIG grant assurances, see *http://tig.lsc.gov/grants/compliance.*

## Eligible Applicants

TIG awards are only available to current LSC basic field grant recipients. A TIG will not be awarded to any applicant unless the applicant is in good standing on any existing TIG projects. Applicants must be up to date according to the milestone schedule on all existing TIG projects prior to submitting a LOI or have requested and received an adjustment to the original milestone schedule.

TIG grants will not be awarded to any applicant unless the applicant has made satisfactory progress on all TIG grants previously awarded to it and is not subject to any short-term funding (*i.e.,* less than one year) on basic field grants. LSC recipients that have had a previous TIG terminated for failure to provide timely reports and submissions are not eligible to receive a TIG for three years after their earlier grant was terminated. This policy does not apply to applicants that worked with LSC to end a TIG early after an unsuccessful project implementation resulting from technology limitations, a failed proof of concept, or other reasons outside of the applicant's control.

## Funding Availability

LSC has received an appropriation of $4 million for fiscal year 2015 to fund TIG projects. In 2014, 38 TIG projects received funding with a median funding amount of $75,270. (See *http://tig.lsc.gov/grants/past-grant-awards* for more information on past awards.) LSC recommends a minimum amount for TIG funding requests of $40,000, but lower requests will be considered. There is no maximum amount for TIG funding requests that are within the total appropriation for TIG.

## Collaborations

The TIG program encourages applicants to reach out to and include in TIG projects others interested in access to justice—the courts, bar associations, pro bono projects, libraries, and social service agencies. Partnerships can enhance the reach, effectiveness and sustainability of many projects.

## Grant Categories

LSC will accept projects in two application categories:

(1) Innovations and Improvements
(2) Replication and Adaptation

## Grant Category 1: Innovations and Improvements

The Innovations and Improvements Category is designated for projects that: (1) Implement new or innovative approaches for using technology in legal services, or (2) enhance the effectiveness and efficiency of existing technologies so that they may be better used to increase the quality and quantity of services to clients.

Although there is no funding limit or matching requirement for applications in this category, additional weight is given to projects with strong support from partners. Proposals for initiatives with broad applicability and/or that would have impact throughout the legal services community are strongly encouraged. For applications that do not have broad applicability or impact, LSC will carefully consider the amount of the request and the balance of cost and potential benefit.

## Grant Category 2: Replication and Adaptation

The Replication and Adaptation category is for proposals that seek to replicate, adapt, or provide added value to the work of prior technology projects. This includes, but is not limited to, the implementation and improvement of tested methodologies and technologies from previous TIG projects. Applicants may also replicate technology projects funded outside of the TIG program, including sectors outside the legal aid community, such as other social services organizations, the broader non-

profit community, and the private sector.

Project proposals in the Replication and Adaptation category may include, but are not limited to:

*A: Replication of Previous TIG Projects*

During the past fifteen years of TIG funding, there have been many successes. A list of examples of replicable projects and final reports can be found at *http://tig.lsc.gov/grants/final-reports/final-report-samples-replicable-projects.* LSC requires that any original software developed with TIG funding be available to other legal services programs at little or no cost. Applicants should look to previous successful TIG projects and determine how they could be replicated at a reduced cost from the original project, and/or how they could be built upon and enhanced. Projects where original software or content has already been created lend themselves to replication, and LSC encourages programs to look to these projects to see how they could benefit the delivery systems in their state.

*B: Automated Form Replication*

LawHelp Interactive (LHI [1]) is now deployed in 41 states. There are over 3,000 active HotDocs templates and A2J Author modules being hosted on the LawHelp Interactive National HotDocs Server at *https://lawhelpinteractive.org.* While there are differences from state to state in the content and format, many of these forms can be edited for use in other jurisdictions with less effort, hence a lower cost, than starting from scratch.

Even if a form differs from one state to another, the information needed to populate a form will, for the most part, be similar (What are the names of the plaintiff, the defendant, the children, etc.?). This means the interviews are more easily replicated than templates. All of these templates and interviews are available to be modified as needed. Applicants should identify which forms and templates are to be adapted, and then estimate the cost to do this and compare that to the cost of developing them from scratch.

LHI has the capacity to support Spanish, Vietnamese, Mandarin, and Korean language interviews. In addition, LHI has been integrated with other systems to allow the flow of information between LHI and court e-filing systems, and legal aid case management systems. An ''Events'' feature is being developed that will enable pro bono programs from across a state to use LHI interviews and forms to assign pre-screened pro bono cases and their documents to panel attorneys. For additional information, including examples, best practices, models and training materials, see the LawHelp Interactive Resource Center hosted by Pro Bono Net at *http://www.probono.net/dasupport* (you may need to request a free membership to access this Web site).

*C: Replication of Technology Projects in Other Sectors*

In addition to replicating other TIG funded technology projects, LSC encourages replication of proven technologies from non-LSC funded legal aid organizations as well as sectors outside the legal aid community. Ideas for replication may be found through resources and organizations such as LSNTAP, the ABA, international legal aid providers such as the Legal Services Society of British Columbia and *HiiL's Innovating Justice project* (*http://www.innovatingjustice.com*), Idealware (see the article on *Unleashing Innovation*), *NTEN*, and *TechSoup*.

**III. Areas of Interest**

LSC welcomes applications for a wide variety of projects. For 2015, LSC has four areas of particular interest in which programs are encouraged to submit proposals for innovative technology approaches. The designation of these areas does not in any way limit the scope of proposals in which LSC is interested. The 2015 areas of particular interest are:

*A. Projects to Move Organizations Above the LSC Technology Baselines (revised 2015).* The recently updated *LSC Baselines: Technologies That Should Be in Place in a Legal Aid Office Today (revised 2015)* provides a detailed overview of the technologies that enable modern legal aid offices to operate efficiently and effectively. While LSC's policy is that TIGs cannot be used to bring grantees up to the baselines in an area, we want to encourage applicants as they implement a baseline capacity to think about how they can do more than just the minimum. This area of interest is to encourage applicants to propose initiatives that advance their organizations beyond the 2015 Baselines by developing innovative, creative technology solutions that address at least one capacity identified in the Baselines and then exceeding it. Also, grantees applying under this area of interest should address how their project could establish a new technology best practice that could be incorporated into future versions of the Baselines.

*B. Technology Tools to Facilitate Access to Substantive Law Across Jurisdictions.* A variety of technologies have the potential to enhance access to legal information and resources related to substantive laws with a national reach. These resources may be especially valuable given that they would be applicable to clients and advocates across the country. In the past, LSC has had a similar area of interest for substantive federal laws because of their uniformity across jurisdictions. This area of interest includes state-specific laws that have similarities across states and as to which information, resources and tools can therefore be replicated across states. A good example of this is expungement. Tools built to facilitate the expungement process in one jurisdiction have been modified and successfully replicated in other jurisdictions. LSC wants to encourage grantees to expand this approach to other substantive areas of the law.

*C. Automated Navigators for Pro Se Litigants.* Navigating the complexities of the court system can be a challenge for advocates, and even more so for low-income persons representing themselves. This area encourages development of personal case navigators for low-income litigants to remind them of due dates, monitor court dockets, advise them on trial preparations, and coach them on courtroom strategies. While grantees do not have the resources to assign a coach to each pro se litigant, technology offers the promise to build automated systems that can help serve this role.

Some existing TIGs have started to explore such systems already using automated SMS reminders for appointments. This area of interest encourages grantees to take this concept to the next level by building systems specific to case types that use timelines and monitor court dockets to guide pro se litigants through the entire course of their cases. Once set up, the system would remind the user of important dates and direct them to resources such as automated forms and videos. With the cooperation of the court, the system could monitor the court docket to notify the users of hearing dates and, if pleadings were filed by the other side, alert users to the next steps needed to respond and deadlines.

*D. Innovations in Legal Information Design and Delivery.* Content should be developed with the end user in mind, but too often the end result is a reflection of what the developer determines the end user will need,

[1] LHI is an automated document server powered by HotDocs Server and made available to any LSC funded program at no charge. See *https://lawhelpinteractive.org.*

rather than what the user determines he or she will best understand and find most helpful. Technology provides an opportunity to design and deliver legal information that is optimized for the end user. There are good examples of how user-centric design can improve legal innovation (see *www.legaltechdesign.com* and *www.nulawlab.org*). Projects in this area of interest could incorporate new approaches to visual law, online learning, user interaction and ''legal information literacy'' in the design and delivery of content. This could potentially focus on low/no-literacy and Limited English Proficiency (LEP) communities or others who are traditionally under-served by traditional methods. Alternatively, a project could also improve the design and effectiveness of online training and substantive practice resources for advocates and volunteers.

**IV. Specific Letter of Intent Requirements**

*One Project per Letter of Intent*

Applicants may submit multiple LOIs, but a separate LOI should be submitted for each project for which funding is sought.

*Letter Requirements and Format*

Letters of Intent must be submitted using the online system at *http://lscgrants.lsc.gov.* Additional instructions and information can be found on the TIG Web site at *http://tig.lsc.gov/grants/application-process.* This system will walk you through the process of creating a simple two-page LOI. The LOI should concisely provide the following information about the proposed project:

1. Category—select the appropriate category from the drop down list.

2. Description of Project (maximum 2500 characters)—Briefly describe the basic elements of the project, including the specific technology(ies) the project will develop or implement; how they will be developed, how they will operate, the function they will serve within the legal services delivery system, their expected impact, and other similar factors. (Only the impact should be highlighted here; more details about the system's benefits should be provided below.)

3. Major Benefits (maximum 2500 characters)—Describe the specific ways in which the project will increase or improve services to clients and/or enhance the effectiveness and efficiency of program operations. To the extent feasible, discuss both the qualitative and quantitative aspects of these benefits.

4. Estimated Costs (maximum 1500 characters)—Start by stating the amount of funding you are seeking from the TIG program, followed by the estimated total project cost, summarizing the anticipated costs of the major components of the project. List anticipated contributions, both in-kind and monetary, from all partners involved in the project.

5. Major Partners (maximum 1500 characters)—Identify organizations that are expected to be important partners. Specify the role(s) each partner will play.

6. Innovation/Replication (maximum 1500 characters)—Identify how and why the proposed project is new and innovative and/or is a replication or adaptation of a previous technology project. Identify how and why the proposed project can significantly benefit and/or be replicated by other legal services providers and/or the legal services community at large.

*Letter of Intent Deadline*

Letters of Intent must be completed and submitted into the online system at *http://lscgrants.lsc.gov* no later than 11:59 p.m. EDT, Friday, March 20, 2015. The online system may experience technical difficulties due to heavy traffic on the day of the deadline. Applicants are strongly encouraged to complete LOI submissions as early as possible.

LSC will not accept applications submitted after the application deadline unless a waiver of the deadline has been approved in advance (see Waiver Authority). Therefore, allow sufficient time for online submission.

LSC will provide confirmation via email upon the completed electronic submission of each Letter of Intent. Keep this email as verification that the program's LOI was submitted. If no confirmation email is received, inquire about the status of your LOI at *Techgrants@lsc.gov.*

*Selection Process*

LSC will initially review all LOI to determine whether they conform to the required format and clearly present all of the required elements. These requirements are listed and described above. Failure to meet these requirements may result in rejection of the LOI.

Each proposal will be reviewed to identify those LOI that propose projects likely to improve access to justice or the efficiency, effectiveness, and quality of legal services provided by grantees. The LOI will also be reviewed to determine the extent to which the project proposed is clearly described and well thought out, offers major benefits to our targeted client community, is cost-effective, involves all of the parties needed to make it successful and sustainable, and is either innovative or a cost-effective replication of prior successful projects. Those applicants satisfying these criteria will be invited to submit full applications.

*Next Steps for Successful Applicants*

LSC will notify successful Letter of Intent applicants by Thursday, April 30, 2015. Successful applicants will have until 11:59 p.m. EDT, Monday, June 15, 2015 to complete full applications in the online application system.

*Waiver Authority*

LSC, upon its own initiative or when requested, may waive provisions in this Notice at its sole discretion under extraordinary circumstances and when it is in the best interest of the eligible client community. Waivers may be granted only for requirements that are discretionary and not mandated by statute or regulation. Any request for a waiver must set forth the extraordinary circumstances for the request and be included in the application. LSC will not consider a request to waive the deadline for a LOI unless the waiver request is received by LSC prior to the deadline.

*Contact Information*

For information on the status of a current TIG project, contact Eric Mathison, Program Analyst, Telephone: 202–295–1535; Email: *emathison@lsc.gov.*

For questions about projects in CT, DC, IL, IN, ME, MA, MI, NH, NJ, NY, OH, PA, RI, WI, WV, VT, contact David Bonebrake, Program Counsel, Telephone: 202.295.1547; Email: *dbonebrake@lsc.gov.*

For questions about projects in AK, AZ, CA, CO, GU, HI, ID, IA, KS, MP, MN, MT, NE., NV, NH, NM, ND, OK, OR, SD, TX, UT, WA, WY, contact Glenn Rawdon, Program Counsel, Telephone: 202.295.1552; Email: *grawdon@lsc.gov.*

For questions about projects in AL, AR, FL, GA, KY, LA, MD, MS, MO, NC, PR, SC, TN, VI, VA, contact Jane Ribadeneyra, Program Analyst, Telephone: 202.295.1554, Email: *ribadeneyraj@lsc.gov.*

If you have a general question, please email *techgrants@lsc.gov.*

Dated: February 11, 2015.

**Stefanie K. Davis,**

*Assistant General Counsel.*

[FR Doc. 2015–03159 Filed 2–13–15; 8:45 am]

**BILLING CODE 7050–01–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Meeting of National Council on the Humanities

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Council on the Humanities will meet to advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

**DATES:** The meeting will be held on Thursday, March 5, 2015, from 10:30 until adjourned, and Friday, March 6, 2015, from 9 a.m. until adjourned.

**ADDRESSES:** The meeting will be held at Constitution Center, 400 7th Street SW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** section for room numbers.

**FOR FURTHER INFORMATION CONTACT:** Lisette Voyatzis, Committee Management Officer, 400 7th Street SW., 4th Floor, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov*. Hearing-impaired individuals who prefer to contact us by phone may use NEH's TDD terminal at (202) 606–8282.

**SUPPLEMENTARY INFORMATION:** The National Council on the Humanities is meeting pursuant to the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended). The Committee meetings of the National Council on the Humanities will be held on March 5, 2015, as follows: the policy discussion session (open to the public) will convene at 10:30 a.m. until approximately 11:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public) from 11:30 a.m. until 12:30 p.m.

*Digital Humanities:* Room P002.

*Education Programs:* Conference Room C.

*Preservation and Access:* Room P003.

*Public Programs & Federal/State Partnership:* Room 4002.

*Research Programs:* Room 2002.

In addition, the Jefferson Lecture Committee (closed to the public) will meet from 2 p.m. until 3 p.m. in Room 4002.

The plenary session of the National Council on the Humanities will convene on March 6, 2015, at 9 a.m. in the Conference Center at Constitution Center. The agenda for the morning session (open to the public) will be as follows:

A. Minutes of the Previous Meeting

B. Reports

1. Chairman's Remarks
2. Deputy Chairman's Remarks
3. Presentation by Jeff Rosen, President and CEO of the National Constitution Center
4. Congressional Affairs Report
5. Budget Report
6. Reports on Policy and General Matters

a. Digital Humanities

b. Education Programs

c. Preservation and Access

d. Public Programs

e. Federal/State Partnership

f. Research Programs

g. Jefferson Lecture

The remainder of the plenary session will be for consideration of specific applications and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6) and 552b(c)(9)(b) of Title 5 U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Please note that individuals planning to attend the public sessions of the meeting are subject to security screening procedures. If you wish to attend any of the public sessions, please inform NEH as soon as possible by contacting Ms. Katherine Griffin at (202) 606–8322 or *kgriffin@neh.gov*. Please also provide advance notice of any special needs or accommodations, including for a sign language interpreter.

Dated: February 10, 2015.

**Lisette Voyatzis,**

*Committee Management Officer.*

[FR Doc. 2015–03156 Filed 2–13–15; 8:45 am]

**BILLING CODE 7536–01–P**

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

*Name:* Proposal Review Panel for Materials Research (#1203); Materials Research Science and Engineering Center (MRSEC), Northwestern University Site Visit.

*Dates & Times:*

April 15, 2015; 7:15 p.m.–9:00 p.m.
April 16, 2015; 7:15 a.m.–8:30 p.m.
April 17, 2015; 7:15 a.m.–4:00 p.m.

*Place:* Northwestern University, Evanston, IL 60208.

*Type of Meeting:* Part open.

*Contact Person:* Dr. Daniele Finotello, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4676.

*Purpose of Meeting:* To provide advice and recommendations concerning further support of the MRSEC at Northwestern University.

**Agenda**

*Wednesday, April 15, 2015*

7:15 p.m.–9:00 p.m. Closed—Briefing of panel

*Thursday, April 16, 2015*

7:15 a.m.–4:30 p.m. Open—Review of the MRSEC
5:00 p.m.–6:45 p.m. Closed—Executive Session
6:45 p.m.–8:30 p.m. Open—Dinner

*Friday, April 17, 2015*

7:15 a.m.–9:50 a.m. Closed—Executive Session
9:50 a.m.–4:00 p.m. Closed—Executive Session, Draft and Review Report

*Reason for Closing:* The work being reviewed during this site visit may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 11, 2015.

**Suzanne Plimpton,**

*Acting Committee Management Officer.*

[FR Doc. 2015–03173 Filed 2–13–15; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science

Foundation announces the following meeting:

*Name:* Proposal Review Panel for Materials Research (#1203); Materials Research Science and Engineering Center (MRSEC), Duke University Site Visit.

*Dates & Times:*

May 13, 2015; 7:15 p.m.–9:00 p.m.
May 14, 2015; 7:15 a.m.–8:30 p.m.
May 15, 2015; 7:15 a.m.–4:00 p.m.

*Place:* Duke University, Durham, NC 27708.

*Type of Meeting:* Part open.

*Contact Person:* Dr. Daniele Finotello, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4676.

*Purpose of Meeting:* To provide advice and recommendations concerning further support of the MRSEC at Duke University.

**Agenda**

*Wednesday, May 13, 2015*

7:15 p.m.–9:00 p.m. Closed—Briefing of panel

*Thursday, May 14, 2015*

7:15 a.m.–4:30 p.m. Open—Review of the MRSEC
5:00 p.m.–6:45 p.m. Closed—Executive Session
6:45 p.m.–8:30 p.m. Open—Dinner

*Friday, May 15, 2015*

7:15 a.m.–9:50 a.m. Closed—Executive Session
9:50 a.m.–4:00 p.m. Closed—Executive Session, Draft and Review Report

*Reason for Closing:* The work being reviewed during this site visit may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 11, 2015.

**Suzanne Plimpton,**

*Acting Committee Management Officer.*

[FR Doc. 2015–03171 Filed 2–13–15; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

*Name:* Proposal Review Panel for Materials Research (#1203), Materials Research Science and Engineering Center (MRSEC), Cornell University Site Visit.

*Dates & Times:*

May 20, 2015; 7:15 p.m.–9:00 p.m.
May 21, 2015; 7:15 a.m.–8:30 p.m.
May 22, 2015; 7:15 a.m.–4:00 p.m.

*Place:* Cornell University, Ithaca, NY 14850.

*Type of Meeting:* Part open.

*Contact Person:* Dr. Daniele Finotello, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4676.

*Purpose of Meeting:* To provide advice and recommendations concerning further support of the MRSEC at Cornell University.

Agenda

*Wednesday, May 20, 2015*

7:15 p.m.–9:00 p.m. Closed—Briefing of panel

*Thursday, May 21, 2015*

7:15 a.m.–4:30 p.m. Open—Review of the MRSEC
5:00 p.m.–6:45 p.m. Closed—Executive Session
6:45 p.m.–8:30 p.m. Open—Dinner

*Friday, May 22, 2015*

7:15 a.m.–9:50 a.m. Closed—Executive Session
9:50 a.m.–4:00 p.m. Closed—Executive Session, Draft and Review Report

*Reason for Closing:* The work being reviewed during this site visit may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 11, 2015.

**Suzanne Plimpton,**

*Acting Committee Management Officer.*

[FR Doc. 2015–03170 Filed 2–13–15; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

*Name:* Proposal Review Panel for Materials Research (#1203), Materials Research Science and Engineering Center (MRSEC), University of Pennsylvania Site Visit.

*Dates & Times:* April 19, 2015; 7:15 p.m.–9:00 p.m.
April 20, 2015; 7:15 a.m.–8:30 p.m.
April 21, 2015; 7:15 a.m.–4:00 p.m.

*Place:* University of Pennsylvania, Philadelphia, PA 19104.

*Type Of Meeting:* Part open.

*Contact Person:* Dr. Daniele Finotello, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4676.

*Purpose Of Meeting:* To provide advice and recommendations concerning further support of the MRSEC at Northwestern University.

**Agenda**

*Sunday, April 19, 2015*

7:15 p.m.–9:00 p.m. Closed—Briefing of panel

*Monday, April 20, 2015*

7:15 a.m.–4:30 p.m. Open—Review of the MRSEC
5:00 p.m.–6:45 p.m. Closed—Executive Session
6:45 p.m.–8:30 p.m. Open—Dinner

*Tuesday, April 21, 2015*

7:15 a.m.–9:50 a.m. Closed—Executive Session
9:50 a.m.–4:00 p.m. Closed—Executive Session, Draft and Review Report

*Reason for Closing:* The work being reviewed during this site visit may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 11, 2015.

**Suzanne Plimpton,**

*Acting Committee Management Officer.*

[FR Doc. 2015–03174 Filed 2–13–15; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

*Name:* Proposal Review Panel for Materials Research (#1203); Materials Research Science and Engineering Center (MRSEC), UCSB Site Visit.

*Dates & Times:*

May 6, 2015; 7:15 p.m.–9:00 p.m.
May 7, 2015; 7:15 a.m.–8:30 p.m.
May 8, 2015; 7:15 a.m.–4:00 p.m.

*Place:* UCSB, Santa Barbara, CA 93106.

*Type of Meeting:* Part open.

*Contact Person:* Dr. Daniele Finotello, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4676.

*Purpose of Meeting:* To provide advice and recommendations concerning further support of the MRSEC at UCSB.

**Agenda**

*Wednesday, May 6, 2015*

7:15 p.m.–9:00 p.m. Closed—Briefing of panel

*Thursday, May 7, 2015*

7:15 a.m.–4:30 p.m. Open—Review of the MRSEC
5:00 p.m.–6:45 p.m. Closed—Executive Session
6:45 p.m.–8:30 p.m. Open—Dinner

*Friday, May 8, 2015*

7:15 a.m.–9:50 a.m. Closed—Executive Session
9:50 a.m.–4:00 p.m. Closed—Executive Session, Draft and Review Report

*Reason for Closing:* The work being reviewed during this site visit may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 11, 2015.

**Suzanne Plimpton,**

*Acting Committee Management Officer.*

[FR Doc. 2015–03175 Filed 2–13–15; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

*Name:* Proposal Review Panel for Materials Research (#1203); Materials Research Science and Engineering Center (MRSEC), University of Utah Site Visit.

*Dates & Times:*
May 27, 2015; 7:15 p.m.–9:00 p.m.
May 28, 2015; 7:15 a.m.–8:30 p.m.
May 29, 2015; 7:15 a.m.–4:00 p.m.

*Place:* University of Utah, Salt Lake City, UT 84112.

*Type of Meeting:* Part open.

*Contact Person:* Dr. Daniele Finotello, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4676.

*Purpose Of Meeting:* To provide advice and recommendations concerning further support of the MRSEC at the University of Utah.

**Agenda**

*Wednesday, May 27, 2015*

7:15 p.m.–9:00 p.m. Closed—Briefing of panel.

*Thursday, May 28, 2015*

7:15 a.m.–4:30 p.m. Open—Review of the MRSEC.
5:00 p.m.–6:45 p.m. Closed—Executive Session.
6:45 p.m.–8:30 p.m. Open—Dinner.

*Friday, May 29, 2015*

7:15 a.m.–9:50 a.m. Closed—Executive Session.
9:50 a.m.–4:00 p.m. Closed—Executive Session, Draft and Review Report.

*Reason For Closing:* The work being reviewed during the site visit may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 11, 2015.

**Suzanne Plimpton,**

*Acting Committee Management Officer.*

[FR Doc. 2015–03176 Filed 2–13–15; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

*Name:* Proposal Review Panel for Materials Research (#1203); Materials Research Science and Engineering Center (MRSEC), University of Michigan Site Visit.

*Dates & Times:*
June 3, 2015; 7:15 p.m.–9:00 p.m.
June 4, 2015; 7:15 a.m.–8:30 p.m.
June 5, 2015; 7:15 a.m.–4:00 p.m.

*Place:* University of Michigan, Ann Arbor, MI 48109.

*Type of Meeting:* Part open.

*Contact Person:* Dr. Daniele Finotello, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4676.

*Purpose of Meeting:* To provide advice and recommendations concerning further support of the MRSEC at the University of Michigan.

**Agenda**

*Wednesday, June 3, 2015*

7:15 p.m.–9:00 p.m. Closed—Briefing of panel

*Thursday, June 4, 2015*

7:15 a.m.–4:30 p.m. Open—Review of the MRSEC
5:00 p.m.–6:45 p.m. Closed—Executive Session
6:45 p.m.–8:30 p.m. Open—Dinner

*Friday, June 5, 2015*

7:15 a.m.–9:50 a.m. Closed—Executive Session
9:50 a.m.–4:00 p.m. Closed—Executive Session, Draft and Review Report

*Reason for Closing:* The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 11, 2015.

**Suzanne Plimpton,**

*Acting Committee Management Officer.*

[FR Doc. 2015–03172 Filed 2–13–15; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0029]**

### Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Biweekly notice.

**SUMMARY:** Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 22, 2015 to February 4, 2015. The last biweekly notice was published on February 3, 2015.

**DATES:** Comments must be filed by March 19, 2015. A request for a hearing must be filed by April 20, 2015.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0029. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For

technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: O12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Mable Henderson, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3760, email: *Mable.Henderson@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### *A. Obtaining Information*

Please refer to Docket ID NRC–2015–0029 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0029.

• *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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### *B. Submitting Comments*

Please include Docket ID NRC–2015–0029 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

## II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

### *A. Opportunity To Request a Hearing and Petition for Leave To Intervene*

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in

the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

*B. Electronic Submissions (E-Filing)*

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to

continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

*Date of amendment request:* March 28, 2014. A publicly-available version is in ADAMS under Accession No. ML14091A291.

*Description of amendment request:* The proposed amendment would revise the Operating License and the associated Technical Specifications to Permanently Defueled Technical Specifications consistent with the permanent cessation of reactor operation and permanent defueling of the reactor.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below and staff's changes/additions are provided in [ ]:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment would not take effect until [Vermont Yankee] (VY) has permanently ceased operation and entered a permanently defueled condition. [On January 12, 2015, Entergy Nuclear Operations, Inc. provided certifications in accordance with 10 CFR 50.82(a)(1)(i) and (ii) that VY had permanently ceased power operations on December 29, 2014, and that as of January 12, 2015, all fuel had been permanently removed from the reactor vessel and placed in the spent fuel pool.] The proposed amendment would modify the VY [Operating License] (OL) and [Technical Specifications] (TS) by deleting the portions of the OL and TS that are no longer applicable to a permanently defueled facility, while modifying the other sections to correspond to the permanently defueled condition. This change is consistent with the criteria set forth in 10 CFR 50.36 for the contents of TS.

Section 14 of the VY Updated Final Safety Analysis Report (UFSAR) describes the design basis accident (DBA) and transient scenarios applicable to VY during power operations. Once the reactor is in a permanently defueled condition, the spent fuel pool and its cooling systems will be dedicated only to spent fuel storage. In this condition, the spectrum of credible accidents will be much smaller than for an operational plant. Once the certifications are docketed by VY in accordance with 10 CFR 50.82(a)(1), and the consequent removal of authorization to operate the reactor or to place or retain fuel in the reactor vessel in accordance with 10 CFR 50.82(a)(2), the majority of the accident scenarios previously postulated in the UFSAR will no longer be possible and will be removed from the UFSAR under the provisions of 10 CFR 50.59.

The deletion of TS definitions and rules of usage and application, that will not be applicable in a defueled condition, has no impact on facility SSCs or the methods of operation of such SSCs. The deletion of design features and safety limits not applicable to the permanently shutdown and defueled status of VY has no impact on the remaining applicable DBA, the Fuel Handling Accident (FHA). The removal of [Limiting Conditions for Operation] (LCOs) or [Surveillance Requirements] (SRs) that are related only to the operation of the nuclear reactor or only to the prevention, diagnosis, or mitigation of reactor related transients or accidents do not affect the applicable DBAs previously evaluated since these DBAs are no longer applicable in the defueled mode. The safety functions involving core reactivity control, reactor heat removal, reactor coolant system inventory control, and containment integrity are no longer applicable at VY as a permanently defueled plant. The analyzed [design basis] accidents involving damage to the reactor coolant system, main steam lines, reactor core, and the subsequent release of radioactive material [as a result of those accidents] will no longer be possible at VY.

After VY permanently ceases operation, the future generation of fission products will cease and the remaining source term will decay. The radioactive decay of the irradiated fuel following shutdown of the reactor will have reduced the consequences of the FHA below those previously analyzed.

The spent fuel pool (SFP) water level, temperature and storage TSs are retained to preserve the current requirements for safe storage of irradiated fuel. SFP cooling and makeup related equipment and support equipment (*e.g.,* electrical power systems) are not required to be continuously available since there will be sufficient time to effect repairs, establish alternate sources of makeup flow, or establish alternate sources of cooling in the event of a loss of cooling and makeup flow to the SFP.

The TS for outdoor tanks that contain radioactivity that are not surrounded by liners, dikes, or walls capable of holding the tank contents, or that do not have tank overflows and surrounding area drains connected to the liquid radwaste treatment system are retained to preserve the current requirements for safe storage of radioactive liquids. Restricting the quantity of radioactive material contained in the specified tanks provides assurance that in the event of an uncontrolled release of the tanks' contents, the resulting concentrations would be less than the limits of 10 CFR part 20.1001–20.2402, Appendix B, Table 2, Column 2, at the nearest potable water supply and in the nearest surface water supply in an unrestricted area.

The probability of occurrence of previously evaluated accidents is not increased, since extended operation in a defueled condition

will be the only operation allowed, and therefore bounded by the existing analyses. Additionally, the occurrence of postulated accidents associated with reactor operation will no longer be credible in a permanently defueled reactor. This significantly reduces the scope of applicable accidents.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes have no impact on facility SSCs affecting the safe storage of irradiated fuel, or on the methods of operation of such SSCs, or on the handling and storage of irradiated fuel itself. The removal of TS that are related only to the operation of the nuclear reactor or only to the prevention, diagnosis, or mitigation of reactor related transients or accidents, cannot result in different or more adverse failure modes or accidents than previously evaluated because the reactor will be permanently shutdown and defueled and VY will no longer be authorized to operate the reactor.

The proposed deletion of requirements of the VY OL and TS do not affect systems credited in the accident analysis for the FHA at VY. The proposed OL and TS will continue to require proper control and monitoring of safety significant parameters and activities.

The proposed restriction on the SFP level is fulfilled by normal operating conditions and preserves initial conditions assumed in the analyses of the postulated DBA. The SFP water level, temperature, and storage TSs are retained to preserve the current requirements for safe storage of irradiated fuel.

The TS for outdoor tanks that contain radioactivity that are not surrounded by liners, dikes, or walls capable of holding the tank contents, or that do not have tank overflows and surrounding area drains connected to the liquid radwaste treatment system are retained to preserve the current requirements for safe storage of radioactive liquids.

The proposed amendment does not result in any new mechanisms that could initiate damage to the remaining relevant safety barriers for defueled plants (fuel cladding and spent fuel cooling). Since extended operation in a defueled condition will be the only operation allowed, and therefore bounded by the existing analyses, such a condition does not create the possibility of a new or different kind of accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Because the 10 CFR part 50 license for VY will no longer authorize operation of the reactor or emplacement or retention of fuel into the reactor vessel once the certifications required by 10 CFR 50.82(a)(1) are submitted, as specified in 10 CFR 50.82(a)(2), the occurrence of postulated accidents associated with reactor operation is no longer credible. The only remaining credible accident is a FHA. The proposed amendment does not adversely affect the inputs or assumptions of any of the design basis analyses that impact the FHA.

The proposed changes are limited to those portions of the OL and TS that are not related to the safe storage of irradiated fuel. The requirements that are proposed to be revised or deleted from the VY OL and TS are not credited in the existing accident analysis for the remaining applicable postulated accident; and as such, do not contribute to the margin of safety associated with the accident analysis. Postulated design basis accidents involving the reactor will no longer be possible because the reactor will be permanently shutdown and defueled and VY will no longer be authorized to operate the reactor.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Ms. Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 400 Hamilton Avenue, White Plains, NY 10601.

*NRC Branch Chief:* Douglas A. Broaddus.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

*Date of amendment request:* September 4, 2014. A publicly-available version is in ADAMS under Accession No. ML14254A405.

*Description of amendment request:* The proposed amendment would delete from the Vermont Yankee Nuclear Power Station (VY) Renewed Facility Operating License (OL) certain license conditions which impose specific requirements on the decommissioning trust agreement, on the basis that Entergy Nuclear Operations, Inc., has elected to subject its decommissioning trust agreement to the regulatory requirements for decommissioning trust funds that are specified in 10 CFR 50.75(h). The option to delete license conditions relating to the terms and conditions of decommissioning trust agreements and, instead, conform DELEGATION OF AUTHORITY to the regulations adopted by the NRC's Final Rule for Decommissioning Trust Provisions published on December 24, 2002 (67 FR 78332), was specifically contemplated by the provisions of 10 CFR 50.75(h)(5).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below and staff's changes are provided in [ ]:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The requested changes delete certain license conditions pertaining to Decommissioning Trust Agreements currently in Section 3.J of the VY OL.

The requested changes are consistent with the types of license amendments permitted in 10 CFR 50.75(h)(5).

The regulations of 10 CFR 50.75(h)(4) state ''Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility that does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves no significant hazard considerations.''

This request involves changes that are administrative in nature. No actual plant equipment or accident analyses will be affected by the proposed changes.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This request involves administrative changes to the license that will be consistent with the NRC's regulations at 10 CFR 50.75(h).

No actual plant equipment or accident analyses will be affected by the proposed change[s] and no failure modes not bounded by previously evaluated accidents will be created.

Therefore, the proposed change[s] do[~~es~~] not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

This request involves administrative changes to the license that will be consistent with the NRC's regulations at 10 CFR 50.75(h).

Margin of safety is associated with confidence in the ability of the fission product barriers to limit the level of radiation dose to the public.

No actual plant equipment or accident analyses will be affected by the proposed change[s]. Additionally, the proposed changes will not relax any criteria used to establish safety limits, will not relax any safety systems settings, or will not relax the

bases for any limiting conditions of operation.

Therefore, the proposed change[s] do[es] not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Ms. Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 400 Hamilton Avenue, White Plains, NY 10601.

*NRC Branch Chief:* Douglas A. Broaddus.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1 (GGNS), Claiborne County, Mississippi

*Date of amendment request:* June 26, 2014. A publicly-available version is in ADAMS under Accession No. ML14177A270.

*Description of amendment request:* The proposed amendment would revise the GGNS Technical Specifications (TSs) Surveillance Requirements (SRs) for safety-related battery resistances in TS SRs 3.8.4.2 and 3.8.4.5 for batteries 1A3, 1B3, and 1C3.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the TS SRs for safety-related battery resistances in TS SRs 3.8.4.2 and 3.8.4.5. This change addresses a potential non-conservative TS value. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises the TS SRs for safety-related battery resistances in TS SRs 3.8.4.2 and 3.8.4.5. The change does not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operations. The change does not alter assumptions made in the safety analysis.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the TS SRs for safety-related battery resistances in TS SRs 3.8.4.2 and 3.8.4.5. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. This change addresses a potential non-conservative TS value. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Joseph A. Aluise, Associate General Council—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, LA 70113.

*NRC Branch Chief:* Douglas A. Broaddus.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

*Date of amendment request:* October 7, 2014, as supplemented by letter dated January 6, 2015. Publicly-available versions are in ADAMS under Accession Nos. ML14280A092, and ML15006A229, respectively.

*Description of amendment request:* The proposed amendment would revise or add technical specification (TS) surveillance requirements (SRs) that require verification that the Emergency Core Cooling System (ECCS), the Residual Heat Removal (RHR)/Shutdown Cooling (SDC) System, the Containment Spray (CS) System, and the Reactor Core Isolation Cooling (RCIC) System are not rendered inoperable due to accumulated gas and to provide allowances, which permit performance of the revised verification. The changes are being made to address the concerns discussed in Generic Letter 2008–01, ''Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems.'' The proposed TS changes are based on NRC-approved TS Task Force (TSTF) Traveler TSTF–523, Revision 2, ''Generic Letter 2008–01, Managing Gas Accumulation,'' dated February 21, 2013 (ADAMS Accession No. ML13053A075). The NRC staff issued a Notice of Availability for TSTF–523, Revision 2, for plant-specific adoption using the consolidated line item improvement process, in the **Federal Register** on January 15, 2014 (79 FR 2700).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises or adds Surveillance Requirement(s) (SRs) that require verification that the Emergency Core Cooling System (ECCS), the Residual Heat Removal (RHR)/Shutdown Cooling (SDC) System, the Containment Spray (CS) System, and the Reactor Core Isolation Cooling (RCIC) System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. Gas accumulation in the subject systems is not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The proposed SRs ensure that the subject systems continue to be capable to perform their assumed safety function and are not rendered inoperable due to gas accumulation. Thus, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises or adds SRs that require verification that the ECCS, the RHR/SDC System, the CS System, and the RCIC System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. The proposed change does not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the proposed change does not impose any new or different requirements that could initiate an accident. The proposed change does not alter assumptions made in the safety analysis and is consistent with the safety analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises or adds SRs that require verification that the ECCS, the DHR [Decay Heat Removal]/RHR/SDC System, the CS System, and the RCIC System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. The proposed change adds new requirements to manage gas accumulation in order to ensure the subject systems are capable of performing their assumed safety functions. The proposed SRs are more comprehensive than the current SRs and will ensure that the assumptions of the safety analysis are protected. The proposed change does not adversely affect any current plant safety margins or the reliability of the equipment assumed in the safety analysis. Therefore, there are no changes being made to any safety analysis assumptions, safety limits or limiting safety system settings that would adversely affect plant safety as a result of the proposed change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Joseph A. Aluise, Associate General Council—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, LA 70113.

*NRC Branch Chief:* Douglas A. Broaddus.

Exelon Generation Company (EGC), LLC, Docket No. 50–461, Clinton Power Station (CPS), Unit 1, DeWitt County, Illinois

*Date of amendment request:* November 17, 2014. A publicly-available version is in ADAMS under Accession No. ML14321A882.

*Description of amendment request:* The amendment would revise technical specification (TS) 5.5.2, ''Primary Coolant Sources Outside Containment,'' to change the integrated leak testing frequency for systems subject to TS 5.5.2 and make the provisions of surveillance requirement (SR) 3.0.2 applicable to TS 5.5.2.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the CPS, Unit 1, TS 5.5.2, ''Primary Coolant Sources Outside Containment'' program, does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The proposed amendment affects only the interval at which integrated system leak tests are performed, not the effectiveness of the integrated leak test requirements for the identified systems. The proposed change effectively results in the performance of the integrated system leak tests at the same frequency that these tests are currently being performed. Incorporation of the allowance to extend the 24-month interval by 25%, as allowed by SR 3.0.2, does not significantly degrade the reliability that results from performing the surveillance at its specified frequency. Implementation of the proposed change will continue to provide adequate assurance that during design basis accidents, the containment and its components would limit leakage rates to less than the values assumed in the plant safety analyses.

Test intervals are not considered as initiators of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased by the proposed amendment. TS 5.5.2 continues to require the performance of periodic integrated system leak tests. As stated in TS 5.5.2, the required plan provides controls to minimize leakage from those portions of systems outside containment that could contain highly radioactive fluids during a serious transient or accident to levels as low as practicable. Therefore, accident analysis assumptions will still be verified. The proposed change does not impact the purpose of this plan. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the probability and consequences of an accident previously evaluated will not be increased by this proposed change.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The testing requirements, to minimize leakage from those portions of systems outside containment that could contain highly radioactive fluids during a serious transient or accident, exist to ensure the plant's ability to mitigate the consequences of an accident and do not involve any accident precursors or initiators. The proposed amendment affects only the interval at which integrated system leak tests are performed; they do not alter the design or physical configuration of the plant. The proposed change does not involve a physical change to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the manner in which the plant is currently operated or controlled.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not alter the manner in which safety limits, limiting safety system setpoints, or limiting conditions for operation are determined. The specific requirements and conditions of the primary coolant sources outside containment program, as proposed, will continue to ensure that the leakage from the identified systems outside containment is minimized. The proposed amendment provides operating flexibility without significantly affecting plant operation.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

*NRC Branch Chief:* Travis L. Tate.

South Carolina Electric and Gas Company Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, Fairfield County, South Carolina

*Date of amendment request:* October 30, 2014. A publicly-available version is in ADAMS under Accession No. ML14303A635.

*Description of amendment request:* The proposed change would revise the Combined Licenses in regard to removing an unneeded supply line from the Compressed and Instrument Air System (CAS) to the generator breaker package, and its associated Updated Final Safety Analysis Report (UFSAR) text referrals.

Because, this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 Design Control Document (DCD), the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 10 CFR 52.63(b)(1).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change deletes a nonsafety-related air supply line to the (main) generator

circuit breaker (GCB) from the CAS. The proposed changes do not involve any accident initiating component/system failure or event, thus the probabilities of the accidents previously evaluated are not affected. The affected equipment does not affect or interact with safety-related equipment or a radioactive material barrier, and this activity does not involve the containment of radioactive material. Thus, the proposed changes would not affect any safety-related accident mitigating function. The radioactive material source terms and release paths used in the safety analyses are unchanged, thus the radiological releases in the UFSAR accident analyses are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change deletes a nonsafety-related air supply line to the GCB from CAS. No structure, system or component (SSC) or design function is affected, thus no equipment whose failure could initiate an accident is involved. No new interface with components that contain radioactive material is created. The proposed change does create a new fault or sequence of events that could result in a radioactive material release.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change deletes a nonsafety-related air supply line to the GCB from CAS. The proposed changes do not affect any safety-related equipment or function. The UFSAR Chapters 6 and 15 analyses are not affected. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes, thus a margin of safety is not directly nor indirectly affected.

Therefore, the requested amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

*NRC Branch Chief:* Lawrence J. Burkhart.

## III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Progress, Inc., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

*Date of amendment requests:* September 25, 2012, as supplemented by letters dated December 17, 2012; June 28, 2013; July 15, 2013; July 31, 2013; August 29, 2013; September 30, 2013; February 28, 2014; March 14, 2014; April 10, 2014; June 26, 2014; August 15, 2014; August 29, 2014; November 20, 2014; and December 18, 2014.

*Brief description of amendments:* The amendments authorize the transition of the Brunswick fire protection program to a risk-informed, performance-based program based on the National Fire Protection Association Standard 805 (NFPA 805), ''Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants,'' 2001 Edition, in accordance with 10 CFR 50.48(c). The NFPA 805 allows the use of performance-based methods, such as fire modeling and risk-informed methods such as fire probabilistic risk assessment, to demonstrate compliance with the nuclear safety performance criteria.

*Date of issuance:* January 28, 2015.

*Effective date:* As of the date of issuance and shall be implemented within 180 days of issuance.

*Amendment Nos.:* 266 and 294. A publicly-available version is in ADAMS under Accession No. ML14310A808; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Operating License Nos. DPR–71 and DPR–62:* Amendments revised the Facility Operating Licenses and Technical Specifications.

*Date of initial notice in* ***Federal Register****:* August 13, 2013 (78 FR 49300). The supplemental letters dated December 17, 2012; June 28, 2013; July 15, 2013; July 31, 2013; August 29, 2013; September 30, 2013; February 28, 2014; March 14, 2014; April 10, 2014; June 26, 2014; August 15, 2014; August 29, 2014; November 20, 2014; and December 18, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 28, 2015.

*No significant hazards consideration comments received:* No.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

*Date of amendment request:* March 24, 2014, as supplemented by letters dated May 21, 2014, and August 14, 2014.

*Brief description of amendment:* The amendment revised the site emergency plan for the permanently defueled condition to reflect changes in the on-shift staffing and Emergency Response Organization staffing.

*Date of Issuance:* February 4, 2015.

*Effective date:* As of the date of issuance, and shall be implemented within 60 days.

*Amendment No.:* 261. A publicly-available version is in ADAMS under Accession No. ML14346A065. Documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Renewed Facility Operating License No. DPR–28:* The amendment authorized revision to the Vermont Yankee Nuclear Power Station Site Emergency Plan.

*Date of initial notice in* ***Federal Register****:* July 22, 2014 (79 FR 42546).

The supplemental letters dated May 21, 2014, and August 14, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 4, 2015.

*No significant hazards consideration comments received:* Yes. The Safety Evaluation dated February 4, 2015, provides the discussion of the comments received from the state of Vermont.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit 1 (ANO–1), Pope County, Arkansas

*Date of amendment request:* December 20, 2013, as supplemented by letters dated March 11, September 2, October 28, December 3, December 23, 2014, and January 15, 2015.

*Brief description of amendment:* The amendment extended the ANO–1 10-year frequency of the containment integrated leak rate test (ILRT) to 15 years on a permanent basis. The amendment also revised Technical Specification (TS) 5.5.16, ''Reactor Building Leakage Rate Testing Program,'' by incorporating Nuclear Energy Institute (NEI) topical report NEI 94–01, Revision 2–A, as the implementation document for the ANO–1 performance-based leakage rate testing program.

*Date of issuance:* February 3, 2015.

*Effective date:* As of the date of issuance and shall be implemented within 30 days from the date of issuance.

*Amendment No.:* 252. A publicly-available version is in ADAMS under Accession No. ML15014A071; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Renewed Facility Operating License No. DPR–51:* Amendment revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in* ***Federal Register****:* April 1, 2014 (79 FR 18331). The supplemental letters dated September 2, October 28, December 3, December 23, 2014, and January 15, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 3, 2015.

*No significant hazards consideration comments received:* No.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Docket Nos. STN 50–454 and STN 50–455, Byron Station, Units 1 and 2, Ogle County, Illinois

*Date of amendment requests:* August 31, 2013.

*Brief description of amendments:* The amendments revise Technical Specifications Section 3.7.2, ''Main Steam Isolation Valves (MSIVs),'' to incorporate the MSIV actuator trains into the Limiting Condition for Operation and provide associated Conditions and Required Actions. In addition, Surveillance Requirement 3.7.2.2 is revised to clearly identify that the MSIV actuator trains are required to be tested.

*Date of issuance:* January 30, 2015.

*Effective date:* As of the date of issuance and shall be implemented within 60 days from the date of issuance.

*Amendment No(s).:* 181 and 187. A publicly-available version is in ADAMS under Accession No. ML15007A555; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Operating License Nos. NPF–72. NPF–77, NPF–37, and NPF–66:* The amendments revised the Technical Specifications and License.

*Date of initial notice in* ***Federal Register****:* April 1, 2014 (79 FR 18332).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 30, 2015.

*No significant hazards consideration comments received:* No.

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Exelon Generation Company, LLC, Docket No. 50–352 and No. 50–353, Limerick Generating Station, Unit 1 and 2, Montgomery County, Pennsylvania

Exelon Generation Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

*Date of amendment requests:* August 2, 2013.

*Brief description of amendments:* The amendments modify the technical specification definition of ''Shutdown Margin'' (SDM) to require calculation of the SDM at a reactor moderator temperature of 68 °F or a higher temperature that represents the most reactive state throughout the operating cycle. This change addresses new boiling-water reactor fuel designs that may be more reactive at shutdown temperatures above 68 °F.

*Date of issuance:* January 29, 2015.

*Effective date:* As of the date of issuance and shall be implemented within 60 days from the date of issuance.

*Amendment Nos.:* 202, 242, 235, 211, 197, 215, 197, 215, 176, 284, 295, 298, 254, and 249. A publicly-available version is in ADAMS under Accession No. ML14295A300; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Operating License Nos. NPF–62, DPR–19, DPR–25, NPF–11, NPF–18, NPF–39, NPF–85, DPR–16, DPR–44, DPR–56, DPR–29, DPR–30:* The amendments revise the Technical Specifications and Licenses.

*Date of initial notice in* ***Federal Register****:* October 29, 2013 (78 FR 64545).

The Commission's related evaluation of the amendments is contained in a

Safety Evaluation dated January 29, 2015.

*No significant hazards consideration comments received:* No.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station (LSCS), Units 1 and 2, LaSalle County, Illinois

*Date of amendment requests:* September 5, 2013.

*Brief description of amendments:* The amendments increase the peak calculated primary containment internal pressure which is specified in LSCS, Units 1 and 2, Technical Specification 5.5.13, ''Primary Containment Leakage Rate Testing Program.''

*Date of issuance:* January 29, 2015.

*Effective date:* As of the date of issuance and shall be implemented within 60 days of the date of issuance.

*Amendment Nos.:* 212 and 198. A publicly-available version is in ADAMS under Accession No. ML14353A083; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Operating License Nos. NPF–11 and NPF–18:* Amendments revised the Facility Operating Licenses and Technical Specifications.

*Date of initial notice in* ***Federal Register****:* December 10, 2013 (78 FR 74182). The supplemental letters dated June 12 and October 7, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 29, 2015.

*No significant hazards consideration comments received:* No.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit 2, St. Lucie County, Florida

*Date of amendment request:* January 30, 2014.

*Brief description of amendment:* The amendment modified the St. Lucie Plant, Unit 2 Technical Specification (TS) 3/4.7.9, ''Snubbers.'' This change revised the TS surveillance requirements for snubbers to conform to the revised St. Lucie Snubber Testing Program.

*Date of issuance:* January 20, 2015.

*Effective date:* As of the date of issuance and shall be implemented within 60 days of issuance.

*Amendment No.:* 169. The Amendment is publicly-available in ADAMS under Accession No. ML14342A785; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Renewed Facility Operating License No. NPF–16:* Amendment revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in* ***Federal Register****:* September 30, 2014 (79 FR 58818). The supplemental letters dated July 21, 2014, and October 23, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 20, 2015.

*No significant hazards consideration comments received:* No.

NextEra Energy, Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

*Date of amendment request:* July 2, 2014.

*Brief description of amendments:* The amendments revised the Technical Specification (TS) requirements to address NRC Generic Letter (GL) 2008–01, ''Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems,'' as described in TSTF–523, Revision 2, ''Generic Letter 2008–01, Managing Gas Accumulation.''

*Date of issuance:* January 27, 2015.

*Effective date:* As of the date of issuance and shall be implemented within 90 days of issuance.

*Amendment Nos.:* 251—Unit 1 and 255—Unit 2. A publicly-available version is in ADAMS under Accession No. ML15014A249; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Renewed Facility Operating License Nos. DPR–24 and DPR–27:* Amendments revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in* ***Federal Register****:* November 12, 2014 (79 FR 67202).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 27, 2015.

*No significant hazards consideration comments received:* No.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

*Date of amendment request:* September 10, 2013, as supplemented by letters dated March 12, 2014, June 12, 2014, December 11, 2014, and January 8, 2015.

*Brief description of amendment request:* The amendment modifies the Seabrook Technical Specifications (TSs). Specifically, the amendment revises TS 6.8.1.6.b, ''Core Operating Limits Report,'' by adding AREVA Licensing Report ANP–3243P, ''Seabrook Station, Unit 1 Fixed Incore Detector System Analysis Supplement to YAEC–1855PA,'' which supplements and modifies the previously approved methodology in YAEC–18855PA, ''Seabrook Station, Unit 1 Fixed Incore Detector System Analysis,'' October 1992. The amendment also modifies the surveillance requirements associated with the heat flux hot channel factor and nuclear enthalpy rise hot channel factor to include revised uncertainty values when measurement is obtained using the fixed incore detector system.

*Date of issuance:* February 4, 2015.

*Effective date:* As of its date of issuance, and shall be implemented within 60 days.

*Amendment No.:* 143. A publicly-available version is in ADAMS under Accession No. ML14363A275; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Facility Operating License No. NPF–86:* The amendment revised the Facility Operating License and Technical Specifications.

*Date of initial notice in* ***Federal Register****:* February 4, 2014 (79 FR 6649). The supplemental letters dated March 12, 2014, June 12, 2014, December 11, 2014, and January 8, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 4, 2015.

*No significant hazards consideration comments received:* No.

Southern Nuclear Operating Company Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

*Date of amendment request:* July 3, 2014.

*Brief description of amendment:* The license amendment addresses changes related to the design details of the containment internal structural wall modules (CA01, CA02, and CA05).

The amendment changes Tier 2 and Tier 2 * information in the VEGP Updated Final Safety Analysis Report (UFSAR), and the involved plant-specific Tier 1 and corresponding combined license Appendix C information to allow the use of thicker than normal faceplates to accommodate local demand or connection loads in certain areas without the use of overlay plates or additional backup structures. Additional changes to the VEGP UFSAR and combined license Appendix C were approved to add clarity and consistency to the licensing basis. Associated Exemptions were also issued with the amendment.

*Date of issuance:* January 13, 2015.

*Effective date:* As of the date of issuance and shall be implemented within 30 days of issuance.

*Amendment No.:* 29. A publicly-available version is in ADAMS under Accession No. ML15005A210; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Combined Licenses No. NPF–91 and NPF–92:* Amendment revised the Facility Combined Licenses.

*Date of initial notice in* ***Federal Register****:* August 5, 2014 (79 FR 45480).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 13, 2015.

*No significant hazards consideration comments received:* No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project (STP), Units 1 and 2, Matagorda County, Texas

*Date of amendment request:* May 8, 2014.

*Brief description of amendment:* The amendments approved the revised schedule for implementation of the cyber security plan (CSP), and revised paragraph 2.F of Facility Operating License Nos. NPF–76 and NPF–80 for STP, Units 1 and 2, respectively, to incorporate the revised CSP implementation schedule. The CSP and associated implementation schedule for STP, Units 1 and 2 were previously approved by the NRC staff by letter dated July 26, 2011.

*Date of issuance:* January 29, 2015.

*Effective date:* As of the date of issuance and shall be implemented within 90 days of issuance.

*Amendment Nos.:* Unit 1—202; Unit 2—190. A publicly-available version is in ADAMS under Accession No. ML14281A065; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Operating License Nos. NPF–76 and NPF–80:* The amendments revised the Facility Operating Licenses and Technical Specifications.

*Date of initial notice in* ***Federal Register****:* September 9, 2014 (79 FR 53461).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 29, 2015.

*No significant hazards consideration comments received:* No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

*Date of amendment request:* July 19, 2012, as supplemented by letters dated March 1, 2013; April 29, 2013; April 30, 2013; June 13, 2013; October 21, 2013; December 18, 2013; January 31, 2014; April 2, 2014; September 30, 2014; and December 5, 2014.

*Brief description of amendment:* The amendment modifies the Updated Final Safety Analysis Report hydrologic analysis and results, including the design basis flood elevations required to be considered in the flood protection of safety-related systems, structures, or components during external flooding events, and verifies the adequacy of the warning time for both rainfall and seismically induced dam failure floods.

*Date of issuance:* January 28, 2015.

*Effective date:* The amendment shall be implemented by May 30, 2015, after the commitments are completed as stated in Enclosure 9 of the supplement dated September 30, 2014.

*Amendment No.:* 98. A publicly-available version is in ADAMS under Accession No. ML15005A314; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Date of initial notice in* ***Federal Register****:* November 13, 2012 (77 FRN 67686). The supplemental letters provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a safety evaluation dated January 28, 2015.

*No significant hazards consideration determination comments received:* No.

## IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual notice of consideration of issuance of amendment, proposed no significant hazards consideration determination, and opportunity for a hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30

days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License or Combined License, as applicable, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

*A. Opportunity To Request a Hearing and Petition for Leave To Intervene*

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and electronically on the Internet at the NRC's Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If there are problems in accessing the document, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

*B. Electronic Submissions (E-Filing)*

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the

Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

*Date of amendment request:* January 30, 2015.

*Description of amendment request:* The amendment makes a one-time revision to Technical Specification (TS) 3.5.1, ''ECCS [Emergency Core Cooling System]—Operating,'' TS 3.6.1.5, ''Residual Heat Removal (RHR) Drywell Spray,'' and TS 3.6.2.3, ''Residual Heat Removal (RHR) Suppression Pool Cooling,'' to extend the Completion Time (CT) of Required Actions specifically associated with RHR System B inoperability from 7 days to 14 days. This extension will allow completion of a system modification, required testing, and system restoration. This amendment was necessitated by emergent issues that have delayed completion of activities to modify the 24-inch Division 2 (Loop B) RHR suction piping.

*Date of issuance:* February 1, 2015.

*Effective date:* As of its day of issuance and shall be implemented immediately.

*Amendment No.:* 230. A publicly-available version is in ADAMS under Accession No. ML15030A501; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Facility Operating License No. NPF–21:* The amendment revised the Facility Operating License and Technical Specifications.

*Public comments requested as to proposed no significant hazards consideration (NSHC)*: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated February 1, 2015.

*Attorney for licensee:* William A. Horin, Esq., Winston & Strawn, 1700 K Street NW., Washington, DC 20006–3817.

*NRC Acting Branch Chief:* Eric R. Oesterle.

Dated at Rockville, Maryland, this 9th day of February 2015.

For the Nuclear Regulatory Commission.

**Michele G. Evans,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2015–03162 Filed 2–13–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0001]**

### Sunshine Act Meeting

**DATE:** February 16, 23, March 2, 9, 16, 23, 2015.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of February 16, 2015**

*Wednesday, February 18, 2015*

9:25 a.m. Affirmation Session (Public Meeting) (Tentative)

a. Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 And 3)—Petitions for Review of LBP–13–13 and Associated Board Decision on Contention NYS–12C (Tentative).

b. Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 And 3)—Petitions for Review of LBP–11–17 and LBP–10–13 on Contention NYS–35/36 (Tentative).

*Wednesday, February 18, 2015*

9:30 a.m. Briefing on NRC International Activities (Closed—Ex.9)

*Wednesday, February 18, 2015*

1:30 p.m. Briefing on Project Aim 2020 (Public Meeting); (Contact: Karen Fitch, 301–287–9237)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of February 23, 2015—Tentative**

*Thursday, February 26, 2015*

2:00 p.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9)

**Week of March 2, 2015—Tentative**

*Thursday, March 5, 2015*

10:00 a.m. Meeting with Advisory Committee on Reactor Safeguards (Public Meeting); (Contact: Edwin Hackett, 301–415–7360)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of March 9, 2015—Tentative**

There are no meetings scheduled for the week of March 9, 2015.

**Week of March 16, 2015—Tentative**

There are no meetings scheduled for the week of March 16, 2015.

**Week of March 23, 2015—Tentative**

*Thursday, March 26, 2015*

9:30 a.m. Briefing on Security Issues (Closed—Ex. 1)

*Thursday, March 26, 2015*

1:30 p.m. Briefing on Security Issues (Closed—Ex. 1)

*Friday, March 27, 2015*

9:30 a.m. Briefing on Threat Environment Assessment (Closed—Ex. 1)

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Glenn Ellmers at 301–415–0442 or via email at *Glenn.Ellmers@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: February 12, 2015.

**Glenn Ellmers,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2015–03251 Filed 2–12–15; 11:15 am]

**BILLING CODE 7590–01–P**

## OVERSEAS PRIVATE INVESTMENT CORPORATION

### Sunshine Act Meetings

**Notice of March 11, 2015 Public Hearing**

**TIME AND DATE:** 2:00 p.m., Wednesday, March 11, 2015.

**PLACE:** Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW., Washington, DC.

**STATUS:** Hearing OPEN to the Public at 2:00 p.m.

**PURPOSE:** Public Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

**PROCEDURES:** Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Thursday, March 5, 2015. The notice must include the individual's name, title, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m. Thursday, March 5, 2015. Such statement must be typewritten, double spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda, which will be available at the hearing, that identifies speakers, the subject on which each participant will speak, and the time allotted for each presentation.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

The March 19, 2015 Board meeting agenda is anticipated to include a report from the President and CEO, the approval of the minutes of the December 2014 Board meeting, and the approval of various management reports.

**CONTACT PERSON FOR INFORMATION:** Information on the hearing may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 408–0297, or via email at *Connie.Downs@opic.gov.*

Dated: February 13, 2015.

**Connie M. Downs,**

*OPIC Corporate Secretary.*

[FR Doc. 2015–03319 Filed 2–12–15; 4:15 pm]

**BILLING CODE 3210–01–P**

## PRESIDIO TRUST

### Notice of Public Meeting of Presidio Institute Advisory Council

**AGENCY:** The Presidio Trust.

**ACTION:** Notice of public meeting of Presidio Institute Advisory Council.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given that a public meeting of the Presidio Institute Advisory Council (Council) will be held from 10:00 a.m. to 11:00 a.m. on Monday, March 2, 2015. The meeting is open to the public, and oral public comment will be received at the meeting. The Council was formed to advise the Executive Director of the Presidio Trust (Trust) on matters pertaining to the rehabilitation and reuse of Fort Winfield Scott as a new national center focused on service and leadership development.

**SUPPLEMENTARY INFORMATION:** The Trust's Executive Director, in consultation with the Chair of the Board of Directors, has determined that the Council is in the public interest and supports the Trust in performing its duties and responsibilities under the Presidio Trust Act, 16 U.S.C. 460bb appendix.

The Council advises on the establishment of a new national center (Presidio Institute) focused on service and leadership development, with specific emphasis on: (a) Assessing the role and key opportunities of a national center dedicated to service and leadership at Fort Scott in the Presidio of San Francisco; (b) providing recommendations related to the Presidio Institute's programmatic goals, target audiences, content, implementation and evaluation; (c) providing guidance on a phased development approach that leverages a combination of funding sources including philanthropy; and (d) making recommendations on how to structure the Presidio Institute's business model to best achieve the Presidio Institute's mission and ensure long-term financial self-sufficiency.

*Meeting Agenda:* This meeting of the Council will focus on a proposed business strategy for the Presidio Institute and will include a recommendation from the Council. The meeting will be conducted as a conference call. The period from 10:45 a.m. to 11:00 a.m. will be reserved for public comments.

*Public Comment:* Individuals who would like to offer comments are invited to sign-up at the meeting and speaking times will be assigned on a first-come, first-served basis. Written comments may be submitted on cards that will be provided at the meeting, via mail to Aimee Vincent, Presidio Institute, 1201 Ralston Avenue, San Francisco, CA 94129–0052, or via email to *institute@presidiotrust.gov.* If individuals submitting written comments request that their address or other contact information be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently at the beginning of the comments. The Trust will make available for public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses.

*Time:* The meeting will be held from 10:00 a.m. to 11:00 a.m. on Monday, March 2, 2015.

*Location:* The meeting will be held at the Presidio Institute, Building 1202 Ralston Avenue, San Francisco, CA 94129.

**FOR FURTHER INFORMATION CONTACT:** Additional information is available online at *http://www.presidio.gov/explore/Pages/fort-scott-council.aspx*.

Dated: February 10, 2015.

**Karen A. Cook,**

*General Counsel.*

[FR Doc. 2015–03137 Filed 2–13–15; 8:45 am]

**BILLING CODE 4310–4R–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 31453; File No. 812–14334]**

### Exchange Traded Concepts, LLC et al.; Notice of Application

February 10, 2015.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as from certain disclosure requirements.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit them to enter into and materially amend subadvisory agreements with Wholly-Owned Sub-Advisers (as defined below) and non-affiliated sub-advisers without shareholder approval and would grant relief from certain disclosure requirements.

**APPLICANTS:** Exchange Traded Concepts Trust, Exchange Traded Concepts Trust II, Source ETF Trust and ETF Series Solutions (each, a ''Trust'') and Exchange Traded Concepts, LLC (the ''Initial Adviser'').

**FILING DATES:** The application was filed on July 17, 2014, and amended on December 29, 2014.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 9, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, c/o Michael D. Barolsky, Esq. 615 E Michigan Street, Milwaukee, WI 53202.

**FOR FURTHER INFORMATION CONTACT:** Rachel Loko, Senior Counsel, at (202) 551–6883, or Holly L. Hunter-Ceci, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

#### Applicants' Representations

1. Each Trust is organized as a Delaware statutory trust and is registered with the Commission as an open-end management investment company under the Act. Each Trust may offer one or more series of shares (each, a ''Fund'' and collectively the ''Funds'') with its own distinct investment

objectives, policies and restrictions.[1] Currently, each Trust has registered several Funds, certain of which are operational. Applicants state that each Fund that has commenced operations to date operates as a passively-managed exchange-traded fund in reliance on a previously granted exemptive order.[2] The Adviser is a limited liability company organized under the laws of the State of Oklahoma and is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'').

2. Applicants request an order to permit the Adviser,[3] subject to the approval of the board of trustees of the applicable Trust (the ''Board''), including a majority of the trustees who are not ''interested persons'' of the Funds or the Adviser as defined in section 2(a)(19) of the Act (the ''Independent Trustees''), to, without obtaining shareholder approval: (i) Select Sub-Advisers [4] to manage all or a portion of the assets of a Fund and enter into Sub-Advisory Agreements (as defined below) with the Sub-Advisers, and (ii) materially amend Sub-Advisory Agreements with the Sub-Advisers.[5] Applicants request that the relief apply to the named applicants, as well as to any future Fund and any other existing or future registered open-end management investment company or series thereof that is advised by the Adviser, uses the multi-manager structure described in the application, and complies with the terms and conditions set forth in the application (each, a ''Subadvised Funds'').[6] The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Subadvised Fund, of any Feeder Fund, or of the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Funds (''Affiliated Sub-Adviser'').

3. The Adviser serves as the investment adviser to each Fund pursuant to an investment advisory agreement with the applicable Trust (each, an ''Investment Management Agreement''). Any other Adviser will be registered with the Commission as an investment adviser under the Advisers Act. Each Investment Management Agreement was approved by the respective Board, including a majority the Independent Trustees, and by the shareholders of each Fund in the manner required by sections 15(a) and 15(c) of the Act and rule 18f–2 thereunder. The terms of each Investment Management Agreement comply with section 15(a) of the Act. Each other investment management agreement with respect to a Fund (included in the term ''Investment Management Agreement'') will comply with section 15(a) of the Act and will be similarly approved.

4. Pursuant to the terms of each Investment Management Agreement, the Adviser, subject to the supervision of the respective Board, provides continuous investment management of the assets of each Fund. The Adviser periodically reviews a Fund's investment policies and strategies and, based on the need of a particular Fund, may recommend changes to the investment policies and strategies of the Fund for consideration by the Board. For its services to each Fund under an Investment Management Agreement, the Adviser receives an investment management fee from that Fund. Consistent with the terms of each Investment Management Agreement, the Adviser may, subject to the approval of the Board, including a majority of the Independent Trustees, and the shareholders of the applicable Subadvised Fund (if required), delegate portfolio management responsibilities of all or a portion of the assets of a Subadvised Fund to one or more Sub-Advisers. The Adviser continues to have overall responsibility for the management and investment of the assets of each Subadvised Fund, and the Adviser's responsibilities include, for example, recommending the removal or replacement of Sub-Advisers and determining the portion of that Subadvised Fund's assets to be managed by any given Sub-Adviser and reallocating those assets as necessary from time to time.

5. The Adviser has entered into sub-advisory agreements with various Sub-Advisers (''Sub-Advisory Agreements'') on behalf of the Subadvised Funds. The Adviser may also, in the future, enter into Sub-Advisory Agreements on behalf of other Funds. The Sub-Advisory Agreements were approved by the respective Board, including a majority of the Independent Trustees, and the shareholders of the applicable Subadvised Fund in accordance with sections 15(a) and 15(c) of the Act and rule 18f–2 thereunder. In addition, the terms of each Sub-Advisory Agreement comply fully with the requirements of section 15(a) of the Act. The Sub-Advisers, subject to the supervision of the Adviser and oversight of the Board, determine the securities and other instruments to be purchased, sold or entered into by a Subadvised Fund's portfolio or a portion thereof, and place orders with brokers or dealers that they select. The Adviser will compensate each Sub-Adviser out of the fee paid to the Adviser under the Investment Management Agreement.

6. Subadvised Funds will inform shareholders of the hiring of a new Sub-Adviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) Within 90 days after a new Sub-Adviser is hired for any Subadvised Fund, that Subadvised Fund will send its shareholders [7] either a Multi-manager Notice or a Multi-

[1] Future Funds may be operated as a master-feeder structure pursuant to section 12(d)(1)(E) of the Act. In such a structure, certain Funds (each, a ''Feeder Fund'') may invest substantially all of their assets in a Fund (a ''Master Fund'') pursuant to section 12(d)(1)(E) of the Act. No Feeder Fund will engage any sub-advisers other than through approving the engagement of one or more of the Master Fund's sub-advisers.

[2] Exchange Traded Concepts, LLC, et al., Investment Company Act Release Nos. 30634 (July 29, 2013) (Notice) and 30674 (August 26, 2013) (Order).

[3] The term ''Adviser'' includes (i) the Initial Adviser and (ii) any entity controlling, controlled by or under common control with, the Initial Adviser or its successors that serves as investment adviser to the Funds. For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[4] A ''Sub-Adviser'' for a Fund is (1) an indirect or direct ''wholly owned subsidiary'' (as such term is defined in Section 2(a)(43) of the Act) of the Adviser for that Fund, or (2) a sister company of the Adviser for that Fund that is an indirect or direct ''wholly-owned subsidiary'' of the same company that, indirectly or directly, wholly owns the Adviser (each of (1) and (2) a ''Wholly-Owned Sub-Adviser'' and collectively, the ''Wholly-Owned Sub-Advisers''), or (3) not an ''affiliated person'' (as such term is defined in section 2(a)(3) of the Act) of the Fund, any Feeder Fund invested in a Master Fund, the Trust, or the Adviser, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to a Fund (each, a ''Non-Affiliated Sub-Adviser'').

[5] Shareholder approval will continue to be required for any other sub-adviser changes (not otherwise permitted by rule or other action of the Commission or staff) and material amendments to an existing Sub-Advisory Agreement with any sub-adviser other than a Non-Affiliated Sub-Adviser or Wholly-Owned Sub-Adviser (all such changes referred to as ''Ineligible Sub-Adviser Changes'').

[6] All registered open-end investment companies that currently intend to rely on the requested order are named as applicants. All Funds that currently are, or that currently intend to be, Subadvised Funds are identified in the application. Any entity that relies on the requested order will do so only in accordance with the terms and conditions contained in the application. If the name of any Subadvised Fund contains the name of a Sub-Adviser, the name of the Adviser that serves as the primary adviser to the Subadvised Fund, or a trademark or trade name that is owned by or publicly used to identify that Adviser, will precede the name of the Sub-Adviser.

[7] If the Subadvised Fund is a Master Fund, for purposes of the Modified Notice and Access Procedures, ''shareholders'' include both the shareholders of the applicable Master Fund and the shareholders of its Feeder Funds.

manager Notice and Multi-manager Information Statement;[8] and (b) the Subadvised Fund will make the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days. Applicants state that, in the circumstances described in the application, a proxy solicitation to approve the appointment of new Sub-Advisers provides no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Applicants also state that each Board would comply with the requirements of sections 15(a) and 15(c) of the Act before entering into or amending Sub-Advisory Agreements.

7. Applicants also request an order under section 6(c) of the Act exempting the Subadvised Funds from certain disclosure obligations that may require each Subadvised Fund to disclose fees paid by the Adviser to each Sub-Adviser. Applicants seek relief to permit each Subadvised Fund to disclose (as a dollar amount and a percentage of the Subadvised Fund's net assets): (a) The aggregate fees paid to the Adviser and any Wholly-Owned Sub-Advisers; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers; and (c) the fee paid to each Affiliated Sub-Adviser (collectively, the ''Aggregate Fee Disclosure''). An exemption is requested to permit the Funds to include only the Aggregate Fee Disclosure. All other items required by sections 6–07(2)(a), (b) and (c) of Regulation S–X will be disclosed.

**Applicants' Legal Analysis**

1. Section 15(a) of the Act states, in part, that it is unlawful for any person to act as an investment adviser to a registered investment company ''except pursuant to a written contract, which contract, whether with such registered company or with an investment adviser of such registered company, has been approved by the vote of a majority of the outstanding voting securities of such registered company.'' Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires a registered investment company to disclose in its statement of additional information the method of computing the ''advisory fee payable'' by the investment company, including the total dollar amounts that the investment company ''paid to the adviser (aggregated with amounts paid to affiliated advisers, if any), and any advisers who are not affiliated persons of the adviser, under the investment advisory contract for the last three fiscal years.''

3. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the Exchange Act. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fee,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require registered investment companies to include in their financial statements information about investment advisory fees.

5. Section 6(c) of the Act provides that the Commission by order upon application may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect the Adviser, subject to the review and approval of the Board, to select the Sub-Advisers who are in the best position to achieve the Subadvised Funds' investment objectives. Applicants assert that, from the perspective of the shareholder, the role of the Sub-Advisers is substantially equivalent to the role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants believe that permitting the Adviser to perform the duties for which the shareholders of the Subadvised Fund are paying the Adviser—the selection, supervision and evaluation of the Sub-Advisers—without incurring unnecessary delays or expenses is appropriate in the interest of the Subadvised Fund's shareholders and will allow such Subadvised Fund to operate more efficiently. Applicants state that the Investment Management Agreement will continue to be fully subject to section 15(a) of the Act and rule 18f–2 under the Act and approved by the Board, including a majority of the Independent Trustees, in the manner required by sections 15(a) and 15(c) of the Act. Applicants are not seeking an exemption with respect to the Investment Management Agreement.

7. Applicants assert that disclosure of the individual fees that the Adviser would pay to the Sub-Advisers of Subadvised Funds that operate in the multi-manager structure described in the application does not serve any meaningful purpose. Applicants contend that the primary reasons for requiring disclosure of individual fees paid to Sub-Advisers are to inform shareholders of expenses to be charged by a particular Subadvised Fund and to enable shareholders to compare the fees to those of other comparable investment companies. Applicants believe that the requested relief satisfies these objectives because the advisory fee paid to the Adviser will be fully disclosed and, therefore, shareholders will know what the Subadvised Fund's fees and expenses are and will be able to compare the advisory fees a Subadvised Fund is charged to those of other investment companies. Applicants assert that the requested disclosure relief would benefit shareholders of the Subadvised Fund because it would improve the Adviser's ability to negotiate the fees paid to Sub-Advisers.

[8] A ''Multi-manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the Securities Exchange Act of 1934 (''Exchange Act''), and specifically will, among other things: (a) Summarize the relevant information regarding the new Sub-Adviser; (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Subadvised Fund.

A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement. Multi-manager Information Statements will be filed with the Commission via the EDGAR system.

Applicants state that if the Adviser is not required to disclose the Sub-Advisers' fees to the public, the Adviser may be able to negotiate rates that are below a Sub-Adviser's ''posted'' amounts. Applicants assert that the relief will also encourage Sub-Advisers to negotiate lower sub-advisory fees with the Adviser if the lower fees are not required to be made public.

8. Applicants submit that the requested relief meets the standards for relief under section 6(c) of the Act. Applicants state that each Subadvised Fund will be required to obtain shareholder approval to operate as a ''multiple manager'' fund as described in the application before relying on the requested order. Applicants assert that conditions 6, 10, and 11 are designed to provide the Board with sufficient independence and the resources and information it needs to monitor and address any conflicts of interest. Applicants state that, accordingly, they believe the requested relief is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

**Applicants' Conditions**

Applicants agree that any order granting the requested relief will be subject to the following conditions: [9]

1. Before a Subadvised Fund may rely on the order requested in the application, the operation of the Subadvised Fund in the manner described in the application, including the hiring of Wholly-Owned Sub-Advisers, will be approved by a majority of the Subadvised Fund's outstanding voting securities as defined in the Act, which in the case of a Master Fund will include voting instructions provided by shareholders of the Feeder Funds investing in such Master Fund or other voting arrangements that comply with section 12(d)(1)(E)(iii)(aa) of the Act or, in the case of a new Subadvised Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before offering the Subadvised Fund's shares to the public.

2. The prospectus for each Subadvised Fund, and in the case of a Master Fund relying on the requested relief, the prospectus for each Feeder Fund investing in such Master Fund, will disclose the existence, substance and effect of any order granted pursuant to the application. Each Subadvised Fund (and any such Feeder Fund) will hold itself out to the public as employing the multi-manager structure described in the application. Each prospectus will prominently disclose that the Adviser has the ultimate responsibility, subject to oversight by the Board, to oversee the Sub-Advisers and recommend their hiring, termination, and replacement.

3. The Adviser will provide general management services to a Subadvised Fund, including overall supervisory responsibility for the general management and investment of the Subadvised Fund's assets. Subject to review and approval of the Board, the Adviser will (a) set a Subadvised Fund's overall investment strategies, (b) evaluate, select, and recommend Sub-Advisers to manage all or a portion of a Subadvised Fund's assets, and (c) implement procedures reasonably designed to ensure that Sub-Advisers comply with a Subadvised Fund's investment objective, policies and restrictions. Subject to review by the Board, the Adviser will (a) when appropriate, allocate and reallocate a Subadvised Fund's assets among Sub-Advisers; and (b) monitor and evaluate the performance of Sub-Advisers.

4. A Subadvised Fund will not make any Ineligible Sub-Adviser Changes without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Subadvised Fund, which in the case of a Master Fund will include voting instructions provided by shareholders of the Feeder Fund investing in such Master Fund or other voting arrangements that comply with section 12(d)(1)(E)(iii)(aa) of the Act.

5. Subadvised Funds will inform shareholders, and if the Subadvised Fund is a Master Fund, shareholders of any Feeder Funds, of the hiring of a new Sub-Adviser within 90 days after the hiring of the new Sub-Adviser pursuant to the Modified Notice and Access Procedures.

6. At all times, at least a majority of the Board will be Independent Trustees, and the selection and nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

7. Independent Legal Counsel, as defined in rule 0–1(a)(16) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

8. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per Subadvised Fund basis. The information will reflect the impact on profitability of the hiring or termination of any sub-adviser during the applicable quarter.

9. Whenever a sub-adviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

10. Whenever a sub-adviser change is proposed for a Subadvised Fund with an Affiliated Sub-Adviser or a Wholly-Owned Sub-Adviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board minutes, that such change is in the best interests of the Subadvised Fund and its shareholders, and if the Subadvised Fund is a Master Fund, the best interests of any applicable Feeder Funds and their respective shareholders, and does not involve a conflict of interest from which the Adviser or the Affiliated Sub-Adviser or Wholly-Owned Sub-Adviser derives an inappropriate advantage.

11. No Trustee or officer of the Trust, a Fund or a Feeder Fund, or partner, director, manager or officer of the Adviser, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Sub-Adviser except for (a) ownership of interests in the Adviser or any entity, except a Wholly-Owned Sub-Adviser, that controls, is controlled by, or is under common control with the Adviser, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or under common control with a Sub-Adviser.

12. Each Subadvised Fund and any Feeder Fund that invests in a Subadvised Fund that is a Master Fund will disclose the Aggregate Fee Disclosure in its registration statement.

13. Any new Sub-Advisory Agreement or any amendment to a Subadvised Fund's existing Investment Management Agreement or Sub-Advisory Agreement that directly or indirectly results in an increase in the aggregate advisory fee rate payable by the Subadvised Fund will be submitted to the Subadvised Fund's shareholders for approval.

14. In the event the Commission adopts a rule under the Act providing substantially similar relief to that requested in the application, the requested order will expire on the effective date of that rule.

[9] Applicants will only comply with conditions 7, 8, 9, and 12 if they rely on the relief that would allow them to provide Aggregate Fee Disclosure.

For the Commission, by the Division of Investment Management, under delegated authority.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–03098 Filed 2–13–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 31454; File No. 812–14326]**

## Corsair Opportunity Fund, et al.; Notice of Application

February 10, 2015.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(c) and 18(i) of the Act and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

**SUMMARY OF APPLICATION:** Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares (''Classes'') with varying sales loads and to impose asset-based service and/or distribution fees and contingent deferred sales loads (''CDSCs'').

**APPLICANTS:** Corsair Opportunity Fund (''Fund'') and Corsair Capital Management, L.P. (''Adviser'').

**FILING DATES:** The application was filed on June 30, 2014, and amended on October 21, 2014, January 8, 2015, January 30, 2015, and February 9, 2015.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 9, 2015 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reasons for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Corsair Opportunity Fund and Corsair Capital Management, L.P. 366 Madison Avenue, 12th Floor, New York, NY 10017.

**FOR FURTHER INFORMATION CONTACT:** Stephan N. Packs, Senior Counsel, at (202) 551–6853, or Nadya Roytblat, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

### Applicants' Representations

1. The Fund is a continuously offered non-diversified, closed-end management investment company registered under the Act and organized as a Delaware statutory trust. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to the Fund.

2. The Fund continuously offers its shares pursuant to its currently effective registration statement under the Securities Act of 1933. The Fund's shares are not listed on any securities exchange and do not trade on an over-the-counter system such as Nasdaq. Applicants do not expect that any secondary market will develop for the Fund's shares.

3. The Fund currently offers, and intends to continue to offer, a single Class of shares (''Initial Class'') at net asset value per share (''NAV''). The Initial Class is not currently subject to any sales load or distribution and/or service fees. The Fund proposes to offer additional Classes of shares that will adopt a distribution and service plan in compliance with rules 12b–1 and 17d–3 under the Act as if such rules applied to closed-end management investment companies (''Distribution and Service Plan''). Additional Classes may be subject to a sales load, a distribution fee (''Distribution Fee''), and/or a service fee (''Service Fee''), pursuant to the Distribution and Service Plan.[1]

4. In order to provide a limited degree of liquidity to shareholders, the Fund may from time to time offer to repurchase shares at their then-current NAV in accordance with rule 13e–4 under the 1934 Act pursuant to written tenders by shareholders. Repurchases of the Fund's shares are made at such times, in such amounts and on such terms as may be determined by the board of trustees of the Fund (''Board'') in its sole discretion. The Adviser ordinarily recommends that the Board authorize the Fund to offer to repurchase shares from shareholders quarterly.

5. Applicants request that the order also apply to any continuously-offered registered closed-end management investment company existing now or in the future for which the Adviser, or any entity controlling, controlled by, or under common control with the Adviser acts as investment adviser or principal underwriter, and which provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the 1934 Act (collectively with the Fund, the ''Funds'').[2]

6. Applicants represent that any asset-based Distribution and Service fees will comply with the provisions of rule 2830(d) of the Conduct Rules of the National Association of Securities Dealers, Inc. (''NASD Conduct Rule 2830'').[3] Applicants also represent that the Fund will disclose in its prospectus, the fees, expenses and other characteristics of each Class offered for sale by the prospectus, as is required for open-end, multiple class funds under Form N–1A. As if it were an open-end management investment company, the Fund will disclose fund expenses in shareholder reports, and disclose in its prospectus any arrangements that result in breakpoints in, or elimination of, sales loads.[4] Applicants will also comply with any requirements that may be adopted by the Commission or FINRA regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements as if those requirements applied to the

[1] The Fund will not impose an ''early withdrawal charge'' or ''repurchase fee'' on shareholders who purchase and tender their shares.

[2] Any Fund relying on this relief will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each investment company presently intending to rely on the requested order is listed as an applicant.

[3] Any references to NASD Conduct Rule 2830 include any successor or replacement Financial Industry Regulatory Authority Rule to NASD Conduct Rule 2830.

[4] *See Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies,* Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release); and *Disclosure of Breakpoint Discounts by Mutual Funds,* Investment Company Act Release No. 26464 (June 7, 2004) (adopting release).

Fund and any distributor of shares of the Fund.[5]

7. The Fund will allocate all expenses incurred by it among the various Classes based on net assets of the Fund attributable to each such Class, except that the NAV and expenses of each Class will reflect the expenses associated with the Distribution and Service Plan of that Class (if any), and any other incremental expenses of that Class (including transfer agency fees, if any). Expenses of the Fund allocated to a particular Class of the Fund's shares will be borne on a pro rata basis by each outstanding share of that Class. Applicants state that the Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

8. In the event the Funds impose a CDSC, applicants will comply with the provisions of rule 6c–10 under the Act, as if that rule applied to closed-end management investment companies. With respect to any waiver of, scheduled variation in, or elimination of the CDSC, the Fund will comply with the requirements of rule 22d–1 under the Act as if the Fund were an open-end investment company.

**Applicants' Legal Analysis**

*Multiple Classes of Shares*

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple Classes of the Fund may be prohibited by section 18(c).

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that permitting multiple Classes of the Fund may violate section 18(i) of the Act because each Class would be entitled to exclusive voting rights with respect to matters solely related to that Class.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(c) and 18(i) to permit the Fund to issue multiple Classes.

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed system would permit the Fund to facilitate the distribution of Classes through diverse distribution channels and would provide investors with a broader choice of shareholder options. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state the Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

*CDSCs*

5. Applicants believe that the requested relief meets the standards of section 6(c) of the Act. Rule 6c–10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that the Fund does not anticipate imposing CDSCs and would only do so in compliance with rule 6c–10 under the Act as if that rule were applied to closed-end investment companies. The Fund also will make all required disclosures in accordance with the requirements of Form N–1A concerning CDSCs. Applicants further state that, in the event the Fund imposes CDSCs, the Fund will apply the CDSCs (and any waivers or scheduled variations of the CDSCs) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act.

*Asset-Based Service and/or Distribution Fees*

6. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in which such registered company is a joint or a joint and several participant unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

7. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to permit the Fund to impose Distribution Fees and/or Service Fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies.

**Applicants' Condition**

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3 and 22d–1 under the Act, as amended from time to time or replaced, as if those rules applied to closed-end management investment companies, and will comply with the NASD Conduct Rule 2830, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–03099 Filed 2–13–15; 8:45 am]

**BILLING CODE 8011–01–P**

[5] *See Confirmation Requirements and Point of Sale Disclosure Requirements for Transactions in Certain Mutual Funds and Other Securities, and Other Confirmation Requirement Amendments, and Amendments to the Registration Form for Mutual Funds,* Investment Company Act Release No. 26341 (Jan. 29, 2004) (proposing release).

## SECURITIES AND EXCHANGE COMMISSION

**[Release Nos. 33–9724; 34–74260; File No. 265–27]**

## SEC Advisory Committee on Small and Emerging Companies

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The Securities and Exchange Commission Advisory Committee on Small and Emerging Companies is providing notice that it will hold a public meeting on Wednesday, March 4, 2015, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC. The meeting will begin at 9:30 a.m. (EST)

and will be open to the public. The meeting will be webcast on the Commission's Web site at *www.sec.gov*. Persons needing special accommodations to take part because of a disability should notify the contact person listed below. The public is invited to submit written statements to the Committee. The agenda for the meeting includes matters relating to rules and regulations affecting small and emerging companies under the federal securities laws.

**DATES:** The public meeting will be held on Wednesday, March 4, 2015. Written statements should be received on or before March 2, 2015.

**ADDRESSES:** The meeting will be held at the Commission's headquarters, 100 F Street NE., Washington, DC. Written statements may be submitted by any of the following methods:

**Electronic Statements**

• Use the Commission's Internet submission form (*http://www.sec.gov/spotlight/acsec-spotlight.shtml* ); or

• Send an email message to *rule-comments@sec.gov*. Please include File Number 265–27 on the subject line; or

**Paper Statements**

• Send paper statements in triplicate to Brent J. Fields, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–27. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method. The Commission will post all statements on the Advisory Committee's Web site (*http://www.sec.gov/spotlight/acsec-spotlight.shtml*).

Statements also will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** Julie Z. Davis, Senior Special Counsel, at (202) 551–3460, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–3628.

**SUPPLEMENTARY INFORMATION:** In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C.-App. 1, and the regulations thereunder, Keith Higgins, Designated Federal Officer of the Committee, has ordered publication of this notice.

Dated: February 11, 2015.

**Brent J. Fields,**

*Committee Management Officer.*

[FR Doc. 2015–03221 Filed 2–13–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a proxy voting roundtable on February 19, 2015 from 9:30 a.m. to 1:00 p.m.

The roundtable will focus on universal proxy ballots and retail participation in the proxy process. Roundtable panelists will be invited to discuss the state of contested director elections and whether changes should be made to the federal proxy rules to facilitate the use of universal proxy ballots by management and proxy contestants. Roundtable panelists also will be asked to discuss strategies for increasing retail shareholder participation in the proxy process, including how technology might affect retail participation.

The roundtable discussion will be held at SEC headquarters at 100 F Street NE., in Washington, DC. The roundtable will be webcast on the Commission's Web site at *www.sec.gov* and will be archived for later viewing. Seating for the public will be available.

**FOR FURTHER INFORMATION, PLEASE CONTACT:** The Office of the Secretary at (202) 551–5400.

Dated: February 11, 2015.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–03250 Filed 2–12–15; 11:15 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74236; File No. SR–EDGX–2015–07]**

### Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of the Exchange

February 10, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 30, 2015, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange filed a proposal to amend its fees and rebates applicable to Members[5] of the Exchange pursuant to EDGX Rule 15.1(a) and (c) (''Fee Schedule'') to: (i) Amend the definitions of ADV and TCV to remove a provision to exclude shares on each day from January 12, 2015 up to and including January 16, 2015; (ii) update the description of fee code D to include routing using the RDOT routing strategy; (iii) delete fee codes M and U, which route to LavaFlow; and (iv) make a number of non-substantive and organizational amendments.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to: (i) Amend the definitions of ADV and TCV to remove a provision to exclude shares on each day from January 12, 2015 up to and including January 16, 2015; (ii) update the description of fee code D to include routing using the RDOT routing strategy; (iii) delete fee codes M and U, which route to LavaFlow; and (iv) make a number of non-substantive and organizational amendments.

ADV and TCV Definitions

Earlier this year, the Exchange and its affiliate, EDGX Exchange, Inc. (''EDGX'') received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BATS (together with BATS, EDGA and EDGX, the ''BGM Affiliated Exchanges'').[6] In the context of the Merger, the BGM Affiliated Exchanges worked to migrate EDGX and EDGA onto the BATS technology platform, and align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. The migration of EDGX and EDGA onto the BATS technology platform occurred during the week of January 12, 2015.

Currently, the Exchange determines the tiered pricing that it will provide to Members according to the Exchange's tiered pricing structure, which is based on the calculation of ADV[7] and/or average daily TCV.[8] The Exchange currently excludes from its calculation of ADV and TCV those shares traded on each day from January 12, 2015 up to and including January 16, 2015 in order to avoid penalizing Members that, because of the technology migration that occurred during the week of January 12, 2015, did not participate on the Exchange during that week to the extent that they might have otherwise participated.[9] As described above, such exclusion only applied to tier calculations in January, meaning that the language has no effect moving forward. As such, the Exchange proposes to remove the provisions from the definitions of ADV and TCV that exclude trading activity that occurred on each day from January 12, 2015 up to and including January 16, 2015 as the exclusion period has passed and these provisions are no longer necessary.

Fee Code D

Currently, fee code D is appended to orders routed to the NYSE. Orders yielding fee code D are charged a fee of $0.0027 per share in securities priced at or above $1 and 0.30% of the dollar value of the trade in securities priced below $1. The Exchange proposes to amend the description of fee code D to include routing using the RDOT routing strategy, in addition to orders routed to the NYSE. RDOT is a routing option under which an order checks the System[10] for available shares and then is sent to destinations on the System routing table,[11] which may include non-exchange destinations. If shares remain unexecuted after routing, they are sent to the New York Stock Exchange, Inc. (''NYSE'') and can be re-routed by the NYSE. Any remainder will be posted to the NYSE, unless otherwise instructed by the User.[12] Historically, fee code D is appended by the System to orders routed using the RDOT routing strategy that are executed on a destination on the System routing table prior to reaching the NYSE as well as to those RDOT orders that remove liquidity from the NYSE. Therefore, the Exchange proposes to update the description of fee code D to make clear that it also includes orders routed using the RDOT routing strategy. The Exchange notes that fee code F is and will remain appended to orders routed using the RDOT routing strategy that add liquidity to NYSE.

Fee Codes M and U

The Exchange proposes to amend its Fee Schedule to delete fee code M, which routes to LavaFlow and adds liquidity, as well as fee code U, which routes to LavaFlow. These changes are being proposed in response to LavaFlow's announcement that it will cease market operations and its last day of trading will be Friday, January 30, 2015. For orders yielding fee code M, the Exchange currently provides a rebate of $0.0024 per share in securities priced at or above $1.00 and no rebate in securities priced below $1.00. For orders yielding fee code U, the Exchange currently charges a fee of $0.0028 per share in securities priced at or above $1.00 and no fee in securities priced below $1.00. The rates for orders that yield fee codes M or U represent a pass through of the rate that BATS Trading, the Exchange's affiliated routing broker-dealer, is subject to for routing orders to LavaFlow. As of February 2, 2015, the Exchange, via BATS Trading, will no longer be able to route orders to LavaFlow because it ceased operations, and, therefore, proposes to delete fee codes M and U.

Non-Substantive and Organizational Changes to Fee Code and Associated Fees

The Exchange also proposes to make two non-substantive and organizational changes to its Fee Schedule to provide greater clarity to Members on how the Exchange assesses fees and calculates rebates. The Exchange proposes to reorder the fee codes under the section entitled, Fee Codes and Associated Fees, as well as indicate the amount of the fees and rebates as five decimal points, rather than four decimal points, by adding a zero to the end of each fee and rebate, to reflect the order pricing format on the Exchange's Web site. The Exchange notes that none of these changes amend any fee or rebate, nor do they alter the manner in which it assesses fees or calculates rebates.

[6] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

[7] As provided in the Fee Schedule, ''ADV'' is currently defined as ''average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.''

[8] As provided in the Fee Schedule, ''TCV'' is currently defined as ''total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.''

[9] *See* Securities Exchange Act Release Nos. 74025 (January 9, 2015), 80 FR 2154 (January 15, 2015) (SR–EDGA–2014–36); *and* 74021 [sic] (January 9, 2015), 80 FR 2142 (January 15, 2015) (SR–EDGX–2014–37).

[10] The term ''System'' is defined as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.''

[11] The term ''System routing table'' refers to ''the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them.'' *See* Exchange Rule 11.11(g).

[12] *See* Exchange Rule 11.11(g)(5).

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on February 2, 2015.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[13] in general, and furthers the objectives of Section 6(b)(4),[14] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

ADV and TCV Definitions

The Exchange believes that its proposed amendments to the definitions of ADV and TCV to remove a provision to exclude shares during the week the Exchange is migrated onto BATS technology is reasonable because, as explained above, it is no longer necessary as the exclusion period has passed. The Exchange is not proposing to amend the thresholds a Member must achieve to become eligible for, or the dollar value associated with, the tiered rebates or fees. The initial proposal to exclude these trading days from the calculation of ADV and TCV was designed to provide Members additional time to monitor the migration of the Exchange onto BATS technology. In addition, the Exchange believes that the proposed changes to its Fee Schedule are equitably allocated among Exchange constituents and not unfairly discriminatory as the methodology for calculating ADV and TCV will apply equally to all Members.

Fee Code D

The Exchange believes that its proposal to update fee code D to also include order routed using the RDOT routing strategy represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. Historically, fee code D has been appended by the System to orders routed using the RDOT routing strategy that are executed on a destination on the System routing table prior to reaching the NYSE as well as to orders that that remove liquidity from NYSE. Therefore, the Exchange believes that updating fee code to specifically state that fee code D is appended to orders using the RDOT routing strategy would benefit Members by providing clear guidance in its Fee Schedule regarding which orders fee code D would be appended to. In addition, the Exchange believes that the proposed change to its Fee Schedule is equitably allocated among Exchange constituents and not unfairly discriminatory as the application of fee code D will apply equally to all Members who use the RDOT routing strategy.

Fee Codes M and U

The Exchange believes that its proposal to delete fee codes M and U in its Fee Schedule represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. The proposed change is in response to LavaFlow's announcement that it will cease market operations and its last day of trading will Friday, January 30, 2015. As of February 2, 2015, the Exchange, via BATS Trading, will no longer be able to route orders to LavaFlow and, therefore, proposes to remove fee codes M and U. The Exchange believes that the proposed amendments are intended to make the Fee Schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

Non-Substantive and Organizational Changes to Fee Code and Associated Fees

The Exchange believes that the non-substantive clarifying changes to its Fee Schedule are reasonable because they are designed to provide greater transparency to Members with regard to how the Exchange assesses fees and calculates rebates. The Exchange notes that none of the proposed non-substantive clarifying changes are designed to amend any fee, nor alter the manner in which it assesses fees or calculates rebates. These non-substantive and organizational changes to the Fee Schedule as intended to make the Fee Schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

ADV and TCV Definitions

The proposal to remove a provision to exclude shares from January 12, 2015 up to and including January 16, 2015 from the ADV and TCV calculations would not affect intermarket nor intramarket competition because it is no longer necessary as the exclusion period has passed.

Fee Code D

The Exchange believes that its proposal to update fee code D to also include order routed using the RDOT routing strategy would not affect intermarket nor intramarket competition because this change is not designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees for orders yielding fee code D amend the orders to which fee code D applies. It is simply proposed to update the description of fee code D to make clear that it also includes orders routed using the RDOT routing strategy, in addition to orders routed to the NYSE.

Fee Codes M and U

The Exchange believes that its proposal to delete fee codes M and U would not affect intermarket nor intramarket competition because this change is not designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees or calculates rebates. It is simply proposed in response to LavaFlow's announcement that it will cease market operations and

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

its last day of trading will be Friday, January 30, 2015.

Non-Substantive and Organizational Changes to Fee Code and Associated Fees

The Exchange believes that non-substantive and organizational changes to the Fee Schedule would not affect intermarket nor intramarket competition because none of these changes are designed to amend any fee or alter the manner in which the Exchange assesses fees or calculates rebates. These changes are intended to provide greater clarity to Members with regard to how the Exchange access fees and calculates rebate.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f) of Rule 19b–4 thereunder.[16] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2015–07 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–EDGX–2015–07. 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–EDGX–2015–07, and should be submitted on or before March 10, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–03076 Filed 2–13–15; 8:45 am]

**BILLING CODE 8011–01–P**

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

[17] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74237; File No. SR–EDGA–2015–05]**

## Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Increase the Fee for Orders Yielding Fee Code K

February 10, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2015, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange filed a proposal to amend its fees and rebates applicable to Members [5] of the Exchange pursuant to EDGA Rule 15.1(a) and (c) (''Fee Schedule'') to increase the fee for orders yielding fee code K, which routes to NASDAQ OMX PSX (''PSX'') using ROUC or ROUE routing strategy.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

*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 increase the fee for orders yielding fee code K, which routes to PSX using ROUC or ROUE routing strategy. In securities priced at or above $1.00, the Exchange currently assesses a fee of $0.0024 per share for Members' orders that yield fee code K. The Exchange proposes to amend its Fee Schedule to increase this fee to $0.0026 per share. The proposed change represents a pass through of the rate that BATS Trading, Inc. (''BATS Trading''), the Exchange's affiliated routing broker-dealer, is charged for routing orders to PSX when it does not qualify for a volume tiered reduced fee. The proposed change is in response to PSX's February 2015 fee change where PSX increased the fee to remove liquidity via routable order types it charges its customers, from a fee of $0.0024 per share to a fee of $0.0025 per share for Tape A securities and $0.0026 per share for Tapes B and C securities.[6] When BATS Trading routes to PSX, it will now be charged a standard rate of $0.0025 per share for Tape A securities and $0.0026 per share for Tapes B and C securities.[7] BATS Trading will pass through this rate to the Exchange and the Exchange, in turn, will pass through of a rate of $0.0026 per share to its Members. The proposed increase to the fee under fee code K would enable the Exchange to equitably allocate its costs among all Members utilizing fee code K.

The Exchange proposes to implement these amendments to its Fee Schedule on February 2, 2015.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that its proposal to increase the pass through fee for Members' orders that yield Flag K from $0.0024 per share to $0.0026 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to PSX through BATS Trading. Prior to PSX's February 2015 fee change, PSX charged its members, which includes BATS Trading, a fee of $0.0024 per share to remove liquidity using non-routable order types, which BATS Trading passed through to the Exchange and the Exchange charged to its Members. In February 2015, PSX increased the fee to remove liquidity via routable order types it charges its customers, from a fee of $0.0024 per share to a fee of $0.0025 per share for Tape A securities and $0.0026 per share for Tapes B and C securities.[10] Therefore, the Exchange believes that its proposal to pass through a fee of $0.0026 per share for orders that yield Flag K is equitable and reasonable because it accounts for the pricing changes on PSX. In addition, the proposal allows the Exchange to charge its Members a pass-through rate for orders that are routed to PSX. Furthermore, the Exchange notes that routing through BATS Trading is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGA's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal to pass through a fee of $0.0026 per share for Members' orders that yield Flag K would increase intermarket competition because it offers customers an alternative means to route to PSX. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and paragraph (f) of Rule 19b–4 thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2015–05 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–EDGA–2015–05. 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

[6] *See* PSX, Equity Trader Alert 2014–95, Updates to PSX and BX Pricing for November 2014, dated October 27, 2014 [sic], *available at http://www.nasdaqtrader.com/MicroNews.aspx?id=ETA2014–95.*

[7] The Exchange notes that to the extent BATS Trading does or does not achieve any volume tiered reduced fee on PSX, its rate for fee code K will not change.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] *See* supra *note 6.*

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

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–2015–05, and should be submitted on or before March 10, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–03077 Filed 2–13–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74238; File No. SR–EDGA–2015–07]**

## Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of the Exchange

February 10, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 30, 2015, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend its fees and rebates applicable to Members[5] of the Exchange pursuant to EDGA Rule 15.1(a) and (c) (''Fee Schedule'') to: (i) Amend the definitions of ADV and TCV to remove a provision to exclude shares on each day from January 12, 2015 up to and including January 16, 2015; (ii) update the description of fee code D to include routing using the RDOT routing strategy; (iii) delete fee codes M and U, as well as remove the ROLF routing strategy from Footnote 7, all of which route to LavaFlow; and (iv) make a number of non-substantive and organizational amendments.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to: (i) Amend the definitions of ADV and TCV to remove a provision to exclude shares on each day from January 12, 2015 up to and including January 16, 2015; (ii) update the description of fee code D to include routing using the RDOT routing strategy; (iii) delete fee codes M and U, as well as remove the ROLF routing strategy from Footnote 7, all of which route to LavaFlow; and (iv) make a number of non-substantive and organizational amendments.

ADV and TCV Definitions

Earlier this year, the Exchange and its affiliate, EDGX Exchange, Inc. (''EDGX'') received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BATS (together with BATS, EDGA and EDGX, the ''BGM Affiliated Exchanges'').[6] In the context of the Merger, the BGM Affiliated Exchanges worked to migrate EDGX and EDGA onto the BATS technology platform, and align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. The migration of EDGX and EDGA onto the BATS technology platform occurred during the week of January 12, 2015.

Currently, the Exchange determines the tiered pricing that it will provide to Members according to the Exchange's tiered pricing structure, which is based on the calculation of ADV[7] and/or average daily TCV.[8] The Exchange currently excludes from its calculation of ADV and TCV those shares traded on each day from January 12, 2015 up to and including January 16, 2015 in order to avoid penalizing Members that, because of the technology migration that occurred during the week of January 12, 2015, did not participate on the Exchange during that week to the extent that they might have otherwise participated.[9] As described above, such exclusion only applied to tier calculations in January, meaning that the language has no effect moving forward. As such, the Exchange proposes to remove the provisions from the definitions of ADV and TCV that exclude trading activity that occurred on each day from January 12, 2015 up

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[6] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

[7] As provided in the Fee Schedule, ''ADV'' is currently defined as ''average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.''

[8] As provided in the Fee Schedule, ''TCV'' is currently defined as ''total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.''

[9] *See* Securities Exchange Act Release Nos. 74025 (January 9, 2015), 80 FR 2154 (January 15, 2015) (SR–EDGA–2014–36); *and* 74021 [sic] (January 9, 2015), 80 FR 2142 (January 15, 2015) (SR–EDGX–2014–37).

to and including January 16, 2015 as the exclusion period has passed and these provisions are no longer necessary.

Fee Code D

Currently, fee code D is appended to orders routed to the NYSE. Orders yielding fee code D are charged a fee of $0.0027 per share in securities priced at or above $1 and 0.30% of the dollar value of the trade in securities priced below $1. The Exchange proposes to amend the description of fee code D to include routing using the RDOT routing strategy, in addition to orders routed to the NYSE. RDOT is a routing option under which an order checks the System [10] for available shares and then is sent to destinations on the System routing table,[11] which may include non-exchange destinations. If shares remain unexecuted after routing, they are sent to the New York Stock Exchange, Inc. (''NYSE'') and can be re-routed by the NYSE. Any remainder will be posted to the NYSE, unless otherwise instructed by the User.[12] Historically, fee code D is appended by the System to orders routed using the RDOT routing strategy that are executed on a destination on the System routing table prior to reaching the NYSE as well as to those RDOT orders that remove liquidity from the NYSE. Therefore, the Exchange proposes to update the description of fee code D to make clear that it also includes orders routed using the RDOT routing strategy. The Exchange notes that fee code F is and will remain appended to orders routed using the RDOT routing strategy that add liquidity to NYSE.

Fee Codes M and U, Footnote 7

The Exchange proposes to amend its Fee Schedule to delete fee code M, which routes to LavaFlow and adds liquidity, as well as fee code U, which routes to LavaFlow. The Exchange also proposes to amend Footnote 7 to remove references to the ROLF routing strategy, under which an order will check the Exchange for available shares and then will be sent to LavaFlow. These changes are being proposed in response to LavaFlow's announcement that it will cease market operations and its last day of trading will be Friday, January 30, 2015. For orders yielding fee code M, the Exchange currently provides a rebate of $0.0024 per share in securities priced at or above $1.00 and no rebate in securities priced below $1.00. For orders yielding fee code U, the Exchange currently charges a fee of $0.0028 per share in securities priced at or above $1.00 and no fee in securities priced below $1.00. The rates for orders that yield fee codes M or U represent a pass through of the rate that BATS Trading, the Exchange's affiliated routing broker-dealer, is subject to for routing orders to LavaFlow. As of February 2, 2015, the Exchange, via BATS Trading, will no longer be able to route orders to LavaFlow because it ceased operations, and, therefore, proposes to delete fee codes M and U, as well as references to the ROLF routing strategy in Footnote 7.

Non-Substantive and Organizational Changes to Fee Code and Associated Fees

The Exchange also proposes to make two non-substantive and organizational changes to its Fee Schedule to provide greater clarity to Members on how the Exchange assesses fees and calculates rebates. The Exchange proposes to reorder the fee codes under the section entitled, Fee Codes and Associated Fees, as well as indicate the amount of the fees and rebates as five decimal points, rather than four decimal points, by adding a zero to the end of each fee and rebate, to reflect the order pricing format on the Exchange's Web site. The Exchange notes that none of these changes amend any fee or rebate, nor do they alter the manner in which it assesses fees or calculates rebates.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on February 2, 2015.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[13] in general, and furthers the objectives of Section 6(b)(4),[14] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

ADV and TCV Definitions

The Exchange believes that its proposed amendments to the definitions of ADV and TCV to remove a provision to exclude shares during the week the Exchange is migrated onto BATS technology is reasonable because, as explained above, it is no longer necessary as the exclusion period has passed. The Exchange is not proposing to amend the thresholds a Member must achieve to become eligible for, or the dollar value associated with, the tiered rebates or fees. The initial proposal to exclude these trading days from the calculation of ADV and TCV was designed to provide Members additional time to monitor the migration of the Exchange onto BATS technology. In addition, the Exchange believes that the proposed changes to its Fee Schedule are equitably allocated among Exchange constituents and not unfairly discriminatory as the methodology for calculating ADV and TCV will apply equally to all Members.

Fee Code D

The Exchange believes that its proposal to update fee code D to also include order routed using the RDOT routing strategy represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. Historically, fee code D has been appended by the System to orders routed using the RDOT routing strategy that are executed on a destination on the System routing table prior to reaching the NYSE as well as to orders that that remove liquidity from NYSE. Therefore, the Exchange believes that updating fee code to specifically state that fee code D is appended to orders using the RDOT routing strategy would benefit Members by providing clear guidance in its Fee Schedule regarding which orders fee code D would be appended to. In addition, the Exchange believes that the proposed change to its Fee Schedule is equitably allocated among Exchange constituents and not unfairly discriminatory as the application of fee code D will apply equally to all Members who use the RDOT routing strategy.

[10] The term ''System'' is defined as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.''

[11] The term ''System routing table'' refers to ''the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them.'' *See* Exchange Rule 11.11(g).

[12] *See* Exchange Rule 11.11(g)(5).

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

Fee Codes M and U, Footnote 7

The Exchange believes that its proposal to delete fee codes M and U in its Fee Schedule as well as remove references to the ROLF routing strategy from Footnote 7 represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. The proposed change is in response to LavaFlow's announcement that it will cease market operations and its last day of trading will Friday, January 30, 2015. As of February 2, 2015, the Exchange, via BATS Trading, will no longer be able to route orders to LavaFlow and, therefore, proposes to remove fee codes M and U as well as a reference to the ROLF routing strategy in Footnote 7. The Exchange believes that the proposed amendments are intended to make the Fee Schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

Non-Substantive and Organizational Changes to Fee Code and Associated Fees

The Exchange believes that the non-substantive clarifying changes to its Fee Schedule are reasonable because they are designed to provide greater transparency to Members with regard to how the Exchange assesses fees and calculates rebates. The Exchange notes that none of the proposed non-substantive clarifying changes are designed to amend any fee, nor alter the manner in which it assesses fees or calculates rebates. These non-substantive and organizational changes to the Fee Schedule as intended to make the Fee Schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

ADV and TCV Definitions

The proposal to remove a provision to exclude shares from January 12, 2015 up to and including January 16, 2015 from the ADV and TCV calculations would not affect intermarket nor intramarket competition because it is no longer necessary as the exclusion period has passed.

Fee Code D

The Exchange believes that its proposal to update fee code D to also include order routed using the RDOT routing strategy would not affect intermarket nor intramarket competition because this change is not designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees for orders yielding fee code D amend the orders to which fee code D applies. It is simply proposed to update the description of fee code D to make clear that it also includes orders routed using the RDOT routing strategy, in addition to orders routed to the NYSE.

Fee Codes M and U, Footnote 7

The Exchange believes that its proposal to delete fee codes M and U and amend Footnote 7 would not affect intermarket nor intramarket competition because this change is not designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees or calculates rebates. It is simply proposed in response to LavaFlow's announcement that it will cease market operations and its last day of trading will be Friday, January 30, 2015.

Non-Substantive and Organizational Changes to Fee Code and Associated Fees

The Exchange believes that non-substantive and organizational changes to the Fee Schedule would not affect intermarket nor intramarket competition because none of these changes are designed to amend any fee or alter the manner in which the Exchange assesses fees or calculates rebates. These changes are intended to provide greater clarity to Members with regard to how the Exchange access fees and calculates rebates.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f) of Rule 19b–4 thereunder.[16] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2015–07 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–EDGA–2015–07. 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

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

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–2015–07, and should be submitted on or before March 10, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–03078 Filed 2–13–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74241; File No. SR–OCC–2014–812]**

## Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection to Advance Notice Concerning Extended and Overnight Trading Sessions

February 10, 2015.

On December 12, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–OCC–2014–812 (''Advance Notice'') [1] pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [2] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 (''Exchange Act'').[3] The Advance Notice was published for comment in the **Federal Register** on January 22, 2015.[4] The Commission did not receive any comments on the Advance Notice. This publication serves as a notice of no objection to the Advance Notice.

### I. Description of the Advance Notice

*Description of Change*

This advance notice was filed in connection with OCC's proposed change to its operations concerning the clearance of confirmed trades executed in overnight trading sessions offered by exchanges for which OCC provides clearance and settlement services. OCC currently clears overnight trading activity for CBOE Futures Exchange, LLC (''CFE'').[5] The total number of trades submitted to OCC from overnight trading sessions is nominal, typically less than 3,000 contracts per session. However, OCC has recently observed an industry trend whereby exchanges are offering overnight trading sessions beyond traditional hours. Exchanges offering overnight trading sessions have indicated to OCC that such sessions benefit market participants by providing additional price transparency and hedging opportunities for products traded in such sessions, which, in turn, promotes market stability.[6] In light of this trend, OCC proposed to implement a framework for clearing trades executed in such sessions that includes: (1) Qualification criteria used to approve clearing members for overnight trading sessions, (2) systemic controls to identify trades executed during overnight trading sessions by clearing members not approved for such sessions, (3) enhancements to OCC's overnight monitoring of trades submitted by exchanges during overnight trading sessions, (4) enhancements to OCC's credit controls with respect to monitoring clearing members' credit risk during overnight trading sessions, including procedures for contacting an exchange offering overnight trading sessions in order to invoke use of the exchange's kill switch, and (5) taking appropriate disciplinary action against clearing members who attempt to clear during the overnight trading session without first obtaining requisite approvals. These changes (described in greater detail below) are designed to reduce and mitigate the risks associated with clearing trades executed in overnight trading sessions. In addition, the only products that will be eligible for clearing in overnight trading sessions are index options and index futures products.

OCC's framework for determining whether to provide clearing services for overnight trading sessions offered by an exchange is designed to work in conjunction with the risk controls of the exchange that offers overnight trading sessions. OCC will confirm an exchange's risk controls as well as its staffing levels as they relate to overnight trading sessions to determine if OCC may reasonably rely on such risk controls to reduce the risk presented to OCC by the exchange's overnight trading sessions. Such exchange risk controls will consist of: (1) Price reasonability checks, (2) controls to prevent orders from being executed beyond a certain percentage (determined by the exchange) from the initial execution price, (3) activity based protections which focus on risk beyond price, such as a high number of trades occurring in a set period of time, and (4) kill switch capabilities, which may be initiated by the exchange and can cancel all open quotes or all orders of a particular participant. OCC believes that confirming the existence of applicable pre-trade risk controls as well as overnight staffing at the relevant exchanges is essential to mitigating risks presented to OCC from overnight trading sessions.[7] OCC believes that providing clearing services to exchanges offering such sessions is consistent with

[17] 17 CFR 200.30–3(a)(12).

[1] OCC initially filed a similar advance notice on September 17, 2014. Securities Exchange Act Release No. 73343 (October 14, 2014), 79 FR 62684 (October 20, 2014), (SR–OCC–2014–805). OCC withdrew that advance notice on October 28, 2104. Securities Exchange Act Release No. 73710 (December 1, 2014), 79 FR 72225 (December 5, 2014), (SR–OCC–2014–805).

[2] 12 U.S.C. 5465(e)(1). The Financial Stability Oversight Council designated OCC a systemically important financial market utility on July 18, 2012. *See* Financial Stability Oversight Council 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.* Therefore, OCC is required to comply with the Clearing Supervision Act and file advance notices with the Commission. *See* 12 U.S.C. 5465(e).

[3] 17 CFR 240.19b–4(n)(1)(i).

[4] *See* Securities Exchange Act Release No. 74073 (January 15, 2015), 80 FR 3287 (January 22, 2015) (SR–OCC–2014–812). OCC also filed the proposal contained in this advance notice as a proposed rule change under Section 19(b)(1) of the Act and Rule 19b–4 thereunder, which was published for comment in the **Federal Register** on December 30, 2014. 15 U.S.C. 78s(b)(1); 17 CFR 240.19b–4. *See* Securities Exchange Act Release No. 73907 (December 22, 2014), 79 FR 78543 (December 30, 2014) (SR–OCC–2014–24). The Commission did not receive any comments on the proposed rule change.

[5] ELX Futures LP (''ELX'') previously submitted overnight trading activity to OCC, but currently does not submit such trades. OCC will re-evaluate ELX's risk controls in the event ELX re-institutes its overnight trading sessions.

[6] *See* CFE–2014–010 at *http://cfe.cboe.com/publish/CFErulefilings/SR-CFE-2014-010.pdf.*

[7] Comparable controls are applied to futures and future option trades executed in overnight trading sessions currently cleared by OCC, although such controls have been implemented by clearing futures commission merchants (''clearing FCMs'') pursuant to Commodity Futures Trading Commission (''CFTC'') Regulation 1.73. This requires clearing FCMs to monitor for adherence to such controls during regular and overnight trading sessions. Some of these risk control measures are similar to those proposed by OCC for use in clearing securities trades in overnight trading sessions. For instance, OCC confirmed that CFE maintains kill switch capabilities.

OCC's mission to provide market participants with clearing and risk management solutions that respond to changes in the marketplace.

*Qualification Criteria*

In order to mitigate risks associated with clearing for overnight trading sessions, clearing members that participate in such trading sessions will be required to provide contact information to OCC for operational and risk personnel available to be contacted by OCC during such sessions. In addition, OCC will require that clearing members participating in an overnight trading session post additional margin in a designated account in order to mitigate the risk that OCC cannot draft a clearing member's bank account during an overnight trading session.[8] OCC also will adopt a procedure whereby, on a quarterly basis, it confirms its record of clearing members eligible for overnight trading sessions with a similar record maintained by exchanges offering such overnight trading sessions.

With respect to providing operational and risk contacts, under OCC Rule 201, each clearing member is required to maintain facilities for conducting business with OCC and to have a representative authorized in the name of the clearing member to take all action necessary for conducting business with OCC available at the facility during such hours as may be specified from time-to-time by OCC. Similarly, OCC Rules 214(c) and (d) require clearing members to ensure that they have the appropriate number of qualified personnel and to maintain the ability to process anticipated volumes and values of transactions. OCC will use this existing authority to require clearing members trading during overnight trading sessions to maintain operational and risk staff that may be contacted by OCC during such sessions.

OCC will impose upon clearing members qualified to participate in overnight trading sessions additional margin requirement in an amount of the lesser of $10 million or 10% of the clearing member's net capital (''Additional Margin''), which will be equal to the first monitoring risk threshold (described below) and which will be collected the morning before each overnight trading sessions. Clearing members must identify the proprietary account that would be charged the Additional Margin amount. The Additional Margin requirement is intended to provide OCC with additional margin assets should a clearing member's credit risk increase during overnight trading sessions.[9] OCC proposes to adopt a process whereby each morning OCC Financial Risk Management staff will assess the Additional Margin requirement against clearing members eligible to participate in overnight trading sessions. Clearing members that do not have sufficient excess margin on deposit with OCC to meet the Additional Margin amount will be required to deposit additional funds with OCC to satisfy the Additional Margin requirement prior to participating in any future overnight trading sessions.[10] This process will be adopted under existing rule authority.

Moreover, OCC also will confirm that an exchange offering overnight trading sessions has adopted a procedure whereby such exchange would contact OCC when a trader requests trading privileges during overnight trading sessions. The purpose of this contact is to verify that the trader's clearing firm (*i.e.,* the OCC clearing member) is approved for overnight trading sessions. If the applicable OCC clearing member is not approved for overnight trading sessions, then the clearing member must receive OCC's approval for overnight trading sessions, or the exchange will not provide the trader trading privileges during overnight trading sessions. Moreover, OCC will confirm that an exchange offering overnight trading sessions has implemented a procedure to periodically (*i.e.,* quarterly) validate its record of approved clearing firms against OCC's record of clearing members approved for overnight trading sessions.[11] Any discrepancies between the two records will be promptly resolved by either the clearing member obtaining approval from OCC for overnight trading sessions or by the exchange revoking the clearing firm's trading privileges for overnight trading sessions.

*Systemic Controls*

OCC will implement system changes so that trades submitted to OCC during overnight trading sessions that have been executed by clearing members not approved for such trading sessions will be reviewed by OCC staff after acceptance but before being processed (each such trade being a ''Reviewed Trade''). OCC will contact the submitting exchange regarding each Reviewed Trade in order to determine if the trade is a valid trade. If the exchange determines that the Reviewed Trade was in error such that, as provided in Article VI, Section 7(c) of OCC's By-laws, new or revised trade information is required to properly clear the transaction, OCC expects the exchange would instruct OCC to disregard or ''bust'' the trade. If the exchange determines that the Reviewed Trade was not in error, then OCC will clear the Reviewed Trade and take appropriate disciplinary action against the non-approved clearing member, as described below. OCC believes that clearing the Reviewed Trade is appropriate in order to avoid potentially harming the clearing member approved for overnight trading sessions that is on the opposite side of the transaction.

*Overnight Monitoring*

OCC will implement additional overnight monitoring in order to better monitor clearing members' credit risk during overnight trading sessions. Such monitoring of credit risk is similar to existing OCC practices concerning futures cleared during overnight trading hours and includes automated processes within OCC's ENCORE clearing system to measure, by clearing member: (i) The aggregate mark-to-market amounts of a clearing member's positions, including positions created during overnight trading, based on current prices using OCC's Portfolio Revaluation system, (ii) the aggregate incremental margin produced by all positions resulting from transactions executed during overnight trading, and (iii) with respect to options cleared during overnight trading hours, the aggregate net trade premium positions resulting from trades executed during overnight trading (each of these measures being a ''Credit Risk Number''). Hourly credit reports would be generated by ENCORE containing the Credit Risk Numbers expressed in terms of both dollars and, except for the mark-to-market position values, as a percentage of net capital for each clearing member trading during overnight trading sessions. The Credit Risk Numbers are the same information used by OCC staff to evaluate clearing member exposure during regular trading hours and, in addition to OCC's knowledge of its clearing members' businesses, are effective measures of the

[8] Clearing members will be required to designate a firm account to ensure that OCC has a general lien on the assets in the account and can use them to satisfy any obligation of the clearing member to OCC.

[9] Clearing members approved for overnight trading sessions that do not meet the Additional Margin requirement for a given overnight trading session would be treated like a clearing member not approved for overnight trading sessions, as described below.

[10] Under OCC Rule 601, OCC has the discretion to fix the margin requirement for any account at an amount that it deems necessary or appropriate under the circumstances to protect the interests of clearing members, OCC and the public.

[11] As discussed in more detail below, clearing members that attempt to participate in overnight trading sessions without the necessary approval will be subject to a minor rule violation fine.

risk presented to OCC by each clearing member. OCC's Operations staff will review such reports as they are generated and, in the event that any of the Credit Risk Numbers for positions established by a clearing member during an overnight trading session exceed established thresholds, staff will alert OCC's Market Risk staff [12] of the exceedance in accordance with established procedures, as described below.

Market Risk staff will follow a standardized process concerning such exceedances, including escalation to OCC's management, if required by such process. Given the nominal volume of trades executed in overnight trading sessions that are presently submitted for clearance, OCC does not contemplate changes in its current staffing levels that support overnight clearing activities at this time, however, OCC will periodically assess and adjust such staffing levels as appropriate. As part of the overnight clearing activities, OCC has, however, designated an on-call Market Risk duty officer who would be responsible for reviewing issues that arise when clearing for overnight trading session and determining what measures to be taken as well as additional escalation, if necessary.

With respect to OCC's escalation thresholds, if any Credit Risk Number of a clearing member approved for overnight trading sessions is $10 million or more, or any Credit Risk Number equals 10% or more of the clearing member's net capital, OCC's Operations staff will be required to provide email notification to Market Risk and Member Services staff. If any Credit Risk Number of a clearing member not approved for overnight trading sessions is $10 million or more, or any Credit Risk Number equals 10% or more of the clearing member's net capital, OCC's Operations will also notify Market Risk and Member Services staff as well as its senior management. Such departments will take action to prevent additional trading by the non-approved clearing member, including contacting the exchange to invoke use of the exchange's kill switch.

If any Credit Risk Number of a clearing member approved for overnight trading sessions is $50 million or more, or equals 25% or more of the clearing member's net capital, Operations staff will be required to contact, by telephone: (i) Market Risk and Member Services, (ii) the applicable exchange for secondary review, and (iii) the clearing member's designated contacts. The on-call Market Risk duty officer also will consider if additional action is necessary, which may include contacting a designated executive officer in order to issue an intra-day margin call, increase the clearing member's margin requirement in order to prevent the withdrawal of a specified amount of excess margin collateral, if any, the clearing member has on deposit with OCC, or contacting the exchange in order to invoke the use of its kill switch.

If any Credit Risk Number is $75 million or more, or equals 50% or more of the clearing member's net capital, Operations staff will be required to contact, by telephone, Market Risk staff, the on-call Market Risk duty officer, and a designated executive officer. Such officer will be responsible for reviewing the situation and determining whether to implement credit controls, which are described in greater detail below and include: Issuing an intra-day margin call, increasing a clearing member's margin requirement in order to prevent the withdrawal of a specified amount of excess margin collateral, if any, the clearing member has on deposit with OCC, whether further escalation is warranted in order for OCC to take protective measures pursuant to OCC Rule 305, or contact the exchange in order to invoke use of its kill switch. OCC stated that it chose the above described escalation thresholds based on its analysis of historical overnight trading activity across the futures industry. OCC believes that these thresholds strike an appropriate balance between effective risk monitoring and operational efficiency.

*Credit Controls*

In order to address credit risk associated with trading during overnight trading sessions, and as described above, OCC will collect Additional Margin from clearing members as well as monitor and analyze the impact that positions established during such sessions have on a clearing member's overall exposure. Should the need arise based on threshold breaches described above, and pursuant to OCC Rule 609, OCC may require the deposit of additional margin (''intra-day margin'') by any clearing member that increases its incremental risk as a result of trading activity during overnight trading sessions. Accordingly, a clearing member's positions established during such sessions will be incorporated into OCC's intra-day margin process. Should a clearing member's exposure significantly increase while settlement banks are not open to process an intra-day margin call, OCC has the authority under OCC Rule 601 to increase a clearing member's margin requirement which will restrict its ability to withdraw excess margin collateral. The implementation of these measures is discussed more fully below.

In the event that a clearing member's exposure during overnight trading sessions causes a clearing member to exceed OCC's intra-day margin call threshold for overnight trading sessions, OCC will require the clearing member to deposit intra-day margin equal to the increased incremental risk presented by the clearing member. Specifically, if a clearing member has a total risk charge [13] exceeding 25% (a reduction of the usual figure of 50%), as computed overnight by OCC's STANS system, and a loss of greater than $50,000 from an overnight trading session(s), as computed by Portfolio Revaluation, OCC will initiate an intra-day margin call. OCC will know at approximately 8:30 a.m. (Central Time) if an intra-day margin call on a clearing member will be initiated based on breaches of these thresholds. This ''start of business'' margin call is in addition to daily margin OCC collects from clearing members pursuant to OCC Rule 605, any intra-day margin call that OCC may initiate as a result of regular trading sessions, or special margin call that OCC may initiate.

In addition to, or instead of, requiring additional intra-day margin, OCC Rule 601 [14] and OCC's Clearing Member Margin Call Policy will work together to authorize Market Risk staff to increase a clearing member's margin requirement which may be in an amount equal to an intra-day margin call.[15] (Any increased margin requirement will remain in effect until the next business day.) This action will immediately prevent clearing members from withdrawing any excess margin collateral (in the amount of the increased margin requirement) the clearing member has deposited with OCC. With respect to clearing trades executed in overnight trading sessions, and in the event OCC requires additional margin from a clearing member, Market Risk staff may use increased margin requirements as a means of collateralizing the increase in

[12] OCC's Member Services staff will also receive alerts in order to contact clearing members as may be necessary.

[13] Total risk charge is a number derived from STANS outputs and is the sum of expected shortfall, stress test charges and any add-on charges computed by STANS. STANS is OCC's proprietary margin methodology.

[14] In addition, OCC Rule 601 provides OCC with the authority to fix the margin requirement for any account or any class of cleared contracts at such amount as it deems necessary or appropriate under the circumstances to protect the respective interests of clearing members, OCC, and the public.

[15] Clearing members frequently deposit margin at OCC in excess of requirements.

incremental risk a clearing member incurred during such sessions without having to wait for banks to open to process an intra-day margin call.[16] Such action may be taken by OCC instead of, or in addition to, issuing an intra-day margin call depending on the amount of excess margin a clearing member has on deposit with OCC and the amount of the incremental risk presented by such clearing member. OCC believes that the expansion of its intra-day margin call process as described in the preceding paragraph, including OCC's ability to manually increase clearing members' margin requirements, will mitigate the risk that OCC is under-collateralized as a result of overnight trading hours.

Moreover, a designated executive officer may call an exchange offering overnight trading sessions to invoke the use of its kill switch. The kill switch prevents a clearing member (or the market participant clearing through a clearing member) from executing trades on the exchange during a given overnight trading session or, if needed, stop all trading during a given overnight trading session. Finally, pursuant to OCC Rule 305, the Executive Chairman or the President of OCC, in certain situations, has the authority to impose limitations and restrictions on the transactions, positions, and activities of a clearing member. This authority will be used, as needed, in the event a clearing member accumulates significant credit risk during overnight trading sessions, or a clearing member's activities during such trading sessions otherwise warrant OCC taking protective action.

*Rule Enforcement Actions*

In order to deter clearing members from attempting to participate in overnight trading sessions without authorization as well as appropriately enforce the above described processes, OCC will ensure that any attempt by a clearing member to participate in overnight trading sessions without first obtaining the necessary approval will result in the initiation of a rule enforcement action against such clearing member. As described above, clearing members not approved for overnight trading sessions that trade during such overnight sessions will have their trades reviewed by OCC staff. Clearing members that attempt to participate in overnight trading sessions but do not obtain the necessary approval to do so will be subject to a minor rule violation fine.[17] In addition, if a clearing member's operational or risk contacts for overnight trading sessions were unavailable had OCC attempted to contact such individuals, the clearing member will be subject to a minor rule violation fine. OCC has existing processes in place to monitor for clearing member violations of OCC's rules and such processes also will apply to clearing member activity during overnight trading sessions.

*Effect That OCC Anticipates on and Management of Risk*

Clearing transactions executed in overnight trading sessions may increase risk presented to OCC due to the period of time between trade acceptance and settlement, the staffing levels at clearing members during such trading sessions, and the deferment of executing intra-day margin calls until banking settlement services are operational. However, OCC will expand its risk management practices in order to mitigate these risks by implementing, and expanding, the various tools discussed above. For example, OCC will enhance its monitoring practices in order to closely monitor clearing members' credit risk from trades placed during overnight trading sessions as well as implement processes so that OCC takes appropriate action when such credit risk exceeds certain limits. OCC also will use its existing authority to require adequate clearing member staffing during such trading sessions, in order to mitigate the operational risk associated with clearing members trading while they are not fully staffed. These risk management functions will work in tandem with risk controls, including the implementation of kill switch capabilities, adopted by the exchanges operating overnight trading sessions or by clearing FCMs, as applicable.

In addition to the above, OCC will adapt existing processes so that such processes can be used to mitigate risk associated with overnight trading sessions. Specifically, OCC will exercise its authority to issue margin calls and prevent the withdrawal of excess margin on deposit at OCC, as a result of activity during such trading sessions as a means of reducing risk. OCC also will implement a systemic function to identify trades executed during overnight trading sessions by clearing members not approved for such trading sessions for further review prior to allowing such trades to proceed further through OCC's clearance processing, and therefore mitigate the risk of losses from erroneous trades. Finally, OCC will be able to assess the need to take protective action pursuant to OCC Rule 305 as a result of clearing member activity during such sessions.

## II. Discussion and Commission Findings

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, the Commission believes that the stated purpose of the Clearing Supervision Act is instructive.[18] The stated purpose of the Clearing Supervision Act is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically-important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[19]

Section 805(a)(2) of the Clearing Supervision Act[20] authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator. Section 805(b) of the Clearing Supervision Act[21] states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act (''Clearing Agency Standards'').[22] The Clearing Agency Standards became effective on January 2, 2013, and require registered clearing agencies that perform central counterparty services to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[23] As

[16] Clearing members will be able to substitute the locked-up collateral during normal time frames (*i.e.,* 6:00 a.m. to 5:00 p.m. (Central Time) for equity securities).

[17] *See* OCC Rule 1201(b).

[18] *See* 12 U.S.C. 5461(b).

[19] *Id.*

[20] 12 U.S.C. 5464(a)(2).

[21] 12 U.S.C. 5464(b).

[22] 17 CFR 240.17Ad–22.

[23] The Clearing Agency Standards are substantially similar to the risk management standards established by the Board of Governors of the Federal Reserve System governing the operations of designated financial market utilities that are not clearing entities and financial institutions engaged in designated activities for which the Commission or the Commodity Futures Trading Commission is the Supervisory Agency.

such, it is appropriate for the Commission to review advance notices against these Clearing Agency Standards, and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act.[24]

The Commission believes that the proposal in this Advance Notice is designed to further the objectives and principles of Section 805(b) of the Clearing Supervision Act.[25] The Commission notes that clearing transactions executed in overnight trading sessions may present additional risks to OCC and the markets in general; specifically, overnight trading sessions may create risk due to the gap between trade acceptance and settlement, the staffing levels at clearing members and OCC during such trading sessions, and the inability of clearing members to transfer funds to satisfy margin during overnight hours. However, OCC's proposal is designed in a manner that should adequately monitor for the risks presented by accepting trades for clearance and settlement during these extended and overnight sessions, and should adequately mitigate these risks.

As part of that design, OCC proposed to limit to the product set eligible for overnight trading sessions to index options and index futures products and to institute qualification criteria for determining whether to provide clearing services for overnight trading sessions offered by a particular exchange. These qualification criteria include price reasonability checks, controls to prevent orders from being executed at prices beyond a certain percentage of the initial execution price, activity based protections focused on risk beyond price, such as a high number of trades occurring in a set period of time, and kill switch capabilities. Limiting the eligible product set as well as confirming risk management controls by participating exchanges also should help promote robust risk management and safety, and soundness of the clearance of overnight trades.

In addition, OCC's proposed framework also incorporates a number of mechanisms designed to further control the risks posed by overnight trading, including (i) clearing member qualification criteria, (ii) systemic controls to identify trades executed by clearing members not approved for overnight trading, (iii) enhancements to OCC's overnight monitoring of trades submitted by exchanges during overnight trading sessions, (iv) enhancements to OCC's credit controls with respect to monitoring clearing members' credit risk during overnight trading sessions, and (v) disciplinary actions for unapproved clearing members who attempt to clear during overnight trading sessions.

Particularly, OCC's overnight monitoring and escalation, including requiring additional intra-day margin, increasing a clearing member's margin requirement, and/or invoking an exchange's kill switch should serve to help mitigate the risks posed by the inability of clearing members to transfer funds to satisfy margin during overnight hours due to the, lack of availability of bank payment systems in the overnight hours and the period of time between trade acceptance and settlement. Moreover, requiring and enforcing adequate staffing at clearing members as well as at OCC through a designated an on-call Market Risk duty officer should help to mitigate the risks of overnight clearing. Accordingly, the Commission believes that the proposal should promote robust risk management, promote safety and soundness in the marketplace, reduce systemic risks, and support the stability of the broader financial system as it provides OCC with a range of mechanisms that help mitigate the risks posed by clearance trades from extended and overnight trading sessions.

## III. Conclusion

*It is therefore noticed,* pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,[26] that the Commission *does not object* to advance notice proposal (SR–OCC–2014–812) and that OCC is *authorized* to implement the proposal as of the date of this notice or the date of an order by the Commission approving a proposed rule change that reflects rule changes that are consistent with this advance notice proposal (SR–OCC–2014–24), whichever is later.

By the Commission.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–03097 Filed 2–13–15; 8:45 am]

**BILLING CODE 8011–01–P**

*See* Financial Market Utilities, 77 FR 45907 (August 2, 2012).

[24] 12 U.S.C. 5464(b).

[25] 12 U.S.C. 5464(b).

[26] 12 U.S.C. 5465(e)(1)(I).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Release From Conveyance Deed Obligations for Superior Municipal Airport, Superior, Pinal County, Arizona

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of request to release airport land.

**SUMMARY:** The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application for a release of approximately 15.09 acres of airport property at Superior Municipal Airport, Superior, Pinal County, Arizona from all conditions contained in the Conveyance Deed since the parcel of land is not needed for airport purposes. The property will be sold for its fair market value and the proceeds used for an airport purpose. The reuse of the land for a roadway improvement project by the State of Arizona represents a compatible land use that will not interfere with the airport, thereby protecting the interests of civil aviation.

**DATES:** Comments must be received on or before March 19, 2015.

**FOR FURTHER INFORMATION CONTACT:** Comments on the request may be mailed or delivered to the FAA at the following address: Mike N. Williams, Manager, Airports District Office, Federal Register Comment, Federal Aviation Administration, Phoenix Airports District Office, 3800 N. Central Avenue, Suite 1025, Phoenix, Arizona 85012. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to David E. Edwards, Right of Way Project Coordinator, Arizona Department of Transportation, 205 South 17th Avenue, MD 612E, Phoenix, Arizona 85007–3212.

**SUPPLEMENTARY INFORMATION:** In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements.

The following is a brief overview of the request:

The Town of Superior, Pinal County, Arizona requested a release from the conditions contained in the Conveyance Deed for approximately 15.09 acres of airport land. The property is located on the north side of the airport adjacent to

U.S. Highway 60. The land is presently unused and undeveloped. The land is needed for roadway improvements to U.S. Highway 60 that will encroach into airport property. The Town of Superior, Pinal County, Arizona agrees to the sale of the land to the State of Arizona, Department of Transportation, since the property is not needed for airport purposes. The conveyance will not impact the airport, while the project will aid traffic flow by the airport and to the Town of Superior. The sale price will be based on its appraised market value and the sale proceeds will be used for an airport purpose. The use of the property for a public roadway represents a compatible use that will not interfere with the airport. The airport will receive proper compensation, thereby serving the interests of civil aviation.

Issued in Hawthorne, California, on February 5, 2015.

**Steven Oetzell,**

*Acting Manager, Safety and Standards, Airports Division, Western-Pacific Region.*

[FR Doc. 2015–03140 Filed 2–13–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Release From Quitclaim Deed and Federal Grant Assurance Obligations at Oxnard Airport, Oxnard, Ventura County, California

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of request to release airport land.

**SUMMARY:** The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application for a release of approximately .99 acre of airport property near Oxnard Airport, Oxnard, Ventura County, California, from all conditions contained in the Quitclaim Deed and Grant Assurances since the parcel of land is not needed for airport purposes. The property will be sold for its fair market value and the proceeds used for airport purposes. The continued use of the land for agriculture represents a compatible land use that will not interfere with the airport or its operation, thereby protecting the interests of civil aviation.

**DATES:** Comments must be received on or before March 19, 2015.

**FOR FURTHER INFORMATION CONTACT:** Comments on the request may be mailed or delivered to the FAA at the following address: Tony Garcia, Airports Compliance Program Manager, Federal Aviation Administration, Airports Division, Federal Register Comment, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to Mr. Todd McNamee, Director, Ventura County Department of Airports, 555 Airport Way, Camarillo, CA 93010.

**SUPPLEMENTARY INFORMATION:** In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements.

The following is a brief overview of the request:

Ventura County, Department of Airports, Camarillo, California requested a release from the conditions contained in the Quitclaim Deed and Grant Assurance obligations for approximately .99 acres of airport land near Oxnard Airport. The property is located northwest of Oxnard Airport, adjacent to North Victoria Avenue and between Doris Avenue and Gonzales Road. The property is presently farm land in an agricultural area. The land will continue to be used for farming. Ventura County requested approval to sell the small parcel because the land is not needed for airport purposes and its current agricultural status prevents other uses. The property is approximately one mile from the airport boundary and is not suitable for current or future airport development. The sale price will be based on its appraised market value and the sale proceeds will be used for airport purposes. The continued use of the property for farming represents a compatible use that will not interfere with airport operations. The airport will be properly compensated, thereby serving the interests of civil aviation.

Issued in Hawthorne, California, on February 5, 2015.

**Steven Oetzell,**

*Acting Manager, Safety and Standards, Airports Division, Western-Pacific Region.*

[FR Doc. 2015–03141 Filed 2–13–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number MARAD–2013–0022]**

### Information Collection Approved by the Office of Management and Budget: Cruise Vessel Security and Safety Training Provider Certification

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** The Maritime Administration (MARAD) has received Office of Management and Budget (OMB) approval, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), for the public information collection associated with MARAD's Cruise Vessel Security and Safety Act (CVSSA) Certification Program. A Federal agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a Federal agency request for information unless the agency holds a valid control number. MARAD welcomes any comments concerning the accuracy of the burden estimates and any suggestions for reducing the collection burden.

The MARAD CVSSA Certification Program application procedure and program details are now available on MARAD's Web site *www.marad.dot.gov/cvssa.* MARAD recommends that applicants submit their applications in electronic format (*e.g.,* CD, DVD, or memory stick) via mail or courier service to the address listed in the **FOR FURTHER INFORMATION CONTACT** section below. Program applicants may submit any questions or comments to MARAD via email at *CVSSA-MARAD@dot.gov,* by mail to the address listed below, or by telephone to the CVSSA Program Manager at (202) 366–5906.

**FOR FURTHER INFORMATION CONTACT:** U.S. Department of Transportation, Maritime Administration, Attention: Mail Stop 1: MAR–420 CVSSA Program Manager, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2133–0547.

*OMB Approval Date:* 12/24/2014.

*OMB Expiration Date:* 12/31/2017.

*Title:* Cruise Vessel Security and Safety Act Training Provider Certification Program.

*Respondents:* Individuals, partnerships, or corporations seeking training provider certification.

*Estimated Number of Respondents and Responses:* 35 respondents; 35 responses.

*Estimated Time per Response:* 40 hours.

*Frequency of Response:* On-occasion reporting requirement.

*Total Annual Burden:* 1,400 hours.

*Total Annual Cost Burden:* $77,315.00.

*Annual Responses:* The agency anticipates as many as 35 submissions each year. Certification is valid for 5 years before expiration and renewal. The agency also anticipates the collection of information annually from training providers seeking to maintain their certification by complying with agency audits.

*Obligation to Respond:* Participation in the certification program is voluntary. Responses, however, are required to apply for training provider certification in accordance with the CVSSA.

*Need for and Use of the Information:* The information collected will be used to determine whether the applicant's training program is consistent with the training standards promulgated in the Model Course. Information obtained during training provider audits will be used to determine whether the training being provided meets the model training standards. The training provider agreement is necessary to establish an understanding between the agency and the training provider that certain terms must be met in order to obtain and maintain MARAD training provider certification. Without this information, MARAD would not be able to offer the benefit of its training provider certification to program applicants. MARAD training provider certification will assist the USCG in ensuring cruise vessel compliance with CVSSA.

**Background**

Following enactment of the CVSSA, MARAD, the U.S. Coast Guard (USCG), and the Federal Bureau of Investigation (FBI), as directed under the Act, developed ''Model Course CVSSA 11–01 Crime Prevention, Detection, Evidence Preservation and Reporting''. Published in July of 2011, the Model Course set the standards for security personnel training. The CVSSA training requirements are applicable to passenger vessels that carry at least 250 passengers; have onboard sleeping facilities for each passenger; are on a voyage that embarks and disembarks passengers in the United States; and are not engaged on a coastwise voyage. Since July 27, 2011, passenger vessels have been required to certify to the USCG, before entering a United States port on a voyage or voyage segment on which a United States citizen is a passenger, that they have at least one crewmember on board who is properly trained on the prevention, detection, evidence preservation, and reporting requirements of criminal activities in the international maritime environment.

MARAD published its CVSSA Certification Program Final Policy on June 25, 2014 in the **Federal Register** (79 FR 36125). MARAD's voluntary training provider certification program will help assure the general public that passenger vessel security and safety personnel have received proper training consistent with the Model Course and will assist the industry in obtaining quality training services. Training providers seeking to be certified by MARAD are required to submit training plans and supporting information for review. If the training provider's plans meet the Model Course criteria, the agency will offer its certification subject to the training provider entering into an agreement which, in addition to other terms, will subject the organization to program audits.

(Authority: The Cruise Vessel Security and Safety Act of 2010, 46 U.S.C. 3508, and The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49)

Dated: February 11, 2015.

By Order of the Maritime Administrator.

**Thomas M. Hudson, Jr.,**

*Assistant Secretary, Maritime Administration.*

[FR Doc. 2015–03186 Filed 2–13–15; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0788]**

## Proposed Information Collection (Description of Materials) Activity: Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine if proposed construction material meets regulatory requirements and if the property is suitable for mortgage insurance.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before April 20, 2015.

**ADDRESSES:** Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0788'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 632–8924 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Description of Materials, VA Form 26–1852.

*OMB Control Number:* 2900–0788.

*Type of Review:* Revision of an approved collection.

*Abstract:* VA Form 26–1852 is used to document material used in the construction of a dwelling or specially adapted housing project. VA appraiser will use the information collected to establish the value and/or cost of adaptations for the property before it is constructed.

*Affected Public:* Individuals and Households.

*Estimated Annual Burden:* 1,800 hours.

*Estimated Average Burden per Respondent:* 30 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 2,800.

Dated: February 10, 2015.

By direction of the Secretary.

**Crystal Rennie,**

*Department Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2015–03067 Filed 2–13–15; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on Disability Compensation; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the meeting of the Advisory Committee on Disability Compensation (Committee), previously scheduled for January 26–28, 2015, and cancelled due to forecasted inclement weather has been rescheduled. The Committee will meet March 9–11, 2015, at the U.S. Department of Veterans Affairs, 1800–G Street NW., Washington, DC 20006, in Conference Room 867 on the Eight Floor. The sessions will begin at 8:30 a.m. and end at 4:30 p.m. on all three days. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising during service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation.

The Committee will receive briefings on issues related to compensation for Veterans with service-connected disabilities and other VA benefits programs. Time will be allocated for receiving public comments. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come, first-served basis. Individuals who speak are invited to submit 1–2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record.

The public may submit written statements for the Committee's review to Nancy Copeland, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration, Compensation Service, Policy Staff, 810 Vermont Avenue NW., Washington, DC 20420 or email at *Nancy.Copeland@va.gov.* Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process which includes screening through metal detection. Therefore, you should allow an additional 15 minutes before the meeting begins. Any member of the public wishing to attend the meeting or seeking additional information should email Ms. Copeland or contact her at (202) 461–9685.

Dated: February 10, 2015.

**Jelessa Burney,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2015–03070 Filed 2–13–15; 8:45 am]

**BILLING CODE 8320–01–P**

# FEDERAL REGISTER

Vol. 80 Tuesday,
No. 31 February 17, 2015

Part II

## Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Aerospace Manufacturing and Rework Facilities Risk and Technology Review; Proposed Rule

## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Part 63**

**[EPA–HQ–OAR–2014–0830; FRL–9922–10–OAR]**

**RIN 2060–AQ99**

## National Emission Standards for Aerospace Manufacturing and Rework Facilities Risk and Technology Review

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing amendments to the national emissions standards for hazardous air pollutants (NESHAP) for Aerospace Manufacturing and Rework Facilities to address the results of the residual risk and technology review (RTR) conducted as required under the Clean Air Act (CAA), and to correct errors and deficiencies identified during the review of these standards. The proposed amendments would add limitations to reduce organic and inorganic emissions of hazardous air pollutants (HAP) from specialty coating application operations; would remove the exemptions from the emission limitations for periods of startup, shutdown and malfunction (SSM) so that affected units would be subject to the emission standards at all times; and would revise provisions to address recordkeeping and reporting requirements applicable to periods of SSM. This action also proposes other technical corrections. The EPA estimates that implementation of this proposed rule will result in reductions of 58 tons of HAP.

**DATES:** *Comments.* Comments must be received on or before April 3, 2015. A copy of comments on the information collection provisions should be submitted to the Office of Management and Budget (OMB) on or before March 19, 2015.

*Public Hearing.* If anyone contacts the EPA requesting a public hearing by February 23, 2015, we will hold a public hearing on March 4, 2015. If you are interested in requesting a public hearing or attending the public hearing, contact Ms. Pamela Garrett at (919) 541–7966 or at *garrett.pamela@epa.gov.* 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.

**ADDRESSES:** *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2014–0830, 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–2014–0830 in the subject line of the message.
- *Fax:* (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2014–0830.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, Attention Docket ID No. EPA–HQ–OAR–2014–0830, 1200 Pennsylvania Avenue 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 Avenue NW., Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2014–0830. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions.* Direct your comments to Docket ID No. EPA–HQ–OAR–2014–0830. 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 No. EPA–HQ–OAR–2014–0830. 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 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 a public hearing is requested by February 23, 2015, it will be held on March 4, 2015 at the EPA's Research Triangle Park Campus, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. The hearing will convene at 10:00 a.m. (Eastern Standard Time) and end at 5:00 p.m. (Eastern Standard Time). A lunch break will be held from 12:00 p.m. (Eastern Standard Time) until 1:00 p.m. (Eastern Standard Time). Please contact Ms. Pamela Garrett at (919) 541–7966 or at *garrett.pamela@epa.gov* to request a hearing, to determine if a hearing will be held and to register to speak at the hearing, if one is held. If a hearing is requested, the last day to pre-register in advance to speak at the hearing will be March 2, 2015.

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 preregister for the hearing, as we may not be able to arrange such

accommodations without advance notice.

If no one contacts the EPA requesting a public hearing to be held concerning this proposed rule by February 23, 2015, a public hearing will not take place. If a hearing is held, it will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA will make every effort to accommodate all speakers who arrive and register. Because the hearing will be held at a U.S. governmental facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. 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 hearing. Verbatim transcripts of the hearings and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. Again, a hearing will not be held unless requested.

**FOR FURTHER INFORMATION CONTACT:** For questions about this proposed action, contact Kim Teal, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5580; fax number: (919) 541–5450; and email address: *teal.kim@epa.gov.* For specific information regarding the risk modeling methodology, contact Ted Palma, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5470; fax number: (919) 541–0840; and email address: *palma.ted@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Rafael Sanchez, Office of Enforcement and Compliance Assurance (OECA), (202) 564–7028, *sanchez.rafael@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

*Preamble Acronyms and Abbreviations.* We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AD Airworthiness Directive
AEGL acute exposure guideline level
AERMOD air dispersion model used by the HEM–3 model
ATSDR Agency for Toxic Substances and Disease Registry
BACT Best Achievable Control Technology
CAA Clean Air Act
CalEPA California EPA
CBI Confidential Business Information
CDX EPA's Central Data Exchange
CEDRI EPA's Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CTG Control Technique Guideline document
EJ environmental justice
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guidelines
ERT EPA's Electronic Reporting Tool
FAA Federal Aviation Administration
FR Federal Register
g/L grams/liter
HAP hazardous air pollutants
HCl hydrochloric acid
HEM–3 Human Exposure Model, Version 1.1.0
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
HVLP high volume low pressure
IARC International Agency for Research on Cancer
ICR information collection request
IRIS Integrated Risk Information System
km kilometer
lb/gal pounds/gallon
LOAEL Lowest-observed-adverse-effect level
MACT maximum achievable control technology
$mg/m^3$ milligrams per cubic meter
MIR maximum individual risk
mm Hg millimeters mercury
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NAS National Academy of Sciences
NATA National Air Toxics Assessment
NEI National Emission Inventory
NESHAP National Emissions Standards for Hazardous Air Pollutants
NOAA National Oceanic and Atmospheric Administration
NOAEL No-observed-adverse-effect levels
NRC National Research Council
NRDC Natural Resources Defense Council
NTP National Toxicology Program
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OECA Office of Enforcement and Compliance Assurance
OEM original equipment manufacturer
OMB Office of Management and Budget
PAH polycyclic aromatic hydrocarbons
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PEL Probable effect level
POM polycyclic organic matter
ppm parts per million
PSD Prevention of Significant Deterioration
RACT Reasonably Available Control Technology
RBLC EPA's RACT/BACT/LAER Clearinghouse
RCRA Resource Conservation and Recovery Act of 1976
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RfD reference dose
RoC Report of the Carcinogens
RTR residual risk and technology review
SAB Science Advisory Board
SCAQMD South Coast Air Quality Management District
SSM startup, shutdown and malfunction
TOSHI target organ-specific hazard index
tpy tons per year
TRIM.FaTE Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure model
TTN Technology Transfer Network
UF uncertainty factor
$\mu g/m^3$ microgram per cubic meter
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
VOC volatile organic compounds

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

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. What should I consider as I prepare my comments for the EPA?
II. Background
A. What is the statutory authority for this action?

B. What is this source category and how does the current NESHAP regulate its HAP emissions?
C. What data collection activities were conducted to support this action?
D. What other relevant background information and data are available?
E. What litigation is related to this proposed action?
III. Analytical Procedures
A. How did we estimate post-MACT risks posed by the source category?
B. How did we consider the risk results in making decisions for this proposal?
C. How did we perform the technology review?
IV. Analytical Results and Proposed Decisions
A. What actions are we taking pursuant to CAA sections 112(d)(2) and 112(d)(3)?
B. What are the results of the risk assessment and analyses?
C. What are our proposed decisions regarding risk acceptability, ample margin of safety and adverse environmental effects?
D. What are the results and proposed decisions based on our technology review?
E. What other actions are we proposing?
F. What compliance dates are we proposing?
V. Summary of Cost, Environmental and Economic Impacts
A. What are the affected sources?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
VI. Request for Comments
VII. Submitting Data Corrections
VIII. 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 (RFA)
D. Unfunded Mandates Reform Act (UMRA)
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 (NTTAA)
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

## I. General Information

### *A. Does this action apply to me?*

Table 1 of this preamble lists the regulated industrial source category that is the subject of this proposal. Table 1 is not intended to be exhaustive, but rather to provide a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal government entities may be affected by this proposed action. Parties potentially affected by this action include major and synthetic minor source installations that are owned or operated by the Armed Forces of the United States (including the Department of Defense and the Coast Guard) and the National Aeronautics and Space Administration. As defined under the ''Surface Coating'' industry sector in the ''Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990'' (see 57 FR 31576, July 16, 1992), the Aerospace Manufacturing and Rework Facilities source category is any facility engaged, either in part or in whole, in the manufacture or rework of commercial, civil or military aerospace vehicles or components and that are major sources as defined in 40 CFR 63.2.

TABLE 1—INDUSTRIAL SOURCE CATEGORY AFFECTED BY THIS PROPOSED ACTION

| Source Category | NESHAP | NAICS code [a] |
|---|---|---|
| Aerospace Manufacturing and Rework Facilities | Aerospace Manufacturing and Rework Facilities. | 336411, 336412, 336413, 336414, 336415, 336419, 481111, 481112, 481211, 481212, 481219. |

[a] North American Industry Classification System.

### *B. Where can I get a copy of this document and other related information?*

In addition to being available in the docket, an electronic copy of this action is available on the Internet through the EPA's Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at: *http://www.epa.gov/ttn/atw/aerosp/aeropg.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same Web site. Information on the overall residual risk and technology review program is available at the following Web site: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.*

### *C. 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: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2014–0830.

## II. Background

### *A. What is the statutory authority for this action?*

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, after the EPA has identified categories of sources emitting one or more of the HAP listed in CAA section 112(b), CAA section 112(d) requires us to promulgate technology-based NESHAP for those

sources. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP. For major sources, the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements and non-air quality health and environmental impacts) and are commonly referred to as maximum achievable control technology (MACT) standards.

MACT standards must reflect the maximum degree of emissions reduction achievable through the application of measures, processes, methods, systems or techniques, including, but not limited to, measures that: (1) Reduce the volume of or eliminate pollutants through process changes, substitution of materials or other modifications; (2) enclose systems or processes to eliminate emissions; (3) capture or treat pollutants when released from a process, stack, storage or fugitive emissions point; (4) are design, equipment, work practice or operational standards (including requirements for operator training or certification); or (5) are a combination of the above. CAA section 112(d)(2)(A) through (E). The MACT standards may take the form of design, equipment, work practice or operational standards where the EPA first determines either that: (1) A pollutant cannot be emitted through a conveyance designed and constructed to emit or capture the pollutant, or that any requirement for or use of, such a conveyance would be inconsistent with law; or (2) the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations. CAA section 112(h)(1) and (2).

The MACT ''floor'' is the minimum control level allowed for MACT standards promulgated under CAA section 112(d)(3) and may not be based on cost considerations. For new sources, the MACT floor cannot be less stringent than the emissions control that is achieved in practice by the best-controlled similar source. The MACT floor for existing sources can be less stringent than floors for new sources, but not less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, the EPA must also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on considerations of the cost of achieving the emission reductions, any non-air quality health and environmental impacts and energy requirements.

The EPA is then required to review these technology-based standards and revise them ''as necessary (taking into account developments in practices, processes and control technologies)'' no less frequently than every 8 years. CAA section 112(d)(6). In conducting this review, the EPA is not required to recalculate the MACT floor. *Natural Resources Defense Council* (*NRDC)* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013).

The second stage in standard-setting focuses on reducing any remaining (*i.e.,* ''residual'') risk according to CAA section 112(f). CAA Section 112(f)(1) required that the EPA prepare a report to Congress discussing (among other things) methods of calculating the risks posed (or potentially posed) by sources after implementation of the MACT standards, the public health significance of those risks and the EPA's recommendations as to legislation regarding such remaining risk. The EPA prepared and submitted the *Residual Risk Report to Congress,* EPA–453/R–99–001 (*Risk Report*) in March 1999. CAA section 112(f)(2) then provides that if Congress does not act on any recommendation in the *Risk Report,* the EPA must analyze and address residual risk for each category or subcategory of sources 8 years after promulgation of such standards pursuant to CAA section 112(d).

Section 112(f)(2) of the CAA requires the EPA to determine for source categories subject to MACT standards whether the emission standards provide an ample margin of safety to protect public health. Section 112(f)(2)(B) of the CAA expressly preserves the EPA's use of the two-step process for developing standards to address any residual risk and the agency's interpretation of ''ample margin of safety'' developed in the *National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants* (Benzene NESHAP) (54 FR 38044, September 14, 1989). The EPA notified Congress in the *Risk Report* that the agency intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11). The EPA subsequently adopted this approach in its residual risk determinations and in a challenge to the risk review for the Synthetic Organic Chemical Manufacturing source category, the United States Court of Appeals for the District of Columbia Circuit upheld as reasonable the EPA's interpretation that subsection 112(f)(2) incorporates the approach established in the Benzene NESHAP. *See NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''[S]ubsection 112(f)(2)(B) expressly incorporates the EPA's interpretation of the Clean Air Act from the Benzene standard, complete with a citation to the **Federal Register**.''); see also *A Legislative History of the Clean Air Act Amendments of 1990,* vol. 1, p. 877 (Senate debate on Conference Report).

The first step in the process of evaluating residual risk is the determination of acceptable risk. If risks are unacceptable, the EPA cannot consider cost in identifying the emissions standards necessary to bring risks to an acceptable level. The second step is the determination of whether standards must be further revised in order to provide an ample margin of safety to protect public health. The ample margin of safety is the level at which the standards must be set, unless an even more stringent standard is necessary to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect.

1. Step 1—Determination of Acceptability

The agency in the Benzene NESHAP concluded that ''the acceptability of risk under section 112 is best judged on the basis of a broad set of health risk measures and information'' and that the ''judgment on acceptability cannot be reduced to any single factor.'' Benzene NESHAP at 38046. The determination of what represents an ''acceptable'' risk is based on a judgment of ''what risks are acceptable in the world in which we live'' (*Risk Report* at 178, quoting *NRDC* v. *EPA,* 824 F. 2d 1146, 1165 (D.C. Cir. 1987) (en banc) (''Vinyl Chloride''), recognizing that our world is not risk-free.

In the Benzene NESHAP, we stated that ''EPA will generally presume that if the risk to [the maximum exposed] individual is no higher than approximately one in 10 thousand, that risk level is considered acceptable.'' 54 FR 38045, September 14, 1989. We discussed the maximum individual lifetime cancer risk (or maximum individual risk (MIR)) as being ''the estimated risk that a person living near a plant would have if he or she were

exposed to the maximum pollutant concentrations for 70 years.'' *Id.* We explained that this measure of risk ''is an estimate of the upper bound of risk based on conservative assumptions, such as continuous exposure for 24 hours per day for 70 years.'' *Id.* We acknowledged that maximum individual lifetime cancer risk ''does not necessarily reflect the true risk, but displays a conservative risk level which is an upper-bound that is unlikely to be exceeded.'' *Id.*

Understanding that there are both benefits and limitations to using the MIR as a metric for determining acceptability, we acknowledged in the Benzene NESHAP that ''consideration of maximum individual risk * * * must take into account the strengths and weaknesses of this measure of risk.'' *Id.* Consequently, the presumptive risk level of 100-in-1 million (1-in-10 thousand) provides a benchmark for judging the acceptability of maximum individual lifetime cancer risk, but does not constitute a rigid line for making that determination. Further, in the Benzene NESHAP, we noted that:

> [p]articular attention will also be accorded to the weight of evidence presented in the risk assessment of potential carcinogenicity or other health effects of a pollutant. While the same numerical risk may be estimated for an exposure to a pollutant judged to be a known human carcinogen, and to a pollutant considered a possible human carcinogen based on limited animal test data, the same weight cannot be accorded to both estimates. In considering the potential public health effects of the two pollutants, the Agency's judgment on acceptability, including the MIR, will be influenced by the greater weight of evidence for the known human carcinogen.

*Id.* at 38046. The agency also explained in the Benzene NESHAP that:

> [i]n establishing a presumption for MIR, rather than a rigid line for acceptability, the Agency intends to weigh it with a series of other health measures and factors. These include the overall incidence of cancer or other serious health effects within the exposed population, the numbers of persons exposed within each individual lifetime risk range and associated incidence within, typically, a 50 km exposure radius around facilities, the science policy assumptions and estimation uncertainties associated with the risk measures, weight of the scientific evidence for human health effects, other quantified or unquantified health effects, effects due to co-location of facilities, and co-emission of pollutants.

*Id.* at 38045. In some cases, these health measures and factors taken together may provide a more realistic description of the magnitude of risk in the exposed population than that provided by maximum individual lifetime cancer risk alone.

As noted earlier, in *NRDC* v. *EPA,* the court held that CAA section 112(f)(2) ''incorporates the EPA's interpretation of the Clean Air Act from the Benzene Standard.'' The court further held that Congress' incorporation of the Benzene standard applies equally to carcinogens and non-carcinogens. 529 F.3d at 1081–82. Accordingly, we also consider non-cancer risk metrics in our determination of risk acceptability and ample margin of safety.

2. Step 2—Determination of Ample Margin of Safety

CAA section 112(f)(2) requires the EPA to determine, for source categories subject to MACT standards, whether those standards provide an ample margin of safety to protect public health. As explained in the Benzene NESHAP, ''the second step of the inquiry, determining an 'ample margin of safety,' again includes consideration of all of the health factors, and whether to reduce the risks even further . . . Beyond that information, additional factors relating to the appropriate level of control will also be considered, including costs and economic impacts of controls, technological feasibility, uncertainties and any other relevant factors. Considering all of these factors, the agency will establish the standard at a level that provides an ample margin of safety to protect the public health, as required by section 112.'' 54 FR 38046, September 14, 1989.

According to CAA section 112(f)(2)(A), if the MACT standards for HAP ''classified as a known, probable, or possible human carcinogen do not reduce lifetime excess cancer risks to the individual most exposed to emissions from a source in the category or subcategory to less than one in one million,'' the EPA must promulgate residual risk standards for the source category (or subcategory), as necessary to provide an ample margin of safety to protect public health. In doing so, the EPA may adopt standards equal to existing MACT standards if the EPA determines that the existing standards (*i.e.,* the MACT standards) are sufficiently protective. *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'') The EPA must also adopt more stringent standards, if necessary, to prevent an adverse environmental effect,[1] but must consider cost, energy, safety and other relevant factors in doing so.

The CAA does not specifically define the terms ''individual most exposed,'' ''acceptable level'' and ''ample margin of safety.'' In the Benzene NESHAP, 54 FR 38044–38045, September 14, 1989, we stated as an overall objective:

> In protecting public health with an ample margin of safety under section 112, EPA strives to provide maximum feasible protection against risks to health from hazardous air pollutants by (1) protecting the greatest number of persons possible to an individual lifetime risk level no higher than approximately 1-in-1 million and (2) limiting to no higher than approximately 1-in-10 thousand [*i.e.,* 100-in-1 million] the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.

The agency further stated that ''[t]he EPA also considers incidence (the number of persons estimated to suffer cancer or other serious health effects as a result of exposure to a pollutant) to be an important measure of the health risk to the exposed population. Incidence measures the extent of health risks to the exposed population as a whole, by providing an estimate of the occurrence of cancer or other serious health effects in the exposed population.'' *Id.* at 38045.

In the ample margin of safety decision process, the agency again considers all of the health risks and other health information considered in the first step, including the incremental risk reduction associated with standards more stringent than the MACT standard or a more stringent standard that EPA has determined is necessary to ensure risk is acceptable. In the ample margin of safety analysis, the agency considers additional factors, including costs and economic impacts of controls, technological feasibility, uncertainties and any other relevant factors. Considering all of these factors, the agency will establish the standard at a level that provides an ample margin of safety to protect the public health, as required by CAA section 112(f). 54 FR 38046, September 14, 1989.

[1] ''Adverse environmental effect'' is defined as any significant and widespread adverse effect, which may be reasonably anticipated to wildlife, aquatic life or natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental qualities over broad areas. See CAA section 112(a)(7).

*B. What is this source category and how does the current NESHAP regulate its HAP emissions?*

1. Description of the Aerospace Manufacturing and Rework Facilities Source Category and Applicability.

The NESHAP for the Aerospace Manufacturing and Rework Facilities source category (henceforth referred to as the ''Aerospace NESHAP'') was promulgated on September 1, 1995 (60 FR 45956) and codified at 40 CFR part 63, subpart GG. As promulgated in 1995, the Aerospace NESHAP applies to the surface coating and related operations at each new and existing affected source of HAP emissions at facilities that are major sources and are engaged, either in part or in whole, in the manufacture or rework of commercial, civil or military aerospace vehicles or components. The requirements of the standards are nearly the same for both new and existing sources. The Aerospace NESHAP (40 CFR 63.742) defines ''aerospace vehicle or component'' as ''any fabricated part, processed part, assembly of parts or completed unit, with the exception of electronic components, of any aircraft, including, but not limited to airplanes, helicopters, missiles, rockets, and space vehicles.'' Today, we estimate that 144 facilities are subject to the Aerospace NESHAP. A complete list of facilities subject to the Aerospace NESHAP is available in the Aerospace RTR database, which is available for review in the docket for this proposed rulemaking. Section 63.741(c) defines each affected source in the Aerospace Manufacturing and Rework Facilities source category, and a facility could have a combination of both new and existing affected sources. However, the emission standards for new and existing affected sources are the same for nearly all operations within subpart GG. The exceptions are the filter efficiency requirements to control inorganic HAP emissions from primer and topcoat spray application operations in 40 CFR 63.745 and for dry media blasting operations in 40 CFR 63.746 and the requirements for controls to reduce organic HAP emissions from chemical depainting operations in 40 CFR 63.746(c).

The Aerospace NESHAP applies to organic HAP emissions from cleaning operations, depainting operations, primer application operations, topcoat application operations, chemical milling maskant application operations and the handling and storage of waste. The rule also applies to inorganic HAP emissions from primer and topcoat application operations using spray equipment and depainting operations using dry media blasting. The rule provides an exemption for primers, topcoats and chemical milling maskants used in low-volumes which is defined as 189 liters (50 gallons) or less per formulation and for which the combined annual total does not exceed 757 liters (200 gallons).

The current Aerospace NESHAP explicitly excludes specialty coatings from meeting any control requirements, as specified in 40 CFR 63.741(f) and in 40 CFR 63.742 (*i.e.,* the definitions for ''exterior primer,'' ''primer,'' and ''topcoat''). Appendix A of the Aerospace NESHAP defines 59 separate categories of specialty coatings.

Although the EPA did not include emission limitations for specialty coatings in the Aerospace NESHAP finalized in 1995 or in any subsequent amendments, the EPA included VOC content limits for the 59 categories of specialty coatings in the 1997 Aerospace Control Techniques Guidelines (CTG) document.[2] The CAA requires that state implementation plans (SIPs) for certain ozone nonattainment areas be revised to require the implementation of reasonably available control technology (RACT) to control volatile organic compounds (VOC) emissions. The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. The Aerospace CTG is intended to provide state and local air pollution control authorities with an information base, recommended emissions limitations and monitoring, recordkeeping and reporting requirements for proceeding with their analyses of reasonably available control technology (RACT) for their own regulations to reduce VOC emissions from aerospace surface coating operations.

2. Organic and Inorganic HAP Emission Sources

Organic HAP emissions from cleaning and depainting operations occur from the evaporation of the volatile portion of the cleaning solvents or chemical strippers. Cleaning emissions are typically fugitive in nature and occur at most processing steps. Emissions from depainting operations that occur within a booth or hangar are typically captured and exhausted through a stack, although some emissions may be fugitive in nature (*e.g.,* open tanks).

Organic HAP emissions from coating (primers, topcoats and chemical milling maskants) application operations occur from the evaporation of the solvent contained in the coatings. These emissions occur during the application of the coatings on aerospace vehicles or parts, which may take place in large open areas, such as hangars or in partially or fully enclosed spaces, such as within spray booths.

Organic HAP emissions from waste occur from evaporation of the volatile portion of the waste while it is being handled or stored. These emissions are fugitive in nature, occurring from each waste container.

Some coatings contain compounds that are inorganic HAP. Inorganic HAP emissions from coatings occur during the application of the coating if it is applied using spray guns. These inorganic HAP emissions are paint particulates, commonly referred to as ''overspray,'' that do not adhere to the surface being coated. Like the organic HAP emissions from the operations, the emissions of the inorganic HAP may occur in large open areas, such as hangars or in partially or fully enclosed spaces, such as within spray booths. However, coatings that contain inorganic HAP are typically applied in spray booths equipped with exhaust filters to capture paint overspray. Inorganic HAP are not emitted from coatings applied with non-spray methods, such as brushes, rollers or dip coating, because the coating is not atomized with these methods.

Inorganic HAP emissions from depainting operations may occur from non-chemical methods, such as plastic and other types of dry media blasting, used to strip an aerospace vehicle. (Chemical stripping techniques do not release inorganic HAP.) These emissions occur as particulates generated during the blasting process. The operation is typically carried out within a large hangar equipped with a ventilation system and particulate filtration device (*e.g.,* a baghouse) or in smaller enclosures, also equipped with filtration. The inorganic HAP that are released from the depainting operations are primarily found in the paint being stripped, although some stripping media may contain trace amounts of inorganic HAP.

[2] Guideline Series: Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations. Emission Standards Division, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, December 1997. Publication No. EPA–453/R–97–004.

3. Regulation of Organic and Inorganic HAP Emissions in the Aerospace NESHAP

The Aerospace NESHAP specifies numerical emission limits for organic HAP emissions from primer, topcoat, chemical milling maskant application operations and chemical depainting operations; equipment and filter efficiency requirements for dry media blasting depainting operations and spray applied coating operations; composition requirements and equipment standards for cleaning operations; and work practice standards for waste handling and storage operations.

The organic HAP emission rate for primers is 540 grams/liter (g/L) (4.5 pounds/gallon (lb/gal)) (less water) for general aviation rework facilities; 650 g/L (5.4 lb/gal) (less water) for large commercial aircraft; or 350 g/L (2.9 lb/gal) for other primers (40 CFR 63.745(c)(1) and (2)). For topcoats and self-priming topcoats the emission rate is 420 g/L (3.5 lb/gal) (less water); and 540 g/L (4.5 lb/gal) (less water) for primers and self-priming topcoats at general aviation rework facilities (40 CFR 63.745(c)(3) and (4)). Alternatively, a control system can be used to capture and control emissions from the primer or topcoat application operation (40 CFR 63.745(d)). The system must achieve an overall control efficiency of 81 percent. Further, the Aerospace NESHAP specifies which types of coating application techniques may be used (40 CFR 63.745(f)). The Aerospace NESHAP also provides operating requirements for the application of primers or topcoats that contain inorganic HAP, including control of spray booth exhaust streams with either particulate filters or waterwash systems (40 CFR 63.745(g)). The primer and topcoat limits and control requirements do not apply to specialty coatings defined in Appendix A to subpart GG.

The organic HAP emission content limits for chemical milling maskants for use with Type I chemical milling solutions is 622 g/L (5.2 lb/gal) (less water) and 160 g/L (1.3 lb/gal) (less water) for use with Type II chemical milling solutions (40 CFR 63.747(c)). Alternatively, a control system that achieves an overall control efficiency of 81 percent can be used to capture and control emissions from the maskant application operation (40 CFR 63.747(d)). These requirements do not apply to touch-up of scratched surfaces or damaged maskant and touch-up of trimmed edges.

For cleaning operations (including hand-wipe cleaning), the Aerospace NESHAP specifies that cleaning solvents meet certain composition requirements or that the cleaning solvents have a composite vapor pressure of no more than 45 millimeters mercury (mm Hg) (24.1 in. water) (40 CFR 63.744(b)). Work practice measures are also required (40 CFR 63.744(a)). Four work practice alternative techniques are specified for spray gun cleaning, and work practice standards are specified for flush cleaning operations (40 CFR 63.744(c) and (d)).

The Aerospace NESHAP also specifies requirements for depainting operations. Where there are no controls for organic HAP emissions from chemical depainting operations, the rule prohibits organic HAP emissions from chemical depainting operations, with the exception that 26 gallons of HAP-containing chemical stripper (or alternatively 190 pounds of organic HAP) may be used for each commercial aircraft stripped, or 50 gallons (or 365 pounds of organic HAP) for each military aircraft for spot stripping and decal removal (40 CFR 63.746(b)(1) through (3)). Where there are controls for organic HAP emissions from chemical depainting, emissions must be reduced by 81 percent for controls installed before the effective date, and by 95 percent for controls installed on or after the effective date (40 CFR 63.746(c)). For non-chemical depainting operations that generate inorganic HAP emissions from dry media blasting, the operation must be performed in an enclosed area or in a closed cycle depainting system and the air stream from the operation must pass through a dry filter system meeting a minimum efficiency specified in the rule, through a baghouse or through a waterwash system before being released to the atmosphere (40 CFR 63.746(b)(4)).

The handling and storage of waste that contains HAP must be conducted in a manner that minimizes spills (40 CFR 63.748).

*C. What data collection activities were conducted to support this action?*

In February 2011, the EPA issued an information collection request (ICR), pursuant to CAA section 114, to approximately 1,300 facilities that were thought to potentially own and operate Aerospace Manufacturing and Rework Facilities. Information was requested on operations subject to the Aerospace NESHAP (coatings, blast depainting operations, solvent depainting operations and solvent cleaning operations) as well as specialty coatings, chemical milling and metal finishing operations, composite processing, storage tanks and wastewater treatment. Information was also requested on booth characteristics and control devices and location coordinates (latitude and longitude) of emission stacks and operations. The ICR requested available information regarding coating and solvent usage, process equipment, control devices used, point and fugitive HAP emissions, practices used to control HAP emissions and other aspects of facility operations. A total of 87 major source facilities and 57 synthetic minor facilities responded to the survey and were included in the risk modeling analysis. The remaining facilities were either area source facilities, not aerospace manufacturing or rework facilities or closed facilities, or the ICR was returned undeliverable. We received data on coating and solvent usage, chemical milling, metal finishing, depainting operations, composite processing operations, storage tanks, wastewater treatment operations and use of add-on control devices. From these data, we were able to calculate HAP emissions for each of the major source and synthetic minor facilities that responded to the survey.

In October 2012, the EPA issued a request for stack test data under the authority of section 114 of the CAA. This request was sent to 9 parent companies for 18 facilities, requesting stack emissions testing data for selected coating operations and spray booths and blast depainting, composite processing and metal finishing operations believed to represent the various processes and capture and control configurations used by the industry. All facilities either responded to the survey or provided information indicating the operations for which we requested stack testing had been shutdown.

In September 2013, the EPA issued an additional request to the same companies requesting supplemental testing to confirm the content of the coatings used in the October 2012 stack testing. These data were used to speciate emissions for individual coatings and to develop the default chromium speciation profile for processes included in the 2011 ICR.

In May 2014, the EPA solicited industry review of the EPA's draft modeling file records (*e.g.,* estimated emissions and emission estimation methods) that were developed based on the results of the data collection efforts described above and the 2011 National Emission Inventory (NEI) and 2005 National Air Toxics Assessment (NATA) discussed in section II.D of this preamble. Of the 171 facilities contacted, 84 facilities responded. Of the 171 facilities contacted, the EPA determined that 144 are in operation

and subject to the NESHAP and 27 facilities are closed or not subject to the Aerospace NESHAP (*e.g.,* are area sources). The 144 facilities that were determined to be in operation and subject to the NESHAP are included in the model input file for the risk assessment.

*D. What other relevant background information and data are available?*

The 2011 NEI provided supplemental information for this RTR. The NEI is a database that contains information about sources that emit criteria air pollutants, their precursors and HAP. The database includes estimates of annual air pollutant emissions from point, nonpoint and mobile sources in the 50 states, the District of Columbia, Puerto Rico and the Virgin Islands. The EPA collects this information and releases an updated version of the NEI database every 3 years. The NEI includes information necessary for conducting risk modeling, including annual HAP emissions estimates from individual emission points at facilities and the related emissions release parameters. For each emission record that was needed for the model input file for the risk assessment (hereafter referred to as the ''RTR emissions dataset'') that was not available from the 2011 ICR responses, the EPA used available data in the 2011 NEI as the first alternative. The NEI emission records used included annual HAP emissions estimates for boilers, engines, chemical manufacturing processes, secondary metal production processes, heaters, soil remediation, transportation equipment, waste disposal, welding and other miscellaneous manufacturing processes that were not included in the 2011 ICR. Individual chromium emissions estimates were excluded from the modeling file if they were found to overlap with a regulated process.

The 2005 NATA also provided supplemental data for the RTR emissions dataset for this RTR. The 2005 NATA includes annual HAP emissions estimates for three Aerospace Manufacturing and Rework Facilities that are not in the 2011 NEI. These data were incorporated into the RTR emissions dataset, and include emission data for space heaters, boilers and underground fuel tanks at the facilities. Although the 2005 NATA data is outdated, we thought it important to ensure we had accounted for all the major sources in the source category and given that we did not have data on three of the facilities, EPA augmented our RTR emissions dataset with this data for three of the 144 facilities. We expect to have updated NATA soon and will consider the impact on the three sources, as appropriate. NATA is the EPA's ongoing evaluation of air toxics in the United States. The EPA developed NATA as a screening tool for state/local/tribal agencies to prioritize pollutants, emission sources and locations of interest for further study in order to gain a better understanding of population risks. NATA assessments do not incorporate refined information about emission sources, but rather use general information about sources to develop estimates of risks which are more likely to overestimate impacts than underestimate them. NATA provides estimates of the risk of cancer and other serious health effects from breathing (inhaling) air toxics in order to inform both national and more localized efforts to identify and prioritize air toxics, emission source types and locations which are of greatest potential concern in terms of contributing to population risk.

*E. What litigation is related to this proposed action?*

In 2007, the United States Court of Appeals for the District of Columbia Circuit found that the EPA had erred in establishing emissions standards for sources of HAP in the NESHAP for Brick and Structural Clay Products Manufacturing and Clay Ceramics Manufacturing, 67 FR 26690 (May 16, 2003), and consequently vacated the rules.[3] Among other things, the court found EPA erred by failing to regulate processes that emitted HAP, in some instances by establishing a MACT floor of ''no control.'' In this action we are proposing to correct the same error in the Aerospace NESHAP by proposing to remove the exemption for specialty coatings found at 40 CFR 63.741(f) and instead add limits for specialty coatings (including adhesives, adhesive bonding primers and sealants).

In a separate case, the court vacated portions of two provisions in the EPA's CAA section 112 regulations that govern emissions of HAP during periods of SSM.[4] Specifically, the court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously. In this action, we are also proposing to revise these provisions for Aerospace Manufacturing and Rework Facilities operations, as discussed in section IV.E.2 of this preamble.

## III. Analytical Procedures

In this section, we describe the analyses performed to support the proposed decisions for the RTR and other issues addressed in this proposal.

*A. How did we estimate post-MACT risks posed by the source category?*

The EPA conducted a risk assessment that provides estimates of the MIR posed by the HAP emissions from each source in the source category, the hazard index (HI) for chronic exposures to HAP with the potential to cause non-cancer health effects and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause non-cancer health effects. The assessment also provides estimates of the distribution of cancer risks within the exposed populations, cancer incidence and an evaluation of the potential for adverse environmental effects. The seven sections that follow this paragraph describe how we estimated emissions and conducted the risk assessment. The docket for this rulemaking contains the following document that provides more information on the risk assessment inputs and models: *Residual Risk Assessment for the Aerospace Manufacturing and Rework Facilities Source Category in Support of the January, 2015 Risk and Technology Review Proposal, January 2015.* The methods used to assess risks (as described in the primary steps below) are consistent with those peer-reviewed by a panel of the EPA's Science Advisory Board (SAB) in 2009 and described in their peer review report issued in 2010;[5] they are also consistent with the key recommendations contained in that report.

1. How did we estimate actual emissions and identify the emissions release characteristics?

Data for 144 Aerospace Manufacturing and Rework Facilities were used to create the RTR emissions dataset, as described in section II.C of this preamble. The emissions sources included in the RTR emissions dataset includes the following types of sources currently regulated by the Aerospace NESHAP: Primer/topcoat application operations, waste handling operations, chemical milling maskant application

[3] *Sierra Club* v. *EPA,* 479 F. 3d 875 (D.C. Cir. March 13, 2007).

[4] *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), cert. denied, 130 S. Ct 1735 (2010).

[5] U.S. EPA SAB. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing,* May 2010.

operations, cleaning operations and chemical and blast depainting operations. The RTR emissions dataset also includes the following types of sources not currently regulated by the Aerospace NESHAP: Specialty coatings, composite processing, chemical milling and metal finishing, wastewater, storage tanks, boilers, engines, chemical manufacturing processes, secondary metal production processes, heaters, soil remediation, transportation equipment, waste disposal, welding and other miscellaneous manufacturing processes. These emission sources include both fugitive emissions and stack emissions. This RTR emissions dataset is based primarily on data gathered through the CAA section 114 questionnaire, as described in section II.C of this preamble. This dataset was supplemented with data received from the 2012 ICR for stack testing data and the 2013 request for information on coatings analyses (as described in section II.C of this preamble), the 2011 NEI (as described in section II.D of this preamble) and the 2005 NATA (as described in section II.D of this preamble). The sources noted above provided all of the emissions data in the RTR emissions dataset and nearly all of the facility specific data needed to conduct the risk modeling analysis. However, there were limited instances where default values were used to fill gaps in the facility-specific data used in the risk modeling analysis. Examples of default values used to fill these data gaps were default values used for stack height and other release point parameters, and percentages used to segregate mercury and chromium compounds into separate species. Use of defaults is discussed in detail in the memorandum, *Aerospace Manufacturing and Rework Facilities RTR Modeling File Preparation,* December 2014, available in the docket for this action (Modeling File Preparation Memo).

The RTR emissions dataset was refined following an extensive quality assurance check of source locations, emission release characteristics and annual emission estimates. We checked the coordinates of each emission source in the dataset using ArcGIS to ensure the emission point locations were correct. Also, as discussed in section II.C of this preamble, in May 2014, the EPA solicited industry review of the dataset and made corrections, as needed. For further information on the EPA's quality assurance review, see the Modeling File Preparation Memo available in the docket for this action.

A list of the 144 facilities and additional information used to develop the RTR emissions dataset is available in the Aerospace RTR database, and documentation on the development of this database is provided in the Modeling File Preparation Memo, both of which are available in the docket for this action.

2. How did we estimate MACT-allowable emissions?

The available emissions data in the RTR emissions dataset include estimates of the actual mass of HAP emitted during the specified annual time period. In some cases, these ''actual'' emission levels are lower than the emission levels required to comply with the MACT standards. The emissions level allowed to be emitted by the MACT standards is referred to as the ''MACT-allowable'' emissions level. We discussed the use of both MACT-allowable and actual emissions in the final Coke Oven Batteries residual risk rule (70 FR 19998–19999, April 15, 2005) and in the proposed and final Hazardous Organic NESHAP residual risk rules (71 FR 34428, June 14, 2006 and 71 FR 76609, December 21, 2006, respectively). In those previous actions, we noted that assessing the risks at the MACT-allowable level is inherently reasonable since these risks reflect the maximum level facilities could emit and still comply with national emission standards. We also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP approach. (54 FR 38044, September 14, 1989.)

We used the RTR emissions dataset discussed in section III.A.1 of this preamble to estimate MACT-allowable emissions levels. Facilities were asked to provide a multiplier in the 2011 ICR survey to scale up average hourly emissions to maximum hourly emissions for air dispersion modeling, given that each facility typically has a large number of emission points and it would be difficult to determine the maximum hourly emissions from each emission point. Many of the facilities reported multipliers that were based on, for example, scaling production from 2,000 hours to 8,760 hours per year or from one shift per day to three shifts. However, using these values would have led to unrealistically high ''allowable'' emission values because of limitations in the market for new aerospace vehicles and for rework services, and because many facilities have permit restrictions on their total annual emissions. Therefore, the EPA did not use maximum hourly emissions and instead chose to use a multiplier based on current and historical industry capacity utilization factors. The EPA chose to use a single multiplier of 1.02 to scale average annual emissions to allowable annual emissions. The allowable emissions multiplier is based on the difference between 2008 production utilization rate of 83.1 percent and the 20-year historical maximum production utilization rate from 1990 of 85.0 percent (85 ÷ 83.1 = 1.02). The docket for this rulemaking contains information on the development of estimated MACT-allowable emissions in the Modeling File Preparation Memo.

3. How did we conduct dispersion modeling, determine inhalation exposures and estimate individual and population inhalation risks?

Both long-term and short-term inhalation exposure concentrations and health risks from the source category addressed in this proposal were estimated using the Human Exposure Model (Community and Sector HEM–3 version 1.1.0). The HEM–3 performs three primary risk assessment activities: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources[6] and (3) estimating individual and population-level inhalation risks using the exposure estimates and quantitative dose-response information.

The air dispersion model used in the analysis, the AERMOD model, is one of the EPA's preferred models for assessing pollutant concentrations from industrial facilities.[7] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3 draws on three data libraries. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year (2011) of hourly surface and upper air observations for more than 800 meteorological stations, selected to provide coverage of the United States and Puerto Rico. A second library of United States Census Bureau census block[8] internal point locations and populations provides the basis of human exposure calculations (U.S. Census, 2010). In addition, for each census block, the census library

[6] This metric comes from the Benzene NESHAP. See 54 FR 38046.

[7] U.S. EPA. *Revision to the Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

[8] A census block is the smallest geographic area for which census statistics are tabulated.

includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant unit risk factors and other health benchmarks is used to estimate health risks. These risk factors and health benchmarks are the latest values recommended by the EPA for HAP and other toxic air pollutants. These values are available at: *http://www.epa.gov/ttn/atw/toxsource/summary.html* and are discussed in more detail later in this section.

In developing the risk assessment for chronic exposures, we used the estimated annual average ambient air concentrations of each HAP emitted by each source for which we have emissions data in the source category. The air concentrations at each nearby census block centroid were used as a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. We calculated the MIR for each facility as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week and 52 weeks per year for a 70-year period) exposure to the maximum concentration at the centroid of inhabited census blocks. Individual cancer risks were calculated by multiplying the estimated lifetime exposure to the ambient concentration of each of the HAP (in micrograms per cubic meter ($\mu g/m^3$)) by its unit risk estimate (URE). The URE is an upper bound estimate of an individual's probability of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use URE values from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without IRIS values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) URE values, where available. In cases where new, scientifically credible dose response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate.

The EPA estimated incremental individual lifetime cancer risks associated with emissions from the facilities in the source category as the sum of the risks for each of the carcinogenic HAP (including those classified as carcinogenic to humans, likely to be carcinogenic to humans and suggestive evidence of carcinogenic potential [9]) emitted by the modeled sources. Cancer incidence and the distribution of individual cancer risks for the population within 50 km of the sources were also estimated for the source category as part of this assessment by summing individual risks. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044, September 14, 1989) and the limitations of Gaussian dispersion models, including AERMOD.

To assess the risk of non-cancer health effects from chronic exposures, we summed the HQ for each of the HAP that affects a common target organ system to obtain the HI for that target organ system (or target organ-specific HI, TOSHI). The HQ is the estimated exposure divided by the chronic reference value, which is a value selected from one of several sources. First, the chronic reference level can be the EPA reference concentration (RfC) (*http://www.epa.gov/riskassessment/glossary.htm*), defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime.'' Alternatively, in cases where an RfC from the EPA's IRIS database is not available or where the EPA determines that using a value other than the RfC is appropriate, the chronic reference level can be a value from the following prioritized sources: (1) The Agency for Toxic Substances and Disease Registry (ATSDR) Minimum Risk Level (*http://www.atsdr.cdc.gov/mrls/index.asp*), which is defined as ''an estimate of daily human exposure to a hazardous substance that is likely to be without an appreciable risk of adverse non-cancer health effects (other than cancer) over a specified duration of exposure''; (2) the CalEPA Chronic Reference Exposure Level (REL) (*http://www.oehha.ca.gov/air/hot_spots/pdf/HRAguidefinal.pdf*), which is defined as ''the concentration level (that is expressed in units of micrograms per cubic meter ($\mu g/m^3$) for inhalation exposure and in a dose expressed in units of milligram per kilogram-day for oral exposures), at or below which no adverse health effects are anticipated for a specified exposure duration''; or (3), as noted above, a scientifically credible dose-response value that has been developed in a manner consistent with the EPA guidelines and has undergone a peer review process similar to that used by the EPA, in place of or in concert with other values.

As mentioned above, in order to characterize non-cancer chronic effects, and in response to key recommendations from the SAB, the EPA selects dose-response values that reflect the best available science for all HAP included in RTR risk assessments.[10] More specifically, for a given HAP, the EPA examines the availability of inhalation reference values from the sources included in our tiered approach (*e.g.,* IRIS first, ATSDR second, CalEPA third) and determines which inhalation reference value represents the best available science. Thus, as new inhalation reference values become available, the EPA will typically evaluate them and determine whether they should be given preference over those currently being used in RTR risk assessments.

The EPA also evaluated screening estimates of acute exposures and risks for each of the HAP at the point of highest potential off-site exposure for each facility. To do this, the EPA estimated the risks when both the peak hourly emissions rate and worst-case dispersion conditions occur. We also assume that a person is located at the point of highest impact during that same time. In accordance with our mandate in section 112 of the CAA, we use the point of highest off-site exposure to assess the potential risk to the maximally exposed individual. The acute HQ is the estimated acute exposure divided by the acute dose-response value. In each case, the EPA calculated acute HQ values using best available, short-term dose-response values. These acute dose-response values, which are described below, include the acute REL, acute exposure guideline levels (AEGL) and emergency response planning guidelines (ERPG) for 1-hour exposure durations. As discussed below, we used conservative assumptions for emissions rates, meteorology and exposure location for our acute analysis.

[9] These classifications also coincide with the terms ''known carcinogen, probable carcinogen, and possible carcinogen,'' respectively, which are the terms advocated in the EPA's previous *Guidelines for Carcinogen Risk Assessment,* published in 1986 (51 FR 33992, September 24, 1986). Summing the risks of these individual compounds to obtain the cumulative cancer risks is an approach that was recommended by the EPA's SAB in their 2002 peer review of EPA's NATA entitled, *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory,* available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

[10] The SAB peer review of RTR Risk Assessment Methodologies is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

As described in the *CalEPA's Air Toxics Hot Spots Program Risk Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants,* an acute REL value (*http://www.oehha.ca.gov/air/pdf/acuterel.pdf*) is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.'' *Id.* at page 2. Acute REL values are based on the most sensitive, relevant, adverse health effect reported in the peer-reviewed medical and toxicological literature. Acute REL values are designed to protect the most sensitive individuals in the population through the inclusion of margins of safety. Because margins of safety are incorporated to address data gaps and uncertainties, exceeding the REL does not automatically indicate an adverse health impact.

AEGL values were derived in response to recommendations from the National Research Council (NRC). As described in *Standing Operating Procedures (SOP) of the National Advisory Committee on Acute Exposure Guideline Levels for Hazardous Substances* (*http://www.epa.gov/oppt/aegl/pubs/sop.pdf*),[11] ''the NRC's previous name for acute exposure levels—community emergency exposure levels—was replaced by the term AEGL to reflect the broad application of these values to planning, response and prevention in the community, the workplace, transportation, the military and the remediation of Superfund sites.'' *Id.* at 2. This document also states that AEGL values ''represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to eight hours.'' *Id.* at 2.

The document lays out the purpose and objectives of AEGL by stating that ''the primary purpose of the AEGL program and the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances is to develop guideline levels for once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' *Id.* at 21. In detailing the intended application of AEGL values, the document states that ''[i]t is anticipated that the AEGL values will be used for regulatory and nonregulatory purposes by U.S. federal and state agencies and possibly the international community in conjunction with chemical emergency response, planning and prevention programs. More specifically, the AEGL values will be used for conducting various risk assessments to aid in the development of emergency preparedness and prevention plans, as well as real-time emergency response actions, for accidental chemical releases at fixed facilities and from transport carriers.'' *Id.* at 31.

The AEGL–1 value is then specifically defined as ''the airborne concentration (expressed as ppm (parts per million) or $mg/m^3$ (milligrams per cubic meter)) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic nonsensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' *Id.* at 3. The document also notes that, ''Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and nondisabling odor, taste, and sensory irritation or certain asymptomatic, nonsensory effects.'' *Id.* Similarly, the document defines AEGL–2 values as ''the airborne concentration (expressed as parts per million or milligrams per cubic meter) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.'' *Id.*

ERPG values are derived for use in emergency response, as described in the American Industrial Hygiene Association's Emergency Response Planning Committee document titled, *ERPGS Procedures and Responsibilities* (*http://sp4m.aiha.org/insideaiha/GuidelineDevelopment/ERPG/Documents/ERP-SOPs2006.pdf*), which states that, ''Emergency Response Planning Guidelines were developed for emergency planning and are intended as health based guideline concentrations for single exposures to chemicals.'' [12] *Id.* at 1. The ERPG–1 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' *Id.* at 2. Similarly, the ERPG–2 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to one hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.'' *Id.* at 1.

As can be seen from the definitions above, the AEGL and ERPG values include the similarly defined severity levels 1 and 2. For many chemicals, a severity level 1 value AEGL or ERPG has not been developed because the types of effects for these chemicals are not consistent with the AEGL–1/ERPG–1 definitions; in these instances, we compare higher severity level AEGL–2 or ERPG–2 values to our modeled exposure levels to screen for potential acute concerns. When AEGL–1/ERPG–1 values are available, they are used in our acute risk assessments.

Acute REL values for 1-hour exposure durations are typically lower than their corresponding AEGL–1 and ERPG–1 values. Even though their definitions are slightly different, AEGL–1 values are often the same as the corresponding ERPG–1 values, and AEGL–2 values are often equal to ERPG–2 values. Maximum HQ values from our acute screening risk assessments typically result when basing them on the acute REL value for a particular pollutant. In cases where our maximum acute HQ value exceeds 1, we also report the HQ value based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1 value).

To develop screening estimates of acute exposures in the absence of hourly emissions data, generally we first develop estimates of maximum hourly emissions rates by multiplying the average actual annual hourly emissions rates by a default factor to cover routinely variable emissions. We choose the factor to use partially based on process knowledge and engineering judgment. The factor chosen also reflects a Texas study of short-term emissions variability, which showed that most peak emission events in a heavily-industrialized four-county area (Harris, Galveston, Chambers and Brazoria Counties, Texas) were less than twice the annual average hourly emissions rate. The highest peak emissions event was 74 times the annual average hourly emissions rate, and the 99th percentile ratio of peak hourly emissions rate to the annual average hourly emissions rate was 9.[13] Considering this analysis, to account for more than 99 percent of the peak hourly

[11] National Academy of Sciences (NAS), 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2.

[12] *ERP Committee Procedures and Responsibilities.* November 1, 2006. American Industrial Hygiene Association.

[13] See *http://www.tceq.state.tx.us/compliance/field_ops/eer/index.html* or the docket to access the source of these data.

emissions, we apply a conservative screening multiplication factor of 10 to the average annual hourly emissions rate in our acute exposure screening assessments as our default approach. However, we use a factor other than 10 if we have information that indicates that a different factor is appropriate for a particular source category.

For this source category, the default value was not utilized. A peak 1-hour emission multiplier of 1.2 times the annual emissions was utilized for the entire source category. This value was developed from current and historical industry capacity utilization factors. The emissions from this category are generally dependent on the amount of HAP in the coatings and the amount of coating applied, and would only vary in a significant manner if production increased. Therefore, the EPA based the acute emissions multiplier on potential changes in production. The acute emissions multiplier is based on the difference between 2008 production utilization rate of 83.1 percent and the maximum production utilization rate of 100 percent, which has not been realized in 20 years of historical data (100 ÷ 83.1 = 1.2). The docket for this rulemaking contains information on the development of estimated MACT-acute emissions in the Modeling File Preparation Memo. A further discussion of why this factor was chosen can be found in Appendix 1 of the Modeling File Preparation Memo, available in the docket for this rulemaking.

As part of our acute risk assessment process, for cases where acute HQ values from the screening step were less than or equal to 1 (even under the conservative assumptions of the screening analysis), acute impacts were deemed negligible and no further analysis was performed. In cases where an acute HQ from the screening step was greater than 1, additional site-specific data were considered to develop a more refined estimate of the potential for acute impacts of concern. For this source category, the data refinements employed consisted of evaluating the off-site extent of any exceedances of the acute health benchmarks. These refinements are discussed more fully in the Modeling File Preparation Memo, which is available in the docket for this source category. Ideally, we would prefer to have continuous measurements over time to see how the emissions vary by each hour over an entire year. Having a frequency distribution of hourly emissions rates over a year would allow us to perform a probabilistic analysis to estimate potential threshold exceedances and their frequency of occurrence. Such an evaluation could include a more complete statistical treatment of the key parameters and elements adopted in this screening analysis. Recognizing that this level of data is rarely available, we instead rely on the multiplier approach.

To better characterize the potential health risks associated with estimated acute exposures to HAP, and in response to a key recommendation from the SAB's peer review of the EPA's RTR risk assessment methodologies,[14] we generally examine a wider range of available acute health metrics (*e.g.,* RELs, AEGLs) than we do for our chronic risk assessments. This is in response to the SAB's acknowledgement that there are generally more data gaps and inconsistencies in acute reference values than there are in chronic reference values. In some cases, when Reference Value Arrays [15] for HAP have been developed, we consider additional acute values (*i.e.,* occupational and international values) to provide a more complete risk characterization.

4. How did we conduct the multipathway exposure and risk screening?

The EPA conducted a screening analysis examining the potential for significant human health risks due to exposures via routes other than inhalation (*i.e.,* ingestion). We first determined whether any sources in the Aerospace Manufacturing and Rework Facilities source category emitted any HAP known to be persistent and bioaccumulative in the environment (PB–HAP). The PB–HAP compounds or compound classes are identified for the screening from the EPA's Air Toxics Risk Assessment Library (available at *http://www2.epa.gov/fera/risk-assessment-and-modeling-air-toxics-risk-assessment-reference-library*).

For the Aerospace Manufacturing and Rework Facilities source category, we identified emissions of cadmium, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury) and lead compounds. Because one or more of these PB–HAP are emitted by at least one facility in the Aerospace Manufacturing and Rework Facilities source category, we proceeded to the next step of the evaluation. In this step, we determined whether the facility-specific emissions rates of the emitted PB–HAP were large enough to create the potential for significant non-inhalation human health risks under reasonable worst-case conditions. To facilitate this step, we developed emissions rate screening levels for several PB–HAP using a hypothetical upper-end screening exposure scenario developed for use in conjunction with the EPA's Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure (TRIM.FaTE) model. The PB–HAP with emissions rate screening levels are: Lead, cadmium, chlorinated dibenzodioxins and furans, mercury compounds and POM. We conducted a sensitivity analysis on the screening scenario to ensure that its key design parameters would represent the upper end of the range of possible values, such that it would represent a conservative, but not impossible scenario. The facility-specific emissions rates of these PB–HAP were compared to the emission rate screening levels for these PB–HAP to assess the potential for significant human health risks via non-inhalation pathways. We call this application of the TRIM.FaTE model the Tier 1 TRIM-screen or Tier 1 screen.

For the purpose of developing emissions rates for our Tier 1 TRIM-screen, we derived emission levels for these PB–HAP (other than lead compounds) at which the maximum excess lifetime cancer risk would be 1-in-1 million (*i.e.,* for polychlorinated dibenzodioxins and furans and POM) or, for HAP that cause non-cancer health effects (*i.e.,* cadmium compounds and mercury compounds), the maximum HQ would be 1. If the emissions rate of any PB–HAP included in the Tier 1 screen exceeds the Tier 1 screening emissions rate for any facility, we conduct a second screen, which we call the Tier 2 TRIM-screen or Tier 2 screen.

In the Tier 2 screen, the location of each facility that exceeded the Tier 1 emission rate is used to refine the assumptions associated with the environmental scenario while maintaining the exposure scenario assumptions. A key assumption that is part of the Tier 1 screen is that a lake is located near the facility; we confirm the existence of lakes near the facility as part of the Tier 2 screen. We then adjust the risk-based Tier 1 screening level for each PB–HAP for each facility based on an understanding of how exposure concentrations estimated for the screening scenario change with meteorology and environmental assumptions. PB–HAP emissions that do

[14] The SAB peer review of RTR Risk Assessment Methodologies is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

[15] U.S. EPA. (2009) Chapter 2.9, Chemical Specific Reference Values for Formaldehyde, in *Graphical Arrays of Chemical-Specific Health Effect Reference Values for Inhalation Exposures* (Final Report). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/061, and available online at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=211003.*

not exceed these new Tier 2 screening levels are considered to pose no unacceptable risks. If the PB–HAP emissions for a facility exceed the Tier 2 screening emissions rate and data are available, we may decide to conduct a more refined Tier 3 multipathway assessment. There are several analyses that can be included in a Tier 3 screen depending upon the extent of refinement warranted, including validating that the lake is fishable and considering plume-rise to estimate emissions lost above the mixing layer. If the Tier 3 screen is exceeded, the EPA may further refine the assessment.

In evaluating the potential multipathway risk from emissions of lead compounds, rather than developing a screening emissions rate for them, we compared maximum estimated chronic inhalation exposures with the level of the current National Ambient Air Quality Standard (NAAQS) for lead.[16] Values below the level of the primary (health-based) lead NAAQS were considered to have a low potential for multipathway risk.

For further information on the multipathway analysis approach, see the *Residual Risk Assessment for the Aerospace Manufacturing and Rework Facilities Source Category in Support of the January, 2015 Risk and Technology Review Proposal,* January 2015, which is available in the docket for this action.

5. How did we conduct the environmental risk screening assessment?

a. Adverse Environmental Effect

The EPA conducts a screening assessment to examine the potential for adverse environmental effects as required under section 112(f)(2)(A) of the CAA. Section 112(a)(7) of the CAA defines ''adverse environmental effect'' as ''any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.''

b. Environmental HAP

The EPA focuses on seven HAP, which we refer to as ''environmental HAP,'' in its screening analysis: Five PB–HAP and two acid gases. The five PB–HAP are cadmium, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury) and lead compounds. The two acid gases are hydrogen chloride (HCl) and hydrogen fluoride (HF). The rationale for including these seven HAP in the environmental risk screening analysis is presented below.

HAP that persist and bioaccumulate are of particular environmental concern because they accumulate in the soil, sediment and water. The PB–HAP are taken up, through sediment, soil, water and/or ingestion of other organisms, by plants or animals (*e.g.,* small fish) at the bottom of the food chain. As larger and larger predators consume these organisms, concentrations of the PB–HAP in the animal tissues increases as does the potential for adverse effects. The five PB–HAP we evaluate as part of our screening analysis account for 99.8 percent of all PB–HAP emissions nationally from stationary sources (on a mass basis from the 2005 NEI).

In addition to accounting for almost all of the mass of PB–HAP emitted, we note that the TRIM.FaTE model that we use to evaluate multipathway risk allows us to estimate concentrations of cadmium compounds, dioxins/furans, POM and mercury in soil, sediment and water. For lead compounds, we currently do not have the ability to calculate these concentrations using the TRIM.FaTE model. Therefore, to evaluate the potential for adverse environmental effects from lead compounds, we compare the estimated HEM-modeled exposures from the source category emissions of lead with the level of the secondary NAAQS for lead.[17] We consider values below the level of the secondary NAAQS for lead to be unlikely to cause adverse environmental effects.

Due to their well-documented potential to cause direct damage to terrestrial plants, we include two acid gases, HCl and HF, in the environmental screening analysis. According to the 2005 NEI, HCl and HF account for about 99 percent (on a mass basis) of the total acid gas HAP emitted by stationary sources in the U.S. In addition to the potential to cause direct damage to plants, high concentrations of HF in the air have been linked to fluorosis in livestock. Air concentrations of these HAP are already calculated as part of the human multipathway exposure and risk screening analysis using the HEM3–AERMOD air dispersion model, and we are able to use the air dispersion modeling results to estimate the potential for an adverse environmental effect.

The EPA acknowledges that other HAP beyond the seven HAP discussed above may have the potential to cause adverse environmental effects. Therefore, the EPA may include other relevant HAP in its environmental risk screening in the future, as modeling science and resources allow. The EPA invites comment on the extent to which other HAP emitted by the source category may cause adverse environmental effects. Such information should include references to peer-reviewed ecological effects benchmarks that are of sufficient quality for making regulatory decisions, as well as information on the presence of organisms located near facilities within the source category that such benchmarks indicate could be adversely affected.

c. Ecological Assessment Endpoints and Benchmarks for PB–HAP

An important consideration in the development of the EPA's screening methodology is the selection of ecological assessment endpoints and benchmarks. Ecological assessment endpoints are defined by the ecological entity (*e.g.,* aquatic communities including fish and plankton) and its attributes (*e.g.,* frequency of mortality). Ecological assessment endpoints can be established for organisms, populations, communities or assemblages and ecosystems.

For PB–HAP (other than lead compounds), we evaluated the following community-level ecological assessment endpoints to screen for organisms directly exposed to HAP in soils, sediment and water:

- Local terrestrial communities (*i.e.,* soil invertebrates, plants) and populations of small birds and mammals that consume soil invertebrates exposed to PB–HAP in the surface soil.
- Local benthic (*i.e.,* bottom sediment dwelling insects, amphipods, isopods and crayfish) communities exposed to

[16] In doing so, EPA notes that the legal standard for a primary NAAQS—that a standard is requisite to protect public health and provide an adequate margin of safety (CAA section 109(b))—differs from the CAA section 112(f) standard (requiring among other things that the standard provide an ''ample margin of safety''). However, the lead NAAQS is a reasonable measure of determining risk acceptability (*i.e.,* the first step of the Benzene NESHAP analysis) since it is designed to protect the most susceptible group in the human population—children, including children living near major lead emitting sources (73 FR 67002/3; 73 FR 67000/3; 73 FR 67005/1). In addition, applying the level of the primary lead NAAQS at the risk acceptability step is conservative, since that primary lead NAAQS reflects an adequate margin of safety.

[17] The secondary NAAQS for lead is a reasonable measure of determining whether there is an adverse environmental effect since it was established considering ''effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

PB–HAP in sediment in nearby water bodies.

• Local aquatic (water-column) communities (including fish and plankton) exposed to PB–HAP in nearby surface waters.

For PB–HAP (other than lead compounds), we also evaluated the population-level ecological assessment endpoint to screen for indirect HAP exposures of top consumers via the bioaccumulation of HAP in food chains. The endpoint evaluated was piscivorous (*i.e.,* fish-eating) wildlife consuming PB–HAP-contaminated fish from nearby water bodies.

For cadmium compounds, dioxins/furans, POM and mercury, we identified the available ecological benchmarks for each assessment endpoint. An ecological benchmark represents a concentration of HAP (*e.g.,* 0.77 μg of HAP per liter of water) that has been linked to a particular environmental effect level (*e.g.,* a no-observed-adverse-effect level (NOAEL)) through scientific study. For PB–HAP, we identified, where possible, ecological benchmarks at the following effect levels:

• Probable effect levels (PEL): Level above which adverse effects are expected to occur frequently.

• Lowest-observed-adverse-effect level (LOAEL): The lowest exposure level tested at which there are biologically significant increases in frequency or severity of adverse effects.

• No-observed-adverse-effect levels (NOAEL): The highest exposure level tested at which there are no biologically significant increases in the frequency or severity of adverse effect.

We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. In general, the EPA sources that are used at a programmatic level (*e.g.,* Office of Water, Superfund Program) were used, if available. If not, the EPA benchmarks used in regional programs (*e.g.,* Superfund) were used. If benchmarks were not available at a programmatic or regional level, we used benchmarks developed by other federal agencies (*e.g.,* National Oceanic and Atmospheric Administration (NOAA)) or state agencies.

Benchmarks for all effect levels are not available for all PB–HAP and assessment endpoints. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we use all of the available effect levels to help us to determine whether ecological risks exist and, if so, whether the risks could be considered significant and widespread.

d. Ecological Assessment Endpoints and Benchmarks for Acid Gases

The environmental screening analysis also evaluated potential damage and reduced productivity of plants due to direct exposure to acid gases in the air. For acid gases, we evaluated the ecological assessment endpoint of local terrestrial plant communities with foliage exposed to acidic gaseous HAP in the air.

The selection of ecological benchmarks for the effects of acid gases on plants followed the same approach as for PB–HAP (*i.e.,* we examine all of the available chronic benchmarks). For HCl, the EPA identified chronic benchmark concentrations. We note that the benchmark for chronic HCl exposure to plants is greater than the reference concentration for chronic inhalation exposure for human health. This means that where the EPA includes regulatory requirements to prevent an exceedance of the reference concentration for human health, additional analyses for adverse environmental effects of HCl would not be necessary.

For HF, the EPA identified chronic benchmark concentrations for plants and evaluated chronic exposures to plants in the screening analysis. High concentrations of HF in the air have also been linked to fluorosis in livestock. However, the HF concentrations at which fluorosis in livestock occur are higher than those at which plant damage begins. Therefore, the benchmarks for plants are protective of both plants and livestock.

e. Screening Methodology

For the environmental risk screening analysis, the EPA first determined whether any facilities in the Aerospace Manufacturing and Rework Facilities source category emitted any of the seven environmental HAP. For the Aerospace Manufacturing and Rework Facilities source category, we identified emissions of five PB–HAP and two acid gases as the environmental HAP. The five PB–HAP are cadmium, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury) and lead compounds. The two acid gases are HCl and HF.

Because one or more of the seven environmental HAP evaluated are emitted by at least one facility in the source category, we proceeded to the second step of the evaluation.

f. PB–HAP Methodology

For cadmium, mercury, POM and dioxins/furans, the environmental screening analysis consists of two tiers, while lead compounds are analyzed differently as discussed earlier. In the first tier, we determined whether the maximum facility-specific emission rates of each of the emitted environmental HAP were large enough to create the potential for adverse environmental effects under reasonable worst-case environmental conditions. These are the same environmental conditions used in the human multipathway exposure and risk screening analysis.

To facilitate this step, TRIM.FaTE was run for each PB–HAP under hypothetical environmental conditions designed to provide conservatively high HAP concentrations. The model was set to maximize runoff from terrestrial parcels into the modeled lake, which in turn, maximized the chemical concentrations in the water, the sediments and the fish. The resulting media concentrations were then used to back-calculate a screening level emission rate that corresponded to the relevant exposure benchmark concentration value for each assessment endpoint. To assess emissions from a facility, the reported emission rate for each PB–HAP was compared to the screening level emission rate for that PB–HAP for each assessment endpoint. If emissions from a facility do not exceed the Tier 1 screening level, the facility ''passes'' the screen, and, therefore, is not evaluated further under the screening approach. If emissions from a facility exceed the Tier 1 screening level, we evaluate the facility further in Tier 2.

In Tier 2 of the environmental screening analysis, the emission rate screening levels are adjusted to account for local meteorology and the actual location of lakes in the vicinity of facilities that did not pass the Tier 1 screen. The modeling domain for each facility in the Tier 2 analysis consists of eight octants. Each octant contains five modeled soil concentrations at various distances from the facility (5 soil concentrations × 8 octants = total of 40 soil concentrations per facility) and one lake with modeled concentrations for water, sediment and fish tissue. In the Tier 2 environmental risk screening analysis, the 40 soil concentration points are averaged to obtain an average soil concentration for each facility for each PB–HAP. For the water, sediment and fish tissue concentrations, the highest value for each facility for each pollutant is used. If emission concentrations from a facility do not exceed the Tier 2 screening level, the facility passes the screen, and typically is not evaluated further. If emissions from a facility exceed the Tier 2 screening level, the facility does not

pass the screen and, therefore, may have the potential to cause adverse environmental effects. Such facilities are evaluated further to investigate factors such as the magnitude and characteristics of the area of exceedance.

g. Acid Gas Methodology

The environmental screening analysis evaluates the potential phytotoxicity and reduced productivity of plants due to chronic exposure to acid gases. The environmental risk screening methodology for acid gases is a single-tier screen that compares the average off-site ambient air concentration over the modeling domain to ecological benchmarks for each of the acid gases. Because air concentrations are compared directly to the ecological benchmarks, emission-based screening levels are not calculated for acid gases as they are in the ecological risk screening methodology for PB–HAP.

For purposes of ecological risk screening, the EPA identifies a potential for adverse environmental effects to plant communities from exposure to acid gases when the average concentration of the HAP around a facility exceeds the LOAEL ecological benchmark. In such cases, we further investigate factors such as the magnitude and characteristics of the area of exceedance (*e.g.,* land use of exceedance area, size of exceedance area) to determine if there is an adverse environmental effect.

For further information on the environmental screening analysis approach, see the *Residual Risk Assessment for the Aerospace Manufacturing and Rework Facilities Source Category in Support of the January, 2015 Risk and Technology Review Proposal,* January 2015, which is available in the docket for this action.

6. How did we conduct facility-wide assessments?

To put the source category risks in context, we typically examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, we examine the HAP emissions not only from the source category emission points of interest, but also emissions of HAP from all other emission sources at the facility for which we have data.

The emissions inventories developed from the 2011 and 2012 ICRs, 2011 NEI and 2005 NATA include emissions information for all emissions sources at the facilities that are part of the Aerospace Manufacturing and Rework Facilities source category. These include sources currently regulated by the Aerospace NESHAP: Primer/topcoat application operations, waste handling operations, chemical milling maskant application operations, cleaning operations and chemical and blast depainting operations. These also include emission sources not currently regulated by the Aerospace NESHAP: Specialty coatings, composite processing, chemical milling and metal finishing, wastewater, storage tanks, boilers, engines, chemical manufacturing processes, secondary metal production processes, heaters, soil remediation, transportation equipment, waste disposal, welding and other miscellaneous manufacturing processes.

We analyzed risks due to the inhalation of HAP that are emitted ''facility-wide'' for the populations residing within 50 km of each facility, consistent with the methods used for the source category analysis described above. For these facility-wide risk analyses, the modeled source category risks were compared to the facility-wide risks to determine the portion of facility-wide risks that could be attributed to the source category addressed in this proposal. We specifically examined the facility that was associated with the highest estimate of risk and determined the percentage of that risk attributable to the source category of interest. The *Residual Risk Assessment for the Aerospace Manufacturing and Rework Facilities Source Category in Support of the January, 2015 Risk and Technology Review Proposal,* January 2015, available through the docket for this action, provides the methodology and results of the facility-wide analyses, including all facility-wide risks and the percentage of source category contribution to facility-wide risks.

7. How did we consider uncertainties in risk assessment?

In the Benzene NESHAP, we concluded that risk estimation uncertainty should be considered in our decision-making under the ample margin of safety framework. Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for this proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health protective and environmentally protective. A brief discussion of the uncertainties in the RTR emissions dataset, dispersion modeling, inhalation exposure estimates and dose-response relationships follows below. A more thorough discussion of these uncertainties is included in the *Residual Risk Assessment for the Aerospace Manufacturing and Rework Facilities Source Category in Support of the January, 2015 Risk and Technology Review Proposal,* January 2015, which is available in the docket for this action.

a. Uncertainties in the RTR Emissions Dataset

Although the development of the RTR emissions dataset involved quality assurance/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are accurate, and errors in emission estimates and other factors. The emission estimates considered in this analysis are annual totals for certain years, and they do not reflect short-term fluctuations during the course of a year or variations from year to year. The estimates of peak hourly emission rates for the acute effects screening assessment were based on an emission adjustment factor applied to the average annual hourly emission rates, which are intended to account for emission fluctuations due to normal facility operations.

b. Uncertainties in Dispersion Modeling

We recognize there is uncertainty in ambient concentration estimates associated with any model, including the EPA's recommended regulatory dispersion model, AERMOD. In using a model to estimate ambient pollutant concentrations, the user chooses certain options to apply. For RTR assessments, we select some model options that have the potential to overestimate ambient air concentrations (*e.g.,* not including plume depletion or pollutant transformation). We select other model options that have the potential to underestimate ambient impacts (*e.g.,* not including building downwash). Other options that we select have the potential to either under- or overestimate ambient levels (*e.g.,* meteorology and receptor locations). On balance, considering the directional nature of the uncertainties commonly present in ambient concentrations estimated by dispersion models, the approach we apply in the RTR assessments should yield unbiased estimates of ambient HAP concentrations.

c. Uncertainties in Inhalation Exposure

The EPA did not include the effects of human mobility on exposures in the assessment. Specifically, short-term mobility and long-term mobility between census blocks in the modeling

domain were not considered.[18] The approach of not considering short or long-term population mobility does not bias the estimate of the theoretical MIR (by definition), nor does it affect the estimate of cancer incidence because the total population number remains the same. It does, however, affect the shape of the distribution of individual risks across the affected population, shifting it toward higher estimated individual risks at the upper end and reducing the number of people estimated to be at lower risks, thereby increasing the estimated number of people at specific high risk levels (*e.g.,* 1-in-10 thousand or 1-in-1 million).

In addition, the assessment predicted the chronic exposures at the centroid of each populated census block as surrogates for the exposure concentrations for all people living in that block. Using the census block centroid to predict chronic exposures tends to over-predict exposures for people in the census block who live farther from the facility and under-predict exposures for people in the census block who live closer to the facility. Thus, using the census block centroid to predict chronic exposures may lead to a potential understatement or overstatement of the true maximum impact, but is an unbiased estimate of average risk and incidence. We reduce this uncertainty by analyzing large census blocks near facilities using aerial imagery and adjusting the location of the block centroid to better represent the population in the block, as well as adding additional receptor locations where the block population is not well represented by a single location.

The assessment evaluates the cancer inhalation risks associated with pollutant exposures over a 70-year period, which is the assumed lifetime of an individual. In reality, both the length of time that modeled emission sources at facilities actually operate (*i.e.,* more or less than 70 years) and the domestic growth or decline of the modeled industry (*i.e.,* the increase or decrease in the number or size of domestic facilities) will influence the future risks posed by a given source or source category. Depending on the characteristics of the industry, these factors will, in most cases, result in an overestimate both in individual risk levels and in the total estimated number of cancer cases. However, in the unlikely scenario where a facility maintains, or even increases, its emissions levels over a period of more than 70 years, residents live beyond 70 years at the same location, and the residents spend most of their days at that location, then the cancer inhalation risks could potentially be underestimated. However, annual cancer incidence estimates from exposures to emissions from these sources would not be affected by the length of time an emissions source operates.

The exposure estimates used in these analyses assume chronic exposures to ambient (outdoor) levels of pollutants. Because most people spend the majority of their time indoors, actual exposures may not be as high, depending on the characteristics of the pollutants modeled. For many of the HAP, indoor levels are roughly equivalent to ambient levels, but for very reactive pollutants or larger particles, indoor levels are typically lower. This factor has the potential to result in an overestimate of 25 to 30 percent of exposures.[19]

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that the EPA conducts as part of the risk review under section 112 of the CAA that should be highlighted. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology and the presence of humans at the location of the maximum concentration. In the acute screening assessment that we conduct under the RTR program, we assume that peak emissions from the source category and worst-case meteorological conditions co-occur, thus, resulting in maximum ambient concentrations. These two events are unlikely to occur at the same time, making these assumptions conservative. We then include the additional assumption that a person is located at this point during this same time period. For this source category, these assumptions would tend to be worst-case actual exposures as it is unlikely that a person would be located at the point of maximum exposure during the time when peak emissions and worst-case meteorological conditions occur simultaneously.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and non-cancer effects from both chronic and acute exposures. Some uncertainties may be considered quantitatively, and others generally are expressed in qualitative terms. We note as a preface to this discussion a point on dose-response uncertainty that is brought out in the EPA's *2005 Cancer Guidelines;* namely, that ''the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective'' (*EPA 2005 Cancer Guidelines,* pages 1–7). This is the approach followed here as summarized in the next several paragraphs. A complete detailed discussion of uncertainties and variability in dose-response relationships is given in the *Residual Risk Assessment for the Aerospace Manufacturing and Rework Facilities Source Category in Support of the January, 2015 Risk and Technology Review Proposal,* January 2015, which is available in the docket for this action.

Cancer URE values used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk. That is, they represent a ''plausible upper limit to the true value of a quantity'' (although this is usually not a true statistical confidence limit).[20] In some circumstances, the true risk could be as low as zero; however, in other circumstances the risk could be greater.[21] When developing an upper bound estimate of risk and to provide risk values that do not underestimate risk, health-protective default approaches are generally used. To err on the side of ensuring adequate health protection, the EPA typically uses the upper bound estimates rather than lower bound or central tendency estimates in our risk assessments, an approach that may have limitations for other uses (*e.g.,* priority-setting or expected benefits analysis).

Chronic non-cancer RfC and reference dose (RfD) values represent chronic exposure levels that are intended to be health-protective levels. Specifically, these values provide an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure (RfC) or a daily oral exposure (RfD) to the human population

[18] Short-term mobility is movement from one micro-environment to another over the course of hours or days. Long-term mobility is movement from one residence to another over the course of a lifetime.

[19] U.S. EPA. *National-Scale Air Toxics Assessment for 1996.* EPA 453/R–01–003; January 2001; page 85.

[20] IRIS glossary (*http://www.epa.gov/NCEA/iris/help_gloss.htm*).

[21] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible, and which is based on maximum likelihood estimates.

(including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. To derive values that are intended to be ''without appreciable risk,'' the methodology relies upon an uncertainty factor (UF) approach (U.S. EPA, 1993, 1994) [22] [23] which considers uncertainty, variability and gaps in the available data. The UF are applied to derive reference values that are intended to protect against appreciable risk of deleterious effects. The UF are commonly default values [24] (*e.g.,* factors of 10 or 3) used in the absence of compound-specific data; where data are available, UF may also be developed using compound-specific information. When data are limited, more assumptions are needed and more UF are used. Thus, there may be a greater tendency to overestimate risk in the sense that further study might support development of reference values that are higher (*i.e.,* less potent) because fewer default assumptions are needed. However, for some pollutants, it is possible that risks may be underestimated.

While collectively termed ''UF,'' these factors account for a number of different quantitative considerations when using observed animal (usually rodent) or human toxicity data in the development of the RfC. The UF are intended to account for: (1) Variation in susceptibility among the members of the human population (*i.e.,* inter-individual variability); (2) uncertainty in extrapolating from experimental animal data to humans (*i.e.,* interspecies differences); (3) uncertainty in extrapolating from data obtained in a study with less-than-lifetime exposure (*i.e.,* extrapolating from sub-chronic to chronic exposure); (4) uncertainty in extrapolating the observed data to obtain an estimate of the exposure associated with no adverse effects; and (5) uncertainty when the database is incomplete or there are problems with the applicability of available studies.

Many of the UF used to account for variability and uncertainty in the development of acute reference values are quite similar to those developed for chronic durations, but they more often use individual UF values that may be less than 10. The UF are applied based on chemical-specific or health effect-specific information (*e.g.,* simple irritation effects do not vary appreciably between human individuals, hence a value of 3 is typically used), or based on the purpose for the reference value (see the following paragraph). The UF applied in acute reference value derivation include: (1) Heterogeneity among humans; (2) uncertainty in extrapolating from animals to humans; (3) uncertainty in lowest observed adverse effect (exposure) level to no observed adverse effect (exposure) level adjustments; and (4) uncertainty in accounting for an incomplete database on toxic effects of potential concern. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (*e.g.,* 4 hours) to derive an acute reference value at another exposure duration (*e.g.,* 1 hour).

Not all acute reference values are developed for the same purpose and care must be taken when interpreting the results of an acute assessment of human health effects relative to the reference value or values being exceeded. Where relevant to the estimated exposures, the lack of short-term dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

For a group of compounds that are unspeciated (*e.g.,* glycol ethers), we conservatively use the most protective reference value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (*e.g.,* ethylene glycol diethyl ether) that does not have a specified reference value, we also apply the most protective reference value from the other compounds in the group to estimate risk.

e. Uncertainties in the Multipathway Assessment

For each source category, we generally rely on site-specific levels of PB–HAP emissions to determine whether a refined assessment of the impacts from multipathway exposures is necessary. This determination is based on the results of a three-tiered screening analysis that relies on the outputs from models that estimate environmental pollutant concentrations and human exposures for four PB–HAP. Two important types of uncertainty associated with the use of these models in RTR risk assessments and inherent to any assessment that relies on environmental modeling are model uncertainty and input uncertainty.[25]

Model uncertainty concerns whether the selected models are appropriate for the assessment being conducted and whether they adequately represent the actual processes that might occur for that situation. An example of model uncertainty is the question of whether the model adequately describes the movement of a pollutant through the soil. This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA SAB reviews and other reviews, we are confident that the models used in the screen are appropriate and state-of-the-art for the multipathway risk assessments conducted in support of RTR.

Input uncertainty is concerned with how accurately the models have been configured and parameterized (*i.e.,* represented in terms of measurable or estimable variables) for the assessment at hand. For Tier 1 of the multipathway screen, we configured the models to avoid underestimating exposure and risk. This was accomplished by selecting upper-end values from nationally representative datasets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, lake location and size, meteorology, surface water and soil characteristics and structure of the aquatic food web. We also assume an ingestion exposure scenario and values for human exposure factors that represent reasonable maximum exposures.

In Tier 2 of the multipathway assessment, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values and we identify the actual location of lakes near the facility rather than the default lake location that we apply in Tier 1. By

[22] U.S. EPA. *Reference Dose (RfD): Description and Use in Health Risk Assessments.* Dated March 1993.

[23] U.S. EPA. *Methods for Derivation of Inhalation Reference Concentrations and Application of Inhalation Dosimetry.* EPA/600/8–90/066F. Dated October 1994.

[24] According to the NRC report, *Science and Judgment in Risk Assessment* (NRC, 1994) ''[Default] options are generic approaches, based on general scientific knowledge and policy judgment, that are applied to various elements of the risk assessment process when the correct scientific model is unknown or uncertain.'' The 1983 NRC report, *Risk Assessment in the Federal Government: Managing the Process,* defined default option as ''the option chosen on the basis of risk assessment policy that appears to be the best choice in the absence of data to the contrary'' (NRC, 1983a, p. 63). Therefore, default options are not rules that bind the agency; rather, the agency may depart from them in evaluating the risks posed by a specific substance when it believes this to be appropriate. In keeping with EPA's goal of protecting public health and the environment, default assumptions are used to ensure that risk to chemicals is not underestimated (although defaults are not intended to overtly overestimate risk). See EPA, 2004, *An Examination of EPA Risk Assessment Principles and Practices,* EPA/100/B–04/001 available at: *http://www.epa.gov/osa/pdfs/ratf-final.pdf.*

[25] In the context of this discussion, the term ''uncertainty'' as it pertains to exposure and risk encompasses both *variability* in the range of expected inputs and screening results due to existing spatial, temporal and other factors, as well as *uncertainty* in being able to accurately estimate the true result.

refining the screening approach in Tier 2 to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screen. The assumptions and the associated uncertainties regarding the selected ingestion exposure scenario are the same for Tier 1 and Tier 2.

For both Tiers 1 and 2 of the multipathway assessment, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying high risks for adverse impacts.

Despite the uncertainties, when individual pollutants or facilities do screen out, we are confident that the potential for adverse multipathway impacts on human health is very low. On the other hand, when individual pollutants or facilities do not screen out, it does not mean that multipathway impacts are significant, only that we cannot rule out that possibility and that a refined multipathway analysis for the site might be necessary to obtain a more accurate risk characterization for the source category.

For further information on uncertainties and the Tier 1 and 2 screening methods, refer to Appendix 4 of Modeling File Preparation Memo.

f. Uncertainties in the Environmental Risk Screening Assessment

For each source category, we generally rely on site-specific levels of environmental HAP emissions to perform an environmental screening assessment. The environmental screening assessment is based on the outputs from models that estimate environmental HAP concentrations. The same models, specifically the TRIM.FaTE multipathway model and the AERMOD air dispersion model, are used to estimate environmental HAP concentrations for both the human multipathway screening analysis and for the environmental screening analysis. Therefore, both screening assessments have similar modeling uncertainties.

Two important types of uncertainty associated with the use of these models in RTR environmental screening assessments—and inherent to any assessment that relies on environmental modeling—are model uncertainty and input uncertainty.[26]

Model uncertainty concerns whether the selected models are appropriate for the assessment being conducted and whether they adequately represent the movement and accumulation of environmental HAP emissions in the environment. For example, does the model adequately describe the movement of a pollutant through the soil? This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA SAB reviews and other reviews, we are confident that the models used in the screen are appropriate and state-of-the-art for the environmental risk assessments conducted in support of our RTR analyses.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier 1 of the environmental screen for PB–HAP, we configured the models to avoid underestimating exposure and risk to reduce the likelihood that the results indicate the risks are lower than they actually are. This was accomplished by selecting upper-end values from nationally-representative datasets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, the location and size of any bodies of water, meteorology, surface water and soil characteristics and structure of the aquatic food web. In Tier 1, we used the maximum facility-specific emissions for the PB–HAP (other than lead compounds, which were evaluated by comparison to the secondary lead NAAQS) that were included in the environmental screening assessment and each of the media when comparing to ecological benchmarks. This is consistent with the conservative design of Tier 1 of the screen. In Tier 2 of the environmental screening analysis for PB–HAP, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values, and we identify the locations of water bodies near the facility location. By refining the screening approach in Tier 2 to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screen. To better represent widespread impacts, the modeled soil concentrations are averaged in Tier 2 to obtain one average soil concentration value for each facility and for each PB–HAP. For PB–HAP concentrations in water, sediment and fish tissue, the highest value for each facility for each pollutant is used.

For the environmental screening assessment for acid gases, we employ a single-tiered approach. We use the modeled air concentrations and compare those with ecological benchmarks.

For both Tiers 1 and 2 of the environmental screening assessment, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying potential risks for adverse environmental impacts.

Uncertainty also exists in the ecological benchmarks for the environmental risk screening analysis. We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. In general, EPA benchmarks for programmatic levels (*e.g.,* Office of Water, Superfund Program) were used if available. If not, we used EPA benchmarks used in regional programs (*e.g.,* Superfund Program). If benchmarks were not available at a programmatic or regional level, we used benchmarks developed by other agencies (*e.g.,* NOAA) or by state agencies.

In all cases (except for lead compounds, which were evaluated through a comparison to the NAAQS), we searched for benchmarks at the following three effect levels, as described in section III.A.5 of this preamble:

1. A no-effect level (*i.e.,* NOAEL).
2. Threshold-effect level (*i.e.,* LOAEL).
3. Probable effect level (*i.e.,* PEL).

For some ecological assessment endpoint/environmental HAP combinations, we could identify benchmarks for all three effect levels, but for most, we could not. In one case, where different agencies derived significantly different numbers to represent a threshold for effect, we included both. In several cases, only a single benchmark was available. In cases where multiple effect levels were

[26] In the context of this discussion, the term ''uncertainty,'' as it pertains to exposure and risk assessment, encompasses both *variability* in the range of expected inputs and screening results due to existing spatial, temporal and other factors, as well as *uncertainty* in being able to accurately estimate the true result.

available for a particular PB–HAP and assessment endpoint, we used all of the available effect levels to help us to determine whether risk exists and if the risks could be considered significant and widespread.

The EPA evaluates the following seven HAP in the environmental risk screening assessment: Cadmium, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury), lead compounds, HCl and HF, where applicable. These seven HAP represent pollutants that can cause adverse impacts for plants and animals either through direct exposure to HAP in the air or through exposure to HAP that is deposited from the air onto soils and surface waters. These seven HAP also represent those HAP for which we can conduct a meaningful environmental risk screening assessment. For other HAP not included in our screening assessment, the model has not been parameterized such that it can be used for that purpose. In some cases, depending on the HAP, we may not have appropriate multipathway models that allow us to predict the concentration of that pollutant. The EPA acknowledges that other HAP beyond the seven HAP that we are evaluating may have the potential to cause adverse environmental effects and, therefore, the EPA may evaluate other relevant HAP in the future, as modeling science and resources allow.

Further information on uncertainties and the Tier 1 and 2 environmental screening methods is provided in Appendix 5 of the document, *Technical Support Document for TRIM-Based Multipathway Tiered Screening Methodology for RTR: Summary of Approach and Evaluation.* Also, see the *Residual Risk Assessment for the Aerospace Manufacturing and Rework Facilities Source Category in Support of the January, 2015 Risk and Technology Review Proposal,* January 2015, available in the docket for this action.

*B. How did we consider the risk results in making decisions for this proposal?*

As discussed in section II.A of this preamble, in evaluating and developing standards under CAA section 112(f)(2), we apply a two-step process to address residual risk. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime [cancer] risk (MIR) [27] of approximately [1-in-10 thousand] [*i.e.,* 100-in-1 million].'' 54 FR 38045, September 14, 1989. If risks are unacceptable, the EPA must determine the emissions standards necessary to bring risks to an acceptable level without considering costs. In the second step of the process, the EPA considers whether the emissions standards provide an ample margin of safety ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.* The EPA must promulgate emission standards necessary to provide an ample margin of safety.

In past residual risk actions, the EPA considered a number of human health risk metrics associated with emissions from the categories under review, including the MIR, the number of persons in various risk ranges, cancer incidence, the maximum non-cancer HI and the maximum acute non-cancer hazard. *See, e.g.,* 72 FR 25138, May 3, 2007; 71 FR 42724, July 27, 2006. The EPA considered this health information for both actual and allowable emissions. *See, e.g.,* 75 FR 65068, October 21, 2010; 75 FR 80220, December 21, 2010; 76 FR 29032, May 19, 2011. The EPA also discussed risk estimation uncertainties and considered the uncertainties in the determination of acceptable risk and ample margin of safety in these past actions. The EPA considered this same type of information in support of this action.

The agency is considering these various measures of health information to inform our determinations of risk acceptability and ample margin of safety under CAA section 112(f). As explained in the Benzene NESHAP, ''the first step judgment on acceptability cannot be reduced to any single factor'' and, thus, ''[t]he Administrator believes that the acceptability of risk under [previous] section 112 is best judged on the basis of a broad set of health risk measures and information.'' 54 FR 38046, September 14, 1989. Similarly, with regard to the ample margin of safety determination, ''the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors.'' *Id.*

The Benzene NESHAP approach provides flexibility regarding factors the EPA may consider in making determinations and how the EPA may weigh those factors for each source category. In responding to comment on our policy under the Benzene NESHAP, the EPA explained that:

> [t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of non-cancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the *Vinyl Chloride* mandate that the Administrator ascertain an acceptable level of risk to the public by employing [her] expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in [her] judgment, believes are appropriate to determining what will 'protect the public health'.

See 54 FR at 38057, September 14, 1989. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risks. The Benzene NESHAP explained that ''an MIR of approximately 1-in-10 thousand should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an overall judgment on acceptability. Or, the Agency may find, in a particular case, that a risk that includes MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' *Id.* at 38045. Similarly, with regard to the ample margin of safety analysis, the EPA stated in the Benzene NESHAP that: ''EPA believes the relative weight of the many factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.'' *Id.* at 38061. We also consider the uncertainties associated with the various risk analyses, as discussed earlier in this preamble, in

[27] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk were an individual exposed to the maximum level of a pollutant for a lifetime.

our determinations of acceptability and ample margin of safety.

The EPA notes that it has not considered certain health information to date in making residual risk determinations. At this time, we do not attempt to quantify those HAP risks that may be associated with emissions from other facilities that do not include the source categories in question, mobile source emissions, natural source emissions, persistent environmental pollution or atmospheric transformation in the vicinity of the sources in these categories.

The agency understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. We recognize that such consideration may be particularly important when assessing non-cancer risks, where pollutant-specific exposure health reference levels (*e.g.,* RfCs) are based on the assumption that thresholds exist for adverse health effects. For example, the agency recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse non-cancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (*e.g.,* other facilities) to which an individual is exposed may be sufficient to result in increased risk of adverse non-cancer health effects. In May 2010, the SAB advised the EPA ''that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [28]

In response to the SAB recommendations, the EPA is incorporating cumulative risk analyses into its RTR risk assessments, including those reflected in this proposal. The agency is: (1) Conducting facility-wide assessments, which include source category emission points as well as other emission points within the facilities; (2) considering sources in the same category whose emissions result in exposures to the same individuals; and (3) for some persistent and bioaccumulative pollutants, analyzing the ingestion route of exposure. In addition, the RTR risk assessments have always considered aggregate cancer risk from all carcinogens and aggregate non-cancer hazard indices from all non-carcinogens affecting the same target organ system.

Although we are interested in placing source category and facility-wide HAP risks in the context of *total* HAP risks from all sources combined in the vicinity of each source, we are concerned about the uncertainties of doing so. Because of the contribution to total HAP risk from emission sources other than those that we have studied in depth during this RTR review, such estimates of total HAP risks would have significantly greater associated uncertainties than the source category or facility-wide estimates. Such aggregate or cumulative assessments would compound those uncertainties, making the assessments too unreliable.

### *C. How did we perform the technology review?*

Our technology review focused on the identification and evaluation of developments in practices, processes and control technologies that have occurred since the MACT standards were promulgated. Where we identified such developments, in order to inform our decision of whether it is ''necessary'' to revise the emissions standards, we analyzed the technical feasibility of applying these developments and the estimated costs, energy implications, non-air environmental impacts, as well as considering the emission reductions. We also considered the appropriateness of applying controls to new sources versus retrofitting existing sources.

Based on our analyses of the available data and information, we identified potential developments in practices, processes and control technologies. For this exercise, we considered any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards.
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in additional emissions reduction.
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards.
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards.
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

We reviewed a variety of data sources in our investigation of potential practices, processes or controls to consider. Among the sources we reviewed were the NESHAP for various industries that were promulgated since the MACT standards being reviewed in this action. We reviewed the regulatory requirements and/or technical analyses associated with these regulatory actions to identify any practices, processes and control technologies considered in these efforts that could be applied to emission sources in the Aerospace Manufacturing and Rework Facilities source category, as well as the costs, non-air impacts and energy implications associated with the use of these technologies. Additionally, we requested information from facilities regarding developments in practices, processes or control technology. Finally, we reviewed information from other sources, such as state and/or local permitting agency databases and industry-supported databases.

## IV. Analytical Results and Proposed Decisions

### *A. What actions are we taking pursuant to CAA sections 112(d)(2) and 112(d)(3)?*

We are not proposing any new emissions limitations to the NESHAP other than with respect to specialty coatings. In this action, we are proposing the following revisions to the Aerospace NESHAP to ensure the standards are consistent with the requirements of the CAA as interpreted by the courts: adding standards to limit organic and inorganic HAP emissions from specialty coating application operations and updating the provisions regulating emissions during periods of SSM. Additionally, we are adding an alternative compliance demonstration provision for all types of coating application operations (primers, topcoats, specialty coatings and chemical milling maskants) in certain situations. The results and proposed decisions based on the analyses performed pursuant to CAA section 112(d)(2) and (3) are presented below.

We are proposing to establish MACT standards specific to specialty coating application operations to ensure the standards are consistent with the

[28] EPA's responses to this and all other key recommendations of the SAB's advisory on RTR risk assessment methodologies (which is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf*) are outlined in a memo to this rulemaking docket from David Guinnup entitled, *EPA's Actions in Response to the Key Recommendations of the SAB Review of RTR Risk Assessment Methodologies.*

requirements of the CAA as interpreted by the courts. Under CAA section 112(d)(3), the EPA is required to promulgate emissions limits for all HAP emitted from major source categories.[29] Specialty coatings are a source of HAP emissions from the Aerospace Manufacturing and Rework Facilities source category that is not currently regulated under the Aerospace NESHAP. We are proposing organic HAP content limits to reduce organic HAP emissions and equipment and work practice standards to reduce inorganic HAP emissions associated with specialty coating application. Refer to section IV.E.1 of this preamble for a description of specialty coating application operations, associated emissions and how this emissions source is addressed in the current Aerospace NESHAP, and how the EPA established the MACT floor for specialty coating application operations. Section IV.E.1 of this preamble also includes the EPA's rationale for proposing this standard, as well as how the EPA established the MACT floor for specialty coating application operations and the estimated costs for complying with the proposed standard. The EPA is proposing to add these standards for specialty coatings because they are a source of HAP emissions from the Aerospace Manufacturing and Rework Facilities source category and EPA had not previously established MACT standards for these emissions points. These proposed changes are necessary to ensure the emissions standards are consistent with the requirements of the CAA as interpreted by the courts and are unrelated to the risk findings.

The EPA is also proposing to revise the provisions affecting periods of SSM to clarify that the emission limitations in the Aerospace NESHAP apply at all times, including during these SSM periods. Refer to section IV.E.3 of this preamble for a description of the EPA's proposed revisions to the SSM provisions for aerospace manufacturing and rework operations. These proposed changes to the SSM provisions are necessary to ensure the emissions standards are consistent with the requirements of the CAA as interpreted by the courts and are unrelated to the risk findings.

The EPA also collected emissions data and performed a risk analysis for certain emissions points outside of the source category—chemical milling and metal finishing operations, waste water operations, storage tanks and composite operations that are related to aerospace manufacturing and rework, but are not surface coating operations. The data collected for these non-surface coating operations were used to characterize the risk presented from these operations in order to estimate the total risk from the entirety of each aerospace manufacturing and rework facility. The EPA is not proposing to expand the Aerospace Manufacturing and Rework Facilities source category to include these operations, which are not surface coating operations and were not part of the original source category and which, as explained below, did not present unacceptable risks. The initial and subsequent listings of source categories for regulation under section 112 of the CAA included Aerospace Manufacturing and Rework Facilities only as a surface coating source category.[30] [31]

*B. What are the results of the risk assessment and analyses?*

1. Inhalation Risk Assessment Results

Table 2 of this preamble provides an overall summary of the results of the inhalation risk assessment.

TABLE 2—AEROSPACE MANUFACTURING AND REWORK FACILITIES INHALATION RISK ASSESSMENT RESULTS

| Maximum individual cancer risk (-in-1 million) [a] | Estimated population at increased risk levels of cancer | Estimated annual cancer incidence (cases per year) | Maximum chronic non-cancer TOSHI [b] | Maximum screening acute non-cancer HQ [c] |
|---|---|---|---|---|
| **Actual Emissions** | | | | |
| 10 | ≥ 1-in-1 million: 180,000<br>≥ 10-in-1 million: 1,500<br>≥ 100-in-1 million: 0 | 0.02 | 0.5 | $HQ_{REL}$ = 2 (ethylene glycol ethyl ether acetate). |
| **Allowable Emissions [d]** | | | | |
| 10 | ≥ 1-in-1 million: 180,000<br>≥ 10-in-1 million: 2,000<br>≥ 100-in-1 million: 0 | 0.02 | 0.5 | |

[a] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[b] Maximum TOSHI. The target organ with the highest TOSHI for the Aerospace Manufacturing and Rework Facilities source category for both actual and allowable emissions is the kidney system.
[c] See Section III.A.3 of this preamble for explanation of acute dose-response values. Acute assessments are not performed on allowable emissions.
[d] The development of allowable emission estimates can be found in the memorandum titled, *Aerospace Manufacturing and Rework Facilities RTR Modeling File Preparation,* December 2014, which is available in the docket.

The inhalation risk modeling performed to estimate risks based on actual and allowable emissions relied primarily on emissions data from the ICRs and calculations described in the memorandum titled, *Aerospace*

[29] For more details see the discussion of Sierra Club v. EPA, 479 F. 3d 875 (D.C. Cir. 2007) in section II.E of this preamble, which found that the EPA may not set ''no emissions reductions'' MACT floors.

[30] Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990. 57 FR 31576, July 17, 1992.

[31] National Emission Standards for Hazardous Air Pollutants; Revision of Initial List of Categories of Sources and Schedule for Standards Under Sections 112(c) and (e) of the Clean Air Act Amendments of 1990. 61 FR 28197, June 4, 1996.

[32] See the EPA's ''Coatings and Composites Coordinated Rule Development'' Web page at *http://www.epa.gov/ttnatw01/coat/coat.html* for a full list of surface coating-related NESHAP, and links to Web pages specific to each surface coating NESHAP.

*Manufacturing and Rework Facilities RTR Modeling File Preparation,* December 2014, which is available in the docket for this action. The results of the chronic baseline inhalation cancer risk assessment indicate that, based on estimates of current actual emissions, the MIR posed by the Aerospace Manufacturing and Rework Facilities is 10-in-1 million, with emissions of strontium chromate, from coating operations accounting for the majority of the risk. The total estimated cancer incidence from Aerospace Manufacturing and Rework Facilities based on actual emission levels is 0.02 excess cancer cases per year or one case every 50 years, with emissions of strontium chromate and chromium compounds contributing 66 percent and 15 percent, respectively, to the cancer incidence. In addition, we note that approximately 1,500 people are estimated to have cancer risks greater than or equal to 10-in-1 million, and approximately 180,000 people are estimated to have risks greater than or equal to 1-in-1 million as a result of actual emissions from this source category.

When considering MACT-allowable emissions, the MIR is estimated to be up to 10-in-1 million, driven by emissions of strontium chromate from coating operations. The estimated cancer incidence is estimated to be 0.02 excess cancer cases per year, or one excess case in every 50 years. Approximately 2,000 people are estimated to have cancer risks greater than or equal to 10-in-1 million and approximately 180,000 people are estimated to have cancer risks greater than or equal to 1-in-1 million considering allowable emissions from Aerospace Manufacturing and Rework Facilities.

The maximum modeled chronic non-cancer HI (TOSHI) value for the source category based on actual emissions is estimated to be 0.5, driven by cadmium compounds emissions from blast depainting. When considering MACT-allowable emissions, the maximum chronic non-cancer TOSHI value is estimated to be 0.5, also driven by cadmium compounds emissions from blast depainting.

2. Acute Risk Results

Our screening analysis for worst-case acute impacts based on actual emissions indicates the potential for one pollutant, ethylene glycol ethyl ether acetate, from one facility, to have HQ values above 1, based on its REL value. One hundred forty-three of the 144 Aerospace Manufacturing and Rework Facilities had an estimated worst-case HQ less than or equal to 1 for all HAP.

To better characterize the potential health risks associated with estimated worst-case acute exposures to HAP from the source category at issue and in response to a key recommendation from the SAB's peer review of the EPA's CAA section 112(f) RTR risk assessment methodologies, we examine a wider range of available acute health metrics than we do for our chronic risk assessments. This is in acknowledgement that there are generally more data gaps and inconsistencies in acute reference values than there are in chronic reference values.

By definition, the acute CalEPA REL represents a health-protective level of exposure, with no risk anticipated below those levels, even for repeated exposures; however, the health risk from higher-level exposures is unknown. Therefore, when a CalEPA REL is exceeded and an AEGL–1 or ERPG–1 level is available (*i.e.,* levels at which mild effects are anticipated in the general public for a single exposure), we have used them as a second comparative measure. Historically, comparisons of the estimated maximum off-site 1-hour exposure levels have not been typically made to occupational levels for the purpose of characterizing public health risks in RTR assessments. This is because occupational ceiling values are not generally considered protective for the general public since they are designed to protect the worker population (presumed healthy adults) for short-duration (less than 15-minute) increases in exposure. As a result, for most chemicals, the 15-minute occupational ceiling values are set at levels higher than a 1-hour AEGL–1, making comparisons to them irrelevant unless the AEGL–1 or ERPG–1 levels are also exceeded.

The worst-case maximum estimated 1-hour exposure to ethylene glycol ethyl ether acetate outside the facility fence line for the source categories is 0.3 mg/m$^3$. This estimated worst-case exposure exceeds the 1-hour REL by a factor of 2 ($HQ_{REL}$ = 2). All other HAP in this analysis have worst-case acute HQ values of 1 or less (maximum $HQ_{AEGL-1}$ = 0.02 for phenol, maximum $HQ_{ERPG-1}$ = 0.03 for phenol) indicating that they carry no potential to pose acute concerns.

In characterizing the potential for acute non-cancer impacts of concern, it is important to remember the upward bias of these exposure estimates (*e.g.,* worst-case meteorology coinciding with a person located at the point of maximum concentration during the hour) and to consider the results along with the conservative estimates used to develop peak hourly emissions as described in the Modeling File Preparation Memo (which is available in the docket for this action) for a detailed description of how the hourly emissions were developed for this source category.

3. Multipathway Risk Screening Results

Results of the worst-case Tier I screening analysis indicate that PB–HAP emissions of cadmium compounds or mercury compounds did not exceed the screening emission rates. Neither dioxins nor polycyclic aromatic hydrocarbons (PAH) are emitted by any source in the source category.

4. Environmental Risk Screening Results

As described in section III.A of this preamble, we conducted a screening-level evaluation of the potential adverse environmental risks associated with emissions of the following environmental HAP from the Aerospace Manufacturing and Rework Facilities source category: lead, mercury, cadmium, HCl and HF.

In the Tier 1 screening analysis for PB–HAP (other than lead compounds, which were evaluated differently), the individual modeled Tier 1 concentrations for mercury and cadmium did not exceed any ecological benchmark for any facility in the source category. For lead compounds, we did not estimate any exceedances of the secondary lead NAAQS.

For HF and HCl, the average modeled concentration around each facility (*i.e.,* the average concentration of all off-site data points in the modeling domain) did not exceed the ecological benchmarks. In addition, each individual modeled concentration of HCl and HF (*i.e.,* each off-site data point in the modeling domain) was below the ecological benchmarks for all facilities.

5. Facility-Wide Risk Results

The facility-wide chronic MIR and TOSHI were estimated based on emissions from all sources at the identified facilities (both MACT and non MACT sources). The results of the facility-wide assessment for cancer risks indicate that 44 facilities with aerospace manufacturing and rework processes have a facility-wide cancer MIR greater than or equal to 1-in-1 million. The maximum facility-wide cancer MIR is 20-in-1 million, primarily driven by arsenic and chromium (VI) compounds, from internal combustion engines. The maximum facility-wide TOSHI for the source category is estimated to be 0.5, primarily driven by emissions of hexamethylene-1,6-diisocyanate from specialty coatings operations.

6. What demographic groups might benefit from this regulation?

To examine the potential for any environmental justice (EJ) issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups, of the population close to the facilities. In this analysis, we evaluated the distribution of HAP-related cancer risks and non-cancer hazards from the Aerospace Manufacturing and Rework Facilities across different social, demographic and economic groups within the populations living near facilities identified as having the highest risks. The methodology and the results of the demographic analyses are included in a technical report, *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Aerospace Facilities,* available in the docket for this action.

The results of the demographic analysis are summarized in Table 3 of this preamble. These results, for various demographic groups, are based on the estimated risks from actual aerospace manufacturing and rework emissions levels for the population living within 50 km of the facilities.

TABLE 3—AEROSPACE MANUFACTURING AND REWORK FACILITIES DEMOGRAPHIC RISK ANALYSIS RESULTS

| | Nationwide | Population with cancer risk at or above 1-in-1 million due to emissions from aerospace facilities | Population with chronic hazard index above 1 due to emissions from aerospace facilities |
|---|---|---|---|
| Total Population | 312,861,265 | 179,074 | 0 |
| **Race by Percent** | | | |
| White | 72 | 64 | NA |
| All Other Races | 28 | 36 | NA |
| **Race by Percent** | | | |
| White | 72 | 64 | NA |
| African American | 13 | 19 | NA |
| Native American | 1 | 1.5 | NA |
| Other and Multiracial | 14 | 16 | NA |
| **Ethnicity by Percent** | | | |
| Hispanic | 17 | 16 | NA |
| Non-Hispanic | 83 | 84 | NA |
| **Income by Percent** | | | |
| Below Poverty Level | 14 | 19 | NA |
| Above Poverty Level | 86 | 81 | NA |
| **Education by Percent** | | | |
| Over 25 and without High School Diploma | 15 | 17 | NA |
| Over 25 and with a High School Diploma | 85 | 83 | NA |

The results of the Aerospace Manufacturing and Rework Facilities baseline risk assessment indicate that emissions from the source category expose approximately 180,000 people to a cancer risk at or above 1-in-1 million and no one is predicted to have a chronic non-cancer TOSHI greater than 1.

The analysis indicates that the percentages of the population exposed to a cancer risk greater than or equal to 1-in-1 million and living within 50 km of the 144 aerospace facilities is higher for minority populations, 36-percent exposed versus the national minority population average of 28 percent. The specific demographics of the population within 50 km of the facilities indicate potential disparities in certain demographic groups, including the ''African American'' and ''Below the Poverty Level.''

*C. What are our proposed decisions regarding risk acceptability, ample margin of safety and adverse environmental effects?*

1. Risk Acceptability

As noted in section II.A.1 of this preamble, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1 in 10 thousand.'' 54 FR 38045, September 14, 1989. For the Aerospace Manufacturing and Rework Facilities source category, we estimate, based on both actual and allowable emissions, an MIR of 10-in-1 million driven by emissions of strontium chromate from coating operations. We estimate that, based on actual emissions, about 1,500 people are estimated to have cancer risks greater than or equal to 10-in-1 million and, based on allowable emissions, about 2,000 people have cancer risks greater than or equal to 10-in-1 million. We estimate that approximately 180,000 people are estimated to have risks greater than or equal to 1-in-1 million based on both actual and allowable emissions from this source category. The total estimated incidence of cancer for this source category due to inhalation exposures, based on both actual and allowable emissions, is 0.02 excess cancer cases

per year, or 1 case in 50 years. The agency estimates that the maximum chronic non-cancer TOSHI from inhalation exposure, based on both actual and allowable emissions, from this source category, is 0.5, with cadmium compounds emissions from blast depainting accounting for the majority of the TOSHI.

The multipathway screening analysis, based upon actual emissions, indicates that PB–HAP emissions of both cadmium compounds and mercury compounds did not exceed the screening emission rates. Neither dioxins nor PAH are emitted by any source in the source category. In evaluating the potential for multipathway effects from emissions of lead, modeled maximum annual lead concentrations were compared to the secondary NAAQS for lead (0.15 $\mu g/m^3$). Results of this analysis estimate that the NAAQS for lead would not be exceeded at any off-site locations.

The screening assessment of worst-case acute inhalation impacts from baseline actual emissions indicates that the worst-case maximum estimated 1-hour exposure to ethylene glycol ethyl ether acetate outside the facility fence line exceeds the 1-hour REL by a factor of 2 ($HQ_{REL} = 2$). This exceedance was only predicted to occur in a remote, non-inhabited area just adjacent to the facility fence line for 2 hours a year. All other HAP in this analysis have worst-case acute HQ values of 1 or less (maximum $HQ_{AEGL-1} = 0.02$ for phenol, maximum $HQ_{ERPG-1} = 0.03$ for phenol) indicating that they carry no potential to pose acute concerns.

In determining whether risks are acceptable for this source category, the EPA considered all available health information including any uncertainty in risk estimates. Also, as noted above, the agency estimated risk from both actual and allowable emissions. While there are uncertainties associated with both the actual and allowable emissions, we consider the allowable emissions to be an upper bound, based on the conservative methods we used to calculate allowable emissions.

The risk results indicate that both the actual and allowable inhalation cancer risks to the individual most exposed are no greater than approximately 10-in-1 million, which is considerably less than the presumptive limit of acceptability (*i.e.,* 100-in-1 million). The maximum chronic non-cancer hazard indices for both the actual and allowable inhalation non-cancer risks to the individual most exposed of 0.5 is less than 1.

The maximum acute non-cancer HQ for all pollutants was 2 based on the REL for ethylene glycol ethyl ether acetate. This value was only predicted to occur during 2 hours per year in a remote location adjacent to a single facility's fenceline. All other acute risks are estimated to be below a noncancer HI threshold of 1.

The multipathway screening analysis indicates that PB–HAP emissions did not exceed the screening emission rates for any compound evaluated.

Considering all of the health risk information and factors discussed above, including the uncertainties discussed in section III.A.8 of this preamble, the EPA proposes that the risks at baseline are acceptable since the cancer risks are well below the presumptive limit of acceptability and the non-cancer results indicate there is minimal likelihood of adverse non-cancer health effects due to HAP emissions from this source category.

2. Ample Margin of Safety Analysis and Proposed Controls

Under the ample margin of safety analysis, we evaluate the cost and feasibility of available control technologies and other measures (including the controls, measures and costs evaluated under the technology review) that could be applied in this source category to further reduce the risks due to emissions of HAP identified in our risk assessment, as well as the health impacts of such potential additional measures. As noted in our discussion of the technology review in section III.C of this preamble, no measures (beyond those already in place or that we are proposing today under CAA sections 112 (d)(2) and (d)(3)) were identified for reducing HAP emissions from the Aerospace Manufacturing and Rework Facilities source category. Therefore, we propose that the current standards provide an ample margin of safety to protect public health.

Although the current standards were found to provide an ample margin of safety to protect public health, we are proposing additional standards under CAA sections 112(d)(2) and (3) that address previously unregulated emissions of HAP from specialty coating application operations. The additional standards are being proposed to address a deficiency in the Aerospace NESHAP as discussed previously in section II.E. of this preamble. We are proposing organic HAP and volatile organic compound (VOC) content limits for specialty coatings that are equal to the VOC content limits specified in the Aerospace CTG for specialty coatings. Facilities that do not use specialty coatings and those in nonattainment areas that are currently complying with the Aerospace CTG limits for their specialty coating operations will not have to do anything new to meet these requirements. The 74 facilities located in attainment areas that reported using specialty coatings in the 2011 ICR may not be using compliant coatings and may need to use alternative coatings, direct the emissions stream to an add-on control device or use the averaging option to demonstrate compliance with implement the standards. We are also proposing that specialty coating application operations be subject to the same equipment standards (*i.e.,* use high-efficiency application equipment) currently required for primer and topcoat application operations. Further, we are proposing to require that specialty coating application operations meet current work practice standards for primer and topcoat application operations for inorganic HAP emissions. The estimated emission reductions resulting from these proposed HAP content limits, equipment standards and work practice standards for specialty coatings are 58 tons of HAP per year. As noted above, we are proposing that the MACT standard, prior to the implementation of these proposed standards for specialty coatings, provides an ample margin of safety to protect public health. Therefore, we maintain that, after the implementation of these standards for specialty coatings, the rule will continue to provide an ample margin of safety to protect public health. Consequently, based on current information, we do not expect it will be necessary to conduct another residual risk review under CAA section 112(f) for this source category 8 years following promulgation of new emission limits and equipment and work practice standards for specialty coatings, merely due to the addition of these MACT requirements. While our decisions on risk acceptability and ample margin of safety are supported even in the absence of these reductions for specialty coatings, if we finalize the proposed requirements for these sources, they would further strengthen our conclusions that risk is acceptable with an ample margin of safety to protect public health.

Although we did not identify any new technologies, other than for specialty coatings application operations, to reduce risk for this source category, we are specifically requesting comment on whether there are additional control measures that may be able to reduce risks from the source category. We request any information on potential emission reductions of such measures, as well the cost and health impacts of

such reductions to the extent they are known.

3. Adverse Environmental Effects

Based on the results of our environmental risk screening assessment, we conclude that there is not an adverse environmental effect as a result of HAP emissions from the Aerospace Manufacturing and Rework Facilities source category. We are proposing that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect.

*D. What are the results and proposed decisions based on our technology review?*

As described in section III.C of this preamble, our technology review focused on identifying developments in practices, processes and control technologies for the Aerospace Manufacturing and Rework Facilities source category. The EPA reviewed various information sources regarding emission sources that are currently regulated by the Aerospace NESHAP, which include primer and topcoat application operations, maskant application operations, cleaning operations, chemical and blast depainting operations and waste storage and handling operations.

For the technology review, we conducted a search of the EPA's RACT/BACT/LAER Clearinghouse (RBLC) and regulatory actions (MACT standards, area sources standards and residual risk standards) subsequent to promulgation of the 1995 Aerospace NESHAP.[32] We reviewed Washington State's records of Prevention of Significant Deterioration (PSD) permits. Further, we considered numerous relevant regional and state regulations (*e.g.,* California, Missouri, Delaware and Arizona), the Ozone Transport Commission serving the Northeastern United States and state implementation plans. We reviewed the database of responses to the 2011 ICR to determine the technologies and practices reported by industry.

We reviewed these sources for information on add-on control technologies, other process equipment, work practices and procedures and process changes or pollution prevention alternatives that were not considered during development of the Aerospace NESHAP. We also looked for information on improvements in add-on control technology, other process equipment, work practices and procedures and process changes or pollution prevention alternatives that have occurred since development of the Aerospace NESHAP. Regarding process changes or pollution prevention alternatives, we searched for advancements in the use of low-HAP coatings and solvents, advancements in the use of high solids coatings and the adoption of lower VOC content limits for coatings and solvents.

The following sections summarize our technology review results for each of these emission sources.

1. Primer and Topcoat Application Operations

As defined in the Aerospace NESHAP (see 40 CFR 63.742), a coating is a material that is applied to the surface of an aerospace vehicle or component to form a decorative or functional solid film, or the solid film itself. A primer is the first layer and any subsequent layers of coating prior to the topcoat and is typically used for corrosion prevention, protection from the environment, functional fluid resistance and adhesion of subsequent coatings. A topcoat is a coating that is applied over one or more layers of a primer for appearance, identification, camouflage or protection. Specialty coatings are not included in the categories of primers or topcoats currently subject to regulation under 40 CFR 63.745.

Most aerospace coatings contain a mixture of organic solvents that may be HAP, and also inorganic pigments, such as various metal compounds, which may also be HAP. The organic HAP emissions from the application of primers and topcoats occur from the evaporation of organic solvents during mixing, application and drying. Emissions of inorganic HAP from spray-applied coating operations, typically metal compounds (*e.g.,* chromium, cadmium compounds), occur when coating particles do not adhere to the surface being coated (*i.e.,* overspray). The organic and inorganic emissions from coating application occur in large open areas, such as hangars or in partially or fully enclosed spaces, such as within spray booths.

The existing Aerospace NESHAP requires the following organic HAP and VOC content limits for uncontrolled primers and topcoats (40 CFR 63.745(c)):

- Primers: 2.9 lb/gal (less water) as applied; or 4.5 lb/gal (less water) as applied for general aviation rework facilities, or 5.4 lb/gal (less water) as applied, to large commercial aircraft components (parts or assemblies) or fully assembled, large commercial aircraft.
- Topcoats: 3.5 lb/gal (less water) as applied; or 4.5 lb/gal (less water) as applied for general aviation rework facilities.

Alternatively, a control system can be used to capture and control organic HAP and VOC emissions from the primer or topcoat application operations. The system must achieve an overall control efficiency of 81 percent of organic HAP and VOC emissions (40 CFR 63.745(d)).

In addition, the Aerospace NESHAP requires the use of one of the following coating application techniques (40 CFR 63.745(f)):

- Flow/curtain coat application.
- Dip coat application.
- Roll coating.
- Brush coating.
- Cotton-tipped swab application.
- Electrodeposition (dip) coating.
- High volume low pressure (HVLP) spraying.
- Electrostatic spray application.
- Other coating application methods that achieve emission reductions equivalent to HVLP or electrostatic spray application methods.

The Aerospace NESHAP also includes operating requirements for the application of primers or topcoats that contain inorganic HAP, including control of spray booth exhaust streams with either particulate filters or waterwash spray booths (40 CFR 63.745(g)).

Based on the technology review for primers and topcoats, we did not identify any practices, processes or control technologies beyond those already required by the Aerospace NESHAP. A brief summary of the EPA's findings in conducting its RTR review of primer and topcoat application operations follows. For a detailed discussion of the EPA's findings, refer to the memorandum, *Technology Review for Primer and Topcoat Application Operations in the Aerospace Source Category,* January 2015, available in the docket for this action.

In reviewing add-on control technologies or other equipment and work practices and procedures, we did not identify any add-on control technologies, other equipment or work practices and procedures that had not previously been considered during development of the Aerospace NESHAP, nor did we identify any developments in the same since the promulgation of the NESHAP.

Based on our search of the RBLC, we did not find any more stringent requirements. We identified one facility

[32] See the EPA's ''Coatings and Composites Coordinated Rule Development'' Web page at *http://www.epa.gov/ttnatw01/coat/coat.html* for a full list of surface coating-related NESHAP, and links to Web pages specific to each surface coating NESHAP.

in Washington State, for which a Best Achievable Control Technology (BACT) analysis was completed in September 2014, for constructing new buildings needed for producing new models of large commercial airplanes, including the building and surface coating of composite aircraft wings. The surface coating operations on these aircraft wings would involve the use of primers and topcoats that are subject to the limits in 40 CFR 63.745. The BACT analysis concluded that there are no demonstrations of add-on controls at facilities performing surface coating comparable to large commercial aircraft wing components. The analysis also concluded that add-on controls would not be cost effective for surface coating of large components, such as wings, much less fully assembled large commercial aircraft.

In reviewing improvements in add-on control technologies or other equipment that had previously been considered during development of the Aerospace NESHAP, specifically in conducting a technology review of the wood manufacturing industry, we found that the Wood Furniture Manufacturing NESHAP, 40 CFR part 63, subpart JJ, requires the use of high-efficiency spray guns (*e.g.,* airless spraying, air assisted airless spraying, electrostatic spraying and HVLP spray guns) and prevents the use of conventional spray guns. Although the Aerospace NESHAP does not specifically prohibit the use of conventional spray methods, it does specify that only spray application methods that are equivalent to HVLP or electrostatic spray application methods may be used. Because conventional spray guns can be used only if they can achieve the same efficiency as HVLP or electrostatic spray application methods, the Aerospace NESHAP and the Wood Furniture Manufacturing NESHAP are essentially equivalent. No other new developments in add-on control technologies or other equipment were found.

The EPA reviewed the 2011 ICR data for advancements in the use of low-HAP liquid primers and topcoats as process changes and pollution prevention alternatives that could be transferred to and used in this source category and that were not identified and considered during development of the Aerospace NESHAP. In this review, we found some facilities with weighted-average HAP content values below the HAP and VOC content limits for primers and topcoats in the Aerospace NESHAP. However, the data collected by the ICR cannot be compared directly with the HAP and VOC content limits in the Aerospace NESHAP because the NESHAP limits are based on grams of HAP per liter of coating, less water. The ICR asked for readily available data, such as data from product sheets and material safety data sheets, which did not provide data on the water content of the coatings. As a result, we cannot accurately convert the reported HAP contents from the ICR to the same basis as in the Aerospace NESHAP. Moreover, we believe that if the coatings in the ICR contained water and the water content of the coatings is removed, then the corrected HAP content of the coatings would increase and the apparent difference between the ICR data and the NESHAP limits would be reduced.

Finally, many of the currently used coatings have already been reformulated to meet the current MACT HAP content limits. Manufacturers of aerospace vehicles are constrained to using certain types of primers and topcoats based on the market segment for which the coating is intended (*i.e.,* military original equipment manufacturer (OEM), military rework, commercial OEM or commercial rework) and the unique circumstances and design considerations within each market segment. In addition to being regulated by the Aerospace NESHAP, aerospace vehicle manufacturing and rework operations are also regulated by the Federal Aviation Administration (FAA), the Department of Defense and specific customer requirements. As outlined in the EPA's 1998 promulgation of amendments to the Aerospace NESHAP,[33] affected sources must comply with FAA Airworthiness Directives (AD) that can potentially require the use of chemicals containing HAP, and affected sources may have to obtain alternative means of compliance for AD to allow for the substitution of non-HAP materials. These multiple regulations can result in lengthy processes for qualifying new paint systems.

Based on a finding of no new developments in practices, processes and control technologies in the technology review for primer and topcoat application operations, we are not proposing to revise the Aerospace NESHAP HAP and VOC content limit requirements for primer and topcoat application operations pursuant to CAA section 112(d)(6). For further discussion of the technology review results, refer to the memorandum, *Technology Review for Primer and Topcoat Application Operations in the Aerospace Source Category,* January 2015, available in the docket for this action.

[33] 63 FR 46525, September 1, 1998.

2. Chemical Milling Maskant Application Operations

In the process of chemical milling, an etchant solution is used to chemically reduce the thickness of selected areas of metal parts. The process is typically used when the size or shape of the part precludes mechanical milling or when chemical milling is advantageous due to shorter processing time or its batch capability. Before chemical milling, a maskant is applied to the part, allowed to cure and is then removed from selected areas of the part where metal is to be removed by the etchant. The maskant remaining on the part protects those areas from the etchant. Maskants are applied by brushing, dipping, spraying or flow coating. Organic HAP emissions occur through evaporation of the solvent in the maskant, typically toluene, xylene or perchloroethylene, as the maskant is applied and while it cures.

There are two subcategories of chemical milling maskants in the Aerospace NESHAP. Type I maskants are used with chemical milling etchants that contain dissolved sulfur and no amines, and Type II maskants are used with etchants that are strong sodium hydroxide solutions containing amines. The Aerospace NESHAP requires the following organic HAP and VOC content limits for uncontrolled chemical milling maskants (40 CFR 63.747(c)):

- Type I: 5.2 pounds organic HAP per gallon (622 g/L) less water, as applied.
- Type II: 1.3 pounds of organic HAP per gallon (160 g/L) less water, as applied.

These requirements do not apply to touch-up of scratched surfaces or damaged maskant and touch-up of trimmed edges. Alternatively, a control system can be used to capture and control emissions from the maskant application operation. The system must achieve an overall control efficiency of 81 percent (40 CFR 63.747(d)).

Based on the technology review for chemical milling maskants, we did not identify any add-on control technologies, other equipment or work practices and procedures that had not previously been considered during development of the Aerospace NESHAP. Additionally, we did not identify any improvements that could be transferred to this source category. In our search of the RBLC, we also did not find any more stringent requirements. We did find that some California air quality management districts require more stringent VOC content limits than those in the Aerospace NESHAP and have higher overall minimum control requirements for the use of add-on control technology.

However, the EPA did not find any chemical milling maskant application operations located in these two districts that are subject to these more stringent limits.

Based on a finding of no new developments in practices, processes and control technologies in this technology review, we are not proposing revisions to the Aerospace NESHAP for chemical milling maskant application operations pursuant to CAA section 112(d)(6). Refer to the memorandum, *Technology Review for Chemical Milling Maskant Application Operations in the Aerospace Source Category,* January 2015, available in the docket for this action, for more a more detailed description of the technology review results.

3. Cleaning Operations

At Aerospace Manufacturing and Rework Facilities, cleaning operations are used at essentially every processing step of aerospace surface coating, from preparing surfaces to be coated to cleaning the coating application equipment. The cleaning operations regulated by the current Aerospace NESHAP include hand-wipe cleaning, spray gun cleaning and flush cleaning, as well as housekeeping measures for storage, handling and transfer of cleaning solvents and solvent-laden materials.

The liquid cleaning solutions used in cleaning operations for the aerospace industry contain organic solvents, and some of these organic solvents are HAP. Organic HAP emissions from the cleaning operations are often fugitive in nature, resulting from the evaporation of the volatile portion of the cleaning solvent in large open areas, such as hangars. They may also be emitted from stacks when the solvents are used in partially or fully enclosed spray booths that are ventilated through stacks.

The current Aerospace NESHAP requires that hand-wipe and flush cleaning solvents meet certain composition requirements, or that the cleaning solvents have a composite vapor pressure of no more than 45 mm Hg (24.1 inches water) (40 CFR 63.744(b) and (d)). The NESHAP specifies work practice standards for spray gun cleaning (*e.g.,* cleaning a spray gun in an enclosed gun cleaning system) and flush cleaning operations (*e.g.,* for flush cleaning events, empty used cleaning solvent into an enclosed container) (40 CFR 63.744(c) and (d)). Work practice measures are also specified for the storage and handling of solvents and solvent-laden materials (*e.g.,* solvent-laden cloth, paper or other absorbent materials) (40 CFR 63.744(a)).

Based on the technology review for cleaning operations, we did not identify any practices, processes or control technologies beyond those already required by the Aerospace NESHAP that could be transferred to the source category. A brief summary of the EPA's findings in conducting its RTR review of cleaning operations follows. For a detailed discussion of the EPA's findings, refer to the memorandum, *Technology Review for Cleaning Operations in the Aerospace Source Category,* January 2015, available in the docket for this action.

In the technology review, we did not identify any improvements in add-on control technologies, other equipment or work practices and procedures since promulgation of the Aerospace NESHAP. The EPA identified one aerospace manufacturing and rework facility that routes the air flow from a spray booth to a carbon adsorption control device when performing spray gun cleaning and residual spray gun hand-wipe cleaning. We found that this was the same spray booth in which surface coating is performed, and it is not a spray booth dedicated to spray gun cleaning. Based on the results of the responses to the EPA's 2011 information collection survey for other facilities, the EPA concluded that this practice could not be applied to the source category without impacting facility operations. First, very few facilities have carbon adsorbers controlling emissions from spray booths. Second, it is not always practical to move the spray gun cleaning operations into a spray booth without affecting the surface coating operations in that spray booth because of space limitations within the booth.

The EPA also identified one aerospace manufacturing and rework facility that, for certain cleaning operations, uses a non-HAP solvent blend that has a vapor pressure of 36 mm Hg for certain cleaning operations; the facility does not use this solvent for all cleaning operations. The use of non-HAP cleaning solvent is already a compliance option that was considered in the development of the Aerospace NESHAP and is included in 40 CFR 63.744.

Based on a finding of no new developments in practices, processes and control technologies in the technology review, we are not proposing any revisions to the Aerospace NESHAP standard requirements for cleaning operations pursuant to CAA section 112(d)(6). For further discussion of the technology review results, refer to the memorandum, *Technology Review for Cleaning Operations in the Aerospace Source Category,* January 2015, available in the docket for this action.

4. Chemical and Dry Media Blasting Depainting Operations

At Aerospace Manufacturing and Rework Facilities, chemical and dry media blasting depainting operations remove unwanted or old surface coatings (*e.g.,* primers, topcoats and specialty coatings) to prepare the surface for painting. As defined in the Aerospace NESHAP, a depainting operation means the use of a chemical agent, media blasting or any other technique to remove permanent coatings from the outer surface of an aerospace vehicle or components, excluding hand and mechanical sanding or other non-chemical removal processes that do not involve blast media or other mechanisms that would result in airborne particle movement at high velocity. The depainting operation includes washing of the aerospace vehicle or component to remove residual stripper, media or coating residue. Depainting is most often done in the rework of existing aircraft, but may also be done in limited circumstances in the manufacture of new aircraft.

The liquid chemical agents (*i.e.,* strippers) used to remove permanent coatings in the aerospace industry contain organic solvents. Organic HAP emissions from strippers occur from the evaporation of the chemical stripper during mixing, application and possibly during washing of the vehicle or component to remove residual stripper. The organic emissions from depainting operations that occur within a booth or hangar are typically captured and exhausted through a stack, although some emissions may be fugitive in nature (*e.g.,* open containers of stripper).

Inorganic HAP, typically metal compounds (*e.g.,* compounds of lead, chromium or cadmium), can be emitted during dry media blasting if these compounds are present in the paint layer that is being removed. These inorganic HAP would be emitted as particulate matter as the dry media blasting removes the existing coating through abrasion.

The Aerospace NESHAP restricts facilities to using organic HAP-containing chemical strippers for only spot stripping and decal removal. The amount of stripper used for spot stripping and decal removal is limited to no more than 26 gallons of HAP-containing chemical stripper (or alternatively 190 pounds of organic HAP) for each commercial aircraft, and 50 gallons (or 365 pounds of organic HAP) for each military aircraft. As an alternative, facilities may use controls for organic HAP emissions from

chemical depainting, and emissions must be reduced by 81 percent for controls installed before the effective date, and by 95 percent for controls installed on or after the effective date (40 CFR 63.746(b)(1) through (3) and (c)).

For non-chemical depainting operations that generate inorganic HAP emissions from dry media blasting, the operation must be performed in an enclosed area or in a closed cycle depainting system and the air stream from the operation must pass through a dry filter system meeting a minimum efficiency specified in the rule, through a baghouse or through a waterwash system before being released to the atmosphere (40 CFR 63.746(b)(4)).

Based on the technology review for depainting operations, we did not identify any practices, processes or control technologies that were not already required by the Aerospace NESHAP or considered in its development, nor did we identify any improvements to those practices, processes or control technologies that could be transferred and applied to this source category. A brief summary of the EPA's findings in conducting the RTR review of chemical and dry media blast depainting operations follows. For a detailed discussion of the EPA's findings, refer to the memorandum, *Technology Review for Depainting Operations in the Aerospace Source Category,* January 2015, available in the docket for this action.

In reviewing Washington State's records of permits for Aerospace Manufacturing and Rework Facilities, we identified a 2013 PSD permit amendment that requires the VOC vapor pressure of cleaning solvents and chemical strippers used in depainting operations to be less than 45 mm Hg. The Aerospace NESHAP does not prescribe vapor pressure limits to chemical depainting strippers, but instead has capture and control and volume usage limits for chemical depainting operations that use HAP-containing chemical strippers. Otherwise, facilities must use non-HAP chemical strippers. Therefore, we believe that the Aerospace NESHAP is at least as stringent as the Washington State PSD permit requirements.

Based on a finding of no new developments in practices, processes and control technologies in the technology review, we are not proposing to revise the Aerospace NESHAP standard requirements for chemical or dry media blast depainting operations pursuant to CAA section 112(d)(6). For further discussion of the technology review results, refer to the memorandum, *Technology Review for Depainting Operations in the Aerospace Source Category,* January 2015, available in the docket for this action.

5. Waste Storage and Handling Operations

At Aerospace Manufacturing and Rework Facilities, waste is produced primarily from cleaning, coating and depainting operations. Cleaning operations produce solvent-laden cloth and paper and spent solvent which can emit organic HAP from the evaporation of the solvents. Coating operations produce waste paint and waste solvent that also emit organic HAP through evaporation.

Depainting operations can produce either a liquid or solid waste stream depending on the type of process used. Chemical depainting processes produce a waste sludge that consists of the stripper solution and paint residue. Emissions occur from the evaporation of the solvent from the stripper solution in the waste sludge.

Blast depainting processes produce a solid waste stream that consists of paint chips and particles and spent blasting media. Emissions do not directly occur from this waste stream, although particulate emissions are generated during the blasting process.

The requirements for waste storage and handling in the Aerospace NESHAP apply to each waste storage and handling operation, which is defined as the total of all waste handling and storage at the facility. In 40 CFR 63.748, the Aerospace NESHAP requires that all waste must be handled and transferred to or from containers, tanks, vats, vessels and piping systems in such a manner that spills are minimized.

Because the EPA did not want to create possible conflicts over the handling of waste between the Aerospace NESHAP and regulations under the Resource Conservation and Recovery Act (RCRA) of 1976 (Pub. L. 94–580), as implemented by 40 CFR parts 260 and 261, the Aerospace NESHAP specifically exempted wastes covered under the RCRA regulations.[34] Per 40 CFR 63.741(e), all wastes that are determined to be hazardous wastes under RCRA as implemented by 40 CFR parts 260 and 261, and that are subject to RCRA requirements as implemented in 40 CFR parts 262 through 268, are exempt from the requirements of the Aerospace NESHAP.

The practical effect of the provisions in 40 CFR 63.741(e) is that all HAP-containing wastes generated by aerospace manufacturing and rework operations are subject to RCRA and are exempt from the requirements of 40 CFR 63.748. Because all of these HAP-containing wastes are covered under RCRA and exempt from 40 CFR 63.748, there is no need to do a technology review for the standards for handling and storage of waste.

*E. What other actions are we proposing?*

In addition to the proposed actions described above, we are proposing additional revisions. As stated previously in this preamble, the United States Court of Appeals for the District of Columbia Circuit found that the EPA had erred in establishing emissions standards for sources of HAP in the NESHAP for Brick and Structural Clay Products Manufacturing and Clay Ceramics Manufacturing, 67 FR 26690 (May 16, 2003), and consequently vacated the rules.[35] Among other things, the court found EPA erred by failing to regulate processes that emitted HAP, in some instances by establishing a MACT floor of ''no control.'' In this action we are proposing to correct the same error in the Aerospace NESHAP by proposing to remove the exemption for specialty coatings found at 40 CFR 63.741(f) and instead add limits for specialty coatings (including adhesives, adhesive bonding primers and sealants).

1. Specialty Coating Application

At Aerospace Manufacturing and Rework Facilities, specialty coatings are those coatings that have additional performance criteria for specific applications that are beyond the criteria for primers, topcoats and self-priming topcoats, although specialty coatings may still meet the definition of a primer or topcoat. These additional performance criteria may include, for example, temperature or fire resistance, substrate compatibility, antireflection, temporary protection or marking, sealant properties, adhesive properties, electrical insulation, lubrication or enhanced corrosion protection (40 CFR 63.742).

Specialty coatings contain a mixture of organic solvents and/or inorganic HAP. The organic HAP emissions from the application of specialty coatings occur from the evaporation of organic solvents during mixing, application and drying. Emissions of inorganic HAP from spray-applied coating operations, typically metal compounds (*e.g.,* chromium, cadmium compounds), occur when particles do not adhere to the surface being coated (*i.e.,*

[34] See the preamble to the proposed rule, 59 FR 29216, June 6, 1994.

[35] *Sierra Club* v. *EPA,* 479 F. 3d 875 (D.C. Cir. March 13, 2007).

overspray). The organic and inorganic emissions from coating application operations occur in large open areas, such as hangars or partially or fully enclosed spaces, such as within spray booths.

The current Aerospace NESHAP explicitly excludes specialty coatings from meeting any control requirements, as specified in 40 CFR 63.741(f) and in 40 CFR 63.742 (*i.e.,* the definitions for ''exterior primer,'' ''primer,'' and ''topcoat''). Appendix A of the Aerospace NESHAP defines 59 separate categories of specialty coatings.

Although the EPA did not include emission limitations for specialty coatings in the Aerospace NESHAP finalized in 1995 or in any subsequent amendments, the EPA included VOC content limits for the 59 categories of specialty coatings in the 1997 Aerospace CTG. The Aerospace CTG is intended to provide state and local air pollution control authorities with an information base, recommended emissions limitations and monitoring, recordkeeping and reporting requirements for proceeding with their analyses of reasonably available control technology (RACT) for their own regulations to reduce VOC emissions from aerospace surface coating operations. The Aerospace CTG includes presumptive VOC limits for specialty coating operations that are based on a review of the contemporary knowledge and data concerning the technology, impacts and costs associated with various emission control techniques. During their development, the specialty coating categories and VOC limits in the CTG were also subject to a period of public comment and review, and the final CTG categories and VOC limits were revised after proposal to reflect the EPA's analysis of those comments on the proposed CTG.

In this action, we are proposing to establish standards for specialty coatings. Based on a MACT analysis for specialty coatings, we are proposing to require aerospace manufacturing and rework specialty coating application operations to achieve organic HAP content limits that are equivalent to the VOC content limits for specialty coatings included in the Aerospace CTG. As discussed previously in section IV.E.1 of this preamble, the Aerospace CTG may be adopted by state and local agencies in nonattainment areas to assist them in meeting their state implementation plan requirements. Of the 109 facilities that reported the use of specialty coatings, 35 are in nonattainment areas and likely currently complying with the specialty coating limits in the Aerospace CTG. The remaining facilities would need to take action to comply with the specialty coating application operations limits.

In the MACT analysis for specialty coatings, the EPA considered data provided in response to a comprehensive information collection request (ICR) sent out in February 2011 and consulted the EPA's RACT/BACT/LAER Clearinghouse, the California Statewide Best Available Control Technology (BACT) Clearinghouse and regional and state regulations for sources of data on control technologies and limitations. We reviewed state rules to compare the VOC limits in those rules to the VOC limits in the Aerospace CTG. This review of state rules was in addition to a review of the database of responses to the 2011 ICR and the RBLC for information on add-on control technology or other equipment, work practices and procedures and process changes or pollution prevention alternatives not identified and considered during development of the Aerospace CTG, or improvements in the same since the CTG development. A brief summary of the EPA's findings in conducting its MACT analysis of specialty coating application operations follows. For a detailed discussion of the EPA's findings, refer to the memorandum, *Maximum Achievable Control Technology for Specialty Coating Operations in the Aerospace Source Category,* January 2015, available in the docket for this action.

For specialty coatings, where there were sufficient data, the EPA compared the emissions for the best performing coatings with the Aerospace CTG limits. The results of this comparison showed that the CTG VOC limits were equivalent in performance to the best performing specialty coating. Therefore, we determined that the current Aerospace CTG limits represent MACT for specialty coatings.

Based on the results of the MACT analysis, we determined that the VOC limits in the Aerospace CTG for specialty coatings are currently being achieved by about half of all operating sources subject to the Aerospace NESHAP. The facilities complying with the CTG limits for specialty coatings are located in ozone non-attainment areas where state VOC rules have been developed based on the Aerospace CTG. From our review of industry responses to the 2011 ICR, we determined that some facilities complying with these state VOC limits employ use of add-on control devices to reduce organic HAP emissions (*i.e.,* thermal oxidizers and carbon adsorbers); however, these add-on controls are not widely used in the source category. Other facilities achieve equivalent emission reductions without add-on controls by using coatings that meet the VOC content limits.

Based on our review of state and regional regulations for specialty coating operations in the aerospace industry, we identified several cases in which limits are specified for certain specialty coating categories that are lower than the VOC content limits for the same specialty coating categories in the Aerospace CTG. These differences generally affect about one-quarter of the specialty coating categories (although each state or regional regulation may differ from the CTG in only a handful of categories), and the limits differ by less than 200 grams VOC per liter of coating. However, these state and regional rules and the Aerospace CTG differ in certain ways, such that the lower VOC limits in the state and regional rules do not represent a more stringent limit as compared to the Aerospace CTG.

First, in many cases where a state rule has a lower VOC limit than the CTG, the state rule has also added coating categories with VOC limits equal to or higher than the CTG limits. For example, one state rule has a lower limit for fuel tank coatings, but has an additional category for ''rapid cure'' fuel tank coatings that is the same as the CTG VOC limit.

Second, not all categories of specialty coatings are used at all Aerospace Manufacturing and Rework Facilities. For the specialty categories with more stringent VOC limits, the EPA does not have data to confirm that facilities exist in those jurisdictions that are using those coatings and actually have to comply with the more stringent VOC limits. These data on facilities actually using coatings subject to these more stringent limits would be needed to confirm that these more stringent limits constitute the MACT floor according to section 112(d)(3) of the CAA.

Finally, many of the areas with more stringent VOC limits than in the CTG have climates that are warmer and drier than in most other parts of the United States, and this type of climate is more conducive to the use of low-VOC coatings because it helps promote expeditious curing of the coatings under ambient conditions. In cooler and more humid areas, the coatings require the use of a solvent carrier and/or thermal curing. The Aerospace NESHAP and CTG, on the other hand, must establish HAP and VOC limits that are applicable across the United States. It is not practical to establish MACT limits for coatings based on regional climate differences for this source category.

Based on the issues noted above, the EPA concludes that the noted differences between the state and regional rules and the Aerospace CTG limits do not constitute more stringent limits compared to those in the Aerospace CTG. The EPA does not have sufficient data to determine whether these differences in VOC limits, compared to the limits in the Aerospace CTG, actually constitute MACT. Therefore, the EPA is specifically soliciting comment and additional data on the differences noted between state and regional rules and the aerospace CTG.

Based on its analysis, the EPA is proposing the MACT floor for specialty coatings to be organic HAP content limits equal to the VOC limits specified in the Aerospace CTG for specialty coatings. Additionally, the low-volume exemption provisions in the current Aerospace NESHAP for primers, topcoats and chemical milling maskants may be used for specialty coatings. The EPA has not identified any options more stringent than the MACT floor as documented in the review of specialty coatings discussed earlier in this section, so the proposed organic HAP content limits are equal to the MACT floor VOC content limits. The EPA is proposing this MACT floor based on the fact that these VOC limits are currently being achieved by at least 12 percent of the operating facilities in a total population of 109 operating aerospace and rework facilities that reported using specialty coatings in the 2011 ICR. For more information on the MACT floor analysis, please refer to the memorandum, Maximum Achievable Control Technology for Specialty Coating Operations in the Aerospace Source Category, January 2015, available in the docket for this action.

In reviewing the state and district VOC rules, the EPA determined that the aerospace surface coating rules in many of the California district rules, in addition to the requirement to meet VOC limits, require that all spray-applied coating operations use high-efficiency application equipment (*i.e.,* HVLP, electrostatic spray or an equivalent). This requirement is more stringent than the model rule found in the Aerospace CTG, which exempts specialty coatings from the requirement to use high-efficiency application equipment. The California rules examined by the EPA require the use of high-efficiency application equipment for all spray applied coatings, unless an add-on control system was used, or certain other exemptions apply. Other state rules that follow the CTG require high-efficiency application methods only for primer and topcoat application operations. The facilities located in California that are required to use high-efficiency application equipment for specialty coatings constitute the MACT floor for the application of these coatings. This determination is based on the fact that at least 11 facilities in California's air pollution control districts are currently subject to district rules that require high-efficiency application equipment for all coating operations, including specialty coatings. Therefore, the EPA is proposing that specialty coatings be subject to the same application requirements in 40 CFR 63.745(f) as primers and topcoats. Compared to conventional spray application methods, high-efficiency application methods, such as HVLP spray guns or electrostatic deposition, can achieve HAP and VOC emission reductions because of reduced coating consumption that results from reduced coating overspray. The EPA has not identified any control options more stringent than the use of high-efficiency application methods for spray-applied coating operations.

In our review of the RBLC, we did not identify any control options for aerospace specialty surface coating operations that were not already reflected in the VOC content limits in the Aerospace CTG. However, we identified one facility in the state of Washington for which a BACT analysis was completed in September 2014, for constructing new buildings needed for producing new models of large commercial airplanes, including the building and surface coating of composite aircraft wings. The BACT analysis described the facility as currently using HVLP spraying and electrostatic airless and modified high-efficiency air-assisted airless spray equipment in all spray applied surface coating operations. The BACT analysis concluded that there were no demonstrations of add-on controls at facilities performing surface coating comparable to large commercial aircraft wing components.

In our review of Washington State's record of permits, we determined that the current PSD permit for this facility identified BACT for VOC from coating operations to be the equivalent of complying with ''all applicable VOC emission standards of the Aerospace NESHAP.'' The PSD permit for the facility did not consider add-on control technologies to be BACT after taking into account energy, environmental and economic impacts. Based on this information from the RBLC and the Washington State BACT analysis, we determined that add-on control techniques would not be MACT for specialty coating application operations for the aerospace industry.

Instead, MACT is being proposed as the use of low-HAP coatings (with HAP content limits equal to the VOC content limits in the Aerospace CTG) and high-efficiency application methods for spray-applied coating operations. As the EPA did with primers and top coats in the current NESHAP, the EPA is proposing to use VOC limits that are currently in effect as the basis for proposed organic HAP limits.

The EPA is also proposing to establish MACT to limit emissions of inorganic HAP from spray-applied specialty coatings that contain inorganic HAP. The predominant method used to control inorganic HAP emissions from all spray-applied coating operations (including specialty coatings) is the use of a spray booth with a particulate filter, which generally achieves a high (*i.e.,* greater than 99 percent) control efficiency. The Aerospace NESHAP currently requires the use of spray booths with filters meeting minimum efficiency requirements for the spray application of primers and topcoats that contain inorganic HAP. Based on the results of the 2011 ICR, the EPA has determined that the vast majority of spray-applied specialty coatings are currently applied in spray booths. It is likely that these specialty coatings are applied in the same spray booths as primers and topcoats, or at least in spray booths that are very similar to those used for primer and topcoat operations. Therefore, the same inorganic HAP emission limitations that are applied to primer and topcoat operations should also be applicable to specialty coating operations, and the EPA is proposing to extend these limitations to specialty coating operations. The EPA has not identified any control options more stringent than the use of spray booths with high-efficiency filters to control inorganic HAP emissions from spray-applied coating operations.

In summary, the EPA is proposing to add a requirement to the Aerospace NESHAP that Aerospace Manufacturing and Rework Facilities comply with organic HAP or VOC content limits for specialty coatings that are equal to the VOC content limits specified in the Aerospace CTG. The EPA is also proposing that specialty coating application operations be subject to the same application equipment requirements in 40 CFR 63.745(f), and the standards for inorganic HAP emissions in 40 CFR 63.745(g) that apply to primer and topcoat application operations. We request comment on our analysis and supporting info on any

other practices that may be used to limit emissions from specialty coatings.

The EPA believes that the proposed HAP and VOC content limits for specialty coatings are achievable because they are based on the VOC content limits in the Aerospace CTG, which have been adopted in many state and local VOC rules. In the development of these proposed amendments, the EPA made repeated efforts to reach out to and solicit input from aerospace manufacturers on the coating performance and reformulation challenges, if any, presented by complying with specialty coating limits based on the current CTG. However, the information presented so far has been only anecdotal, and not for the full range of specialty coating categories in the CTG.

Therefore, the EPA is specifically soliciting comment and additional data on any changes needed to the definitions of specialty coating categories and the proposed organic HAP and VOC limits. The EPA will consider comments on changes to the definitions of specialty coating categories that may be needed to clarify the scope of each of the individual specialized coating categories, based on industry experience, including complying with those categories in rules derived from the Aerospace CTG. The EPA will consider data and information on specific cases (not just general examples) of specialty coatings that could not meet the current definitions of the specialty coating categories or the proposed organic HAP or VOC content limits for those categories. Please provide with your comments information on the following: The annual volume of the coating used, the container size, the container type, the military specification or FAA AD that applies, the specialty category that applies, documentation of the organic HAP or VOC content of the coating and suggested changes to category definitions (if applicable and feasible) that would include the coating in a more appropriate category with a higher HAP or VOC limit. The EPA will consider any submitted data that supports a comment that a specific coating cannot meet the proposed organic HAP or VOC content limit for a particular specialty coating category.

The estimated costs, emission reductions, other (non-air) environmental impacts and energy impacts associated with the proposed regulation of specialty coatings are presented in section V of this preamble.

2. Electronic Reporting Requirements

In this proposal, the EPA is describing a process to increase the ease and efficiency of performance test data submittal while improving data accessibility. Specifically, the EPA is proposing that owners and operators of Aerospace Manufacturing and Rework Facilities submit electronic copies of required performance test and performance evaluation reports by direct computer-to-computer electronic transfer using EPA-provided software. The direct computer-to-computer electronic transfer is accomplished through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The CDX is the EPA's portal for submittal of electronic data. The EPA-provided software is called the Electronic Reporting Tool (ERT), which is used to generate electronic reports of performance tests and evaluations. The ERT generates an electronic report package which will be submitted using the CEDRI. The submitted report package will be stored in the CDX archive (the official copy of record) and the EPA's public database called WebFIRE. The WebFIRE database was constructed to store performance test data for use in developing emissions factors. All stakeholders would have access to all reports and data in WebFIRE and accessing these reports and data will be very straightforward and easy (see the WebFIRE Report Search and Retrieval link at *http://cfpub.epa.gov/webfire/index.cfm?action=fire.searchERTSubmission*). A description of the WebFIRE database is available at *http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main.* A description of the ERT and instructions for using ERT can be found at *http://www.epa.gov/ttn/chief/ert/ert_tool.html.* CEDRI can be accessed through the CDX Web site (*www.epa.gov/cdx*).

The proposal to submit performance test data electronically to the EPA would apply only to those performance tests conducted using test methods that will be supported by the ERT. The ERT contains a specific electronic data entry form for most of the commonly used EPA reference methods. A listing of the pollutants and test methods supported by the ERT is available at *http://www.epa.gov/ttn/chief/ert/index.html.* We believe that industry would benefit from this proposed approach to electronic data submittal. Specifically, by using this approach, industry would save time in the performance test submittal process. Additionally, the standardized format that the ERT uses allows sources to create a more complete test report resulting in less potential failure to include all data elements required to be submitted. Also through this proposal, industry may only need to submit a report once to meet the requirements of the applicable subpart because stakeholders can readily access these reports from the WebFIRE database. This also would benefit industry by cutting back on recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be retained in hard copy, thereby reducing staff time needed to coordinate these records. Another benefit to industry is that, because the EPA would already have performance test data in hand, industry would be subject to fewer or less substantial data collection requests from EPA in conjunction with required future residual risk assessments or technology reviews. This would result in a decrease in industry staff time needed to respond to data collection requests.

State, local and tribal air pollution control agencies (S/L/Ts) may also benefit from having electronic versions of the reports they are now receiving. For example, S/L/Ts may be able to conduct a more streamlined and accurate review of electronic data submitted to them. The ERT would allow for an electronic review process, rather than a manual data assessment, which will make review and evaluation of the source provided data and calculations easier and more efficient. In addition, the public will benefit from electronic reporting of emissions data because the electronic data will be easier for the public to access. How the air emissions data are collected, accessed and reviewed will be more transparent for all stakeholders.

Further, the EPA must have performance test data to conduct effective reviews of CAA sections 112 and 129 standards, as well as for many other purposes including compliance determinations, emissions factor development and annual emissions rate determinations. In conducting these required reviews, the EPA has found it ineffective and time consuming, not only for the EPA, but also for regulatory agencies and source owners and operators, to locate, collect and submit performance test data because of varied locations for data storage and varied data storage methods. In recent years, though, stack testing firms have typically collected performance test data in electronic format, making it possible to move to an electronic data submittal system that would increase the ease and efficiency of data submittal and improve data accessibility.

One major advantage of the proposed submittal of performance test data through the ERT is a standardized method to compile and store much of the documentation required to be reported by this rule. Another advantage is that the ERT clearly states what testing information would be required. Another important proposed benefit of submitting these data to the EPA at the time the source test is conducted is that it should substantially reduce the effort involved in data collection activities in the future. When the EPA has performance test data in hand, the EPA will be able to conduct fewer or less substantial data collection requests in conjunction with future required residual risk assessments or technology reviews. This would result in a reduced burden on both affected facilities (in terms of reduced staff time to respond to data collection requests) and the EPA (in terms of preparing and distributing data collection requests and assessing the results).

Finally, another benefit of the proposed data submittal to WebFIRE electronically is that these data would greatly improve the overall quality of existing and new emissions factors by supplementing the pool of emissions test data for establishing emissions factors and by ensuring that the factors are more representative of current industry operational procedures. A common complaint heard from industry and regulators is that emissions factors are outdated or not representative of a particular source category. With timely receipt and incorporation of data from most performance tests, the EPA would be able to ensure that emissions factors, when updated, represent the most current range of operational practices.

In summary, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an electronic database populated with performance test data would save industry, state, local, tribal agencies and the EPA significant time, money and effort while also improving the quality of emissions inventories and, as a result, air quality regulations.

3. Startup, Shutdown and Malfunction Requirements

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), *cert. denied,* 130 S. Ct. 1735 (U.S. 2010), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and (h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously.

We are proposing the elimination of the SSM exemption in this rule. Consistent with *Sierra Club* v. *EPA,* we are proposing changes so that standards in this rule would apply at all times. We are also proposing several revisions to Table 1 to subpart GG of Part 63 (the General Provisions Applicability Table, hereafter referred to as the ''General Provisions table'') as explained in more detail below. For example, we are proposing to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also are proposing to eliminate and revise certain recordkeeping and reporting requirements related to the SSM exemption as further described below.

The EPA has attempted to ensure that the provisions we are proposing to eliminate are inappropriate, unnecessary or redundant in the absence of the SSM exemption. We are specifically seeking comment on whether we have successfully done so.

In proposing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not proposed alternate standards for those periods.

Periods of startup, normal operations and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition sudden, infrequent and not reasonably preventable failures of emissions control, process or monitoring equipment. The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards. Under section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and, for existing sources, generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in section 112 that directs the agency to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the D.C. Circuit has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of'' sources ''says nothing about how the performance of the best units is to be calculated.'' *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in CAA section 112 requires the agency to consider malfunctions as part of that analysis. A malfunction should not be treated in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

Further, accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As a result, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. *See, e.g. Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' '') *See also, Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady-state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction

would be 100 times higher than during normal operations and the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112 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.

If the EPA determines that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and, in particular, CAA section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

In several prior CAA section 112 rules, the EPA had included an affirmative defense to civil penalties for violations caused by malfunctions in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense to provide a more formalized approach and more regulatory clarity. *See Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); *but see Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of ''upsets beyond the control of the permit holder''). Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. Recently, the United States Court of Appeals for the District of Columbia Circuit vacated an affirmative defense in one of the EPA's CAA section 112 regulations. *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir., 2014) (vacating affirmative defense provisions in CAA section 112 rule establishing emission standards for Portland cement kilns). 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.''' *See NRDC,* 2014 U.S. App. LEXIS 7281 at *21 (''[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.'').[36] In light of *NRDC,* the EPA is not including a regulatory affirmative defense provision in the proposed rule. As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the United States Court of Appeals for the District of Columbia Circuit recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. *Cf. NRDC,* 2014 U.S. App. LEXIS 7281 *at *24* (arguments that violation were caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same is true for the presiding officer in EPA administrative enforcement actions.[37]

a. 40 CFR 63.743(e) General Duty

We are proposing to revise the entry in the General Provisions table for 40 CFR 63.6(e)(1)(i) by changing the ''yes'' in column 2 to a ''no.'' Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We are proposing instead to add general duty regulatory text at 40 CFR 63.743(e) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown and malfunction events in describing the general duty. Therefore the language the EPA is proposing for 40 CFR 63.743(e) does not include that language from 40 CFR 63.6(e)(1).

We are also proposing to revise the General Provisions table entry for 40 CFR 63.6(e)(1)(ii) by changing the ''yes'' in column 2 to a ''no.'' Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.743(e).

b. SSM Plan

We are proposing to revise the General Provisions table entry for 40 CFR 63.6(e)(3) by changing the ''yes'' in column 2 to a ''no.'' Generally, these paragraphs require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA is proposing to remove the SSM exemptions. Therefore, affected units will be subject to an

[36] The court's reasoning in *NRDC* v. *EPA* focuses on civil judicial actions. The Court noted that ''EPA's ability to determine whether penalties should be assessed for Clean Air Act violations extends only to administrative penalties, not to civil penalties imposed by a court.'' *Id.*

[37] Although the *NRDC* v. *EPA* case does not address the EPA's authority to establish an affirmative defense to penalties that is available in administrative enforcement actions, the EPA is not including such an affirmative defense in the proposed rule. As explained above, such an affirmative defense is not necessary. Moreover, assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent. *CF.* CAA section 113(e) (requiring both the Administrator and the court to take specified criteria into account when assessing penalties).

emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and, thus, the SSM plan requirements are no longer necessary.

c. Compliance With Standards

We are proposing to revise the General Provisions table entry for 40 CFR 63.6(f)(1) by changing the ''yes'' in column 2 to a ''no.'' The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the court in *Sierra Club* v. *EPA* vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standards apply continuously. Consistent with *Sierra Club,* the EPA is proposing to revise some standards in this rule to apply at all times.

d. 40 CFR 63.749(j) Performance Testing

We are proposing to revise the General Provisions table entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in column 2 to a ''no.'' Section 63.7(e)(1) describes performance testing requirements. The EPA is instead proposing to add a performance testing requirement at 40 CFR 63.749(j). The performance testing requirements we are proposing to add differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. The proposed performance testing provisions will specify that performance testing of controls must be conducted during representative operating conditions of the applicable source, and may not take place during startup, shutdown or malfunction of the applicable controlled surface coating operations, controlled chemical milling maskant application operations or controlled chemical depainting operations. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are often not representative of normal operating conditions. The EPA is proposing to add language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Section 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' available to the Administrator upon request, but does not specifically require the information to be recorded. The regulatory text the EPA is proposing to add to this provision builds on that requirement and makes explicit the requirement to record the information.

e. Monitoring

We are proposing to revise the General Provisions table entry for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in column 2 to a ''no.'' The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

f. 40 CFR 63.752(a) Recordkeeping

We are proposing to revise the General Provisions table entry for 40 CFR 63.10(b)(2)(i) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recording provisions are no longer necessary because the EPA is proposing that recordkeeping and reporting applicable to normal operations will apply to startup and shutdown. In the absence of special provisions applicable to startup and shutdown, such as a startup and shutdown plan, there is no reason to retain additional recordkeeping for startup and shutdown periods.

We are proposing to revise the General Provisions table entry for 40 CFR 63.10(b)(2)(ii) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA is proposing to add such requirements to 40 CFR 63.752(a). The regulatory text we are proposing to add differs from the General Provisions it is replacing in that the General Provisions requires the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control and monitoring equipment. The EPA is proposing that this requirement apply to any failure to meet an applicable standard and is requiring that the source record the date, time and duration of the failure rather than the ''occurrence.'' The EPA is also proposing to add to 40 CFR 63.752(a) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard for which the source failed to meet the standard and a description of the method used to estimate the emissions. Examples of such methods would include mass balance calculations, measurements when available or engineering judgment based on known process parameters (*e.g.,* coating HAP content and application rate or control device efficiencies). The EPA is proposing to require that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We are proposing to revise the General Provisions table entry for 40 CFR 63.10(b)(2)(iv) by changing the ''yes'' in column 2 to a ''no.'' When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable by reference to 40 CFR 63.752(a).

We are proposing to revise the General Provisions table entry for 40 CFR 63.10(b)(2)(v) by changing the ''yes'' in column 2 to a ''no.'' When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

g. 40 CFR 63.753 Reporting

We are proposing to revise the General Provisions table entry for 40 CFR 63.10(d)(5) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(d)(5) describes the reporting requirements for startups, shutdowns and malfunctions. To replace the General Provisions reporting requirement, the EPA is proposing to add reporting requirements to 40 CFR 63.753(a). The replacement language added to 40 CFR 63.753(a) differs from the General Provisions requirement in that it eliminates periodic SSM reports

as a stand-alone report. We are proposing language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semi-annual reporting period already required under this rule. We are proposing that the report must contain the number, date, time, duration and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

Examples of such methods would include mass balance calculations, measurements when available or engineering judgment based on known process parameters (*e.g.,* coating HAP content and application rates and control device efficiencies). The EPA is proposing this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We would no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The proposed amendments would, therefore, eliminate the cross reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications would be no longer necessary because the events would be reported in otherwise required reports with similar format and submittal requirements.

As discussed above, we are proposing to revise the General Provisions table entry for 40 CFR 63.10(d)(5), by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(d)(5)(ii) describes an immediate report for startups, shutdown and malfunctions when a source failed to meet an applicable standard, but did not follow the SSM plan. We will no longer require owners and operators to report when actions taken during a startup, shutdown or malfunction were not consistent with an SSM plan, because plans would no longer be required to allow the EPA to determine the severity of the failure to meet an applicable standard and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

4. Technical Amendments to the Aerospace NESHAP

The EPA is also proposing the following technical corrections:

- Revising 40 CFR 63.743(a)(2) to match the section title in 40 CFR 63.5.
- Revising 40 CFR 63.743(a)(8) to correct the reference to paragraph 63.6(i)(12)(iii)(B) by changing the ''(1)'' to an ''(i).''
- Revising 40 CFR 63.744(a) to correct and clarify the format of the reference to 40 CFR 63.744(a)(1) through (4).
- Correct the ordering of 40 CFR 63.744(a)(3) and (4); currently paragraph (a)(4) is printed before (a)(3).
- Correcting the paragraph numbering for 40 CFR 63.746(b)(4)(ii)(C) by changing paragraph (C) from a lower case to upper case ''C.''
- Correcting the numbering of the tables in 40 CFR 63.745 to account for the proposed addition of Table 1 to that section to include specialty coating limits.
- Revising 40 CFR 63.749(d)(4) to correct the references to 40 CFR 63.749(d)(4)(i) through (d)(4)(iv) and (e).
- Revising 40 CFR 63.750(g)(6)(i) to remove the letters ''VR/FD'' that were inadvertently included.

5. Amendments To Simplify Recordkeeping and Reporting for Compliant Coatings

The EPA is proposing to revise 40 CFR 63.750 to include alternative compliance demonstration provisions for all coatings subject to the Aerospace NESHAP (primers, topcoats, specialty coatings and chemical milling maskants). If the manufacturer's supplied formulation data or calculation of HAP and VOC content indicate that the coating meets the organic HAP and VOC content emission limits for its coating type, as specified in 40 CFR 63.745(c) and 63.747(c), then the owner or operator would not be required to demonstrate compliance for these coatings using the test method and calculations specified in 40 CFR 63.750(c), (e), (k) and (m) or to keep the associated records and submit the associated reports associated with these methods and calculations. Instead, the owner or operator would be able to rely on the manufacturers' formulation data and calculation of the HAP or VOC content to demonstrate compliance. However, the owner or operator would still be required to maintain purchase records and manufacturer's supplied data sheets for these compliant coatings. Owners or operators of facilities using these coatings would also still be required to handle and transfer these coatings in a manner that minimizes spills, apply these coatings using one or more of the specified application techniques and comply with inorganic HAP emission requirements.

This change is being proposed to reduce unnecessary recordkeeping and avoid the need for owners or operators to perform tests to measure VOC and HAP content and to perform certain calculations that can be done by the coating manufacturer based on coating formulation data. When the Aerospace NESHAP was originally promulgated, the original compliance demonstration and recordkeeping requirements were needed because the product data sheets provided by coating manufacturers did not routinely provide VOC content in grams per liter (less water and exempt solvents) or HAP content in grams per liter (less water). As a result, it was necessary for the facilities to calculate the VOC or HAP content in this format to demonstrate compliance.

Since promulgation of the Aerospace NESHAP, coating manufacturers now commonly provide VOC content of the coatings, in grams per liter (less water and exempt solvents) on the product data sheets, based on coating formulation. Therefore, the coating manufacturer's documentation can be used to demonstrate compliance, when available, in place of the compliance demonstrations based on VOC measurements and compliance calculations.

We are proposing that this alternative apply to all coatings subject to the Aerospace NESHAP, including specialty coatings, topcoats, primers and chemical milling maskants. Due to the existence of the Aerospace NESHAP for nearly 20 years and the prevalence of state and regional VOC regulations for many types of coatings, coating manufacturers have come to recognize the value of providing documentation of HAP and VOC content to their customers to facilitate compliance demonstrations with state and federal regulations. For all coatings subject to the Aerospace NESHAP, the EPA has determined that onsite purchase records and the manufacturer's supplied data sheets for the coatings will provide sufficient information to establish compliance with the content limit standards in the Aerospace NESHAP.

If a facility elects to comply with the averaging provisions in 40 CFR 63.743(d), the facility is also required to comply with all related averaging provisions in the Aerospace NESHAP for all coatings included in averaging (*e.g.,* compliance determination provisions in 40 CFR 63.749(d) and (h); procedures and methods in 40 CFR 63.750(d), (f), (l) and (n); recordkeeping

provisions in 40 CFR 63.752(c) and (f); and reporting provisions in 63.753(c) and (e)). Note that, in complying with the current averaging provisions, facilities may already use manufacturers' data for coatings to determine the organic HAP and VOC weight fraction of coatings to perform the calculations in 40 CFR 63.750(d), (f), (l) and (n).

*F. What compliance dates are we proposing?*

The EPA is proposing that all of the amendments being proposed in this action would be effective on the date 60 days after these proposed amendments are final, with one exception. The one exception is that existing specialty coating affected sources (*i.e.,* existing on the date these changes are final) would have 1 year after the date this rule is final to comply with the standards for specialty coatings proposed in 40 CFR 63.745(c)(5) and (6) (HAP and VOC limits for specified coatings) and the provisions in 40 CFR 63.745(f) (coating application equipment) and 40 CFR 63.745(g) (control of inorganic HAP emissions). The EPA is proposing this compliance schedule so that existing sources would have time to develop the recordkeeping and reporting systems needed to comply with the requirements for specialty coatings. Facilities may also need this time to identify alternative coatings for those that are not currently compliant with the HAP or VOC content limits and to take any steps needed to upgrade specialty coating operations to comply with the application equipment requirements in 40 CFR 63.745(f) and the inorganic HAP emissions requirements in 40 CFR 63.745(g).

The tasks necessary for existing facilities to comply with the other proposed amendments require no time or resources. Therefore, EPA believes that existing facilities will be able to comply with the other proposed amendments, including those related to SSM periods, as soon as the final rule is effective, which will be the date 60 days after publication of the final rule. Therefore, the EPA is specifically soliciting comment and additional data on the burden of complying with the other proposed amendments.

## V. Summary of Cost, Environmental and Economic Impacts

*A. What are the affected sources?*

The EPA estimates, based on the responses to the 2011 ICR, that there are 144 major source facilities that are engaged in aerospace manufacturing and rework surface coating operations. The EPA estimates that 109 facilities likely would be affected by the proposed limits for specialty coatings and the requirements to use high-efficiency application equipment for specialty coatings, also based on the responses to the 2011 ICR.

*B. What are the air quality impacts?*

The EPA estimates that annual HAP emissions from specialty coatings are about 360 tpy; inorganic HAP emissions are about 5 tpy and the remainder are organic HAP. The estimated emission reductions are 58 tons of HAP, which would be achieved from the proposed regulation of specialty coatings. The EPA estimated that these emission reductions would result from the proposed requirements to use high-efficiency application equipment and also from the application of the HAP content limits to specialty coatings.

*C. What are the cost impacts?*

The EPA estimates that the annual cost impacts would be about $590,000 per year. The cost impacts would be attributed to monitoring and recordkeeping costs for complying with the specialty coating HAP content limits. The cost per facility was estimated based on the number of specialty coatings used at each facility, as reported in the 2011 ICR. The costs are based on an assumption of 1 hour of technical labor for annual recordkeeping and reporting for each specialty coating used by a facility, plus additional management and clerical hours representing a fraction of the technical labor hours.

The EPA does not have sufficient data from the 2011 ICR to estimate the total cost impacts for specialty coatings having to comply with the proposed high-efficiency application equipment requirement. Because high-efficiency application equipment generates less coating overspray than conventional equipment, the costs of upgrading to new equipment can be offset by cost savings from reduced coating consumption and reduced spray booth filter maintenance. For these reasons, many facilities are likely to have already switched to high-efficiency application methods for specialty coating operations, as they are already required to for primer and topcoat application operations. For example, the average volume of specialty coatings used per facility is 3,000 gallons per year, based on the 2011 ICR data. The estimated purchase cost for a professional quality HVLP spray gun is $700 for the gun and hoses. If the average facility had to purchase three new spray guns, and the facility was spending an average of $30 per gallon of spray applied coating, the facility would need to see a decrease in coating consumption of only 70 gallons per year (about a 3-percent reduction) to recover the initial cost of those three spray guns in 1 year.

The EPA expects some additional potential cost savings from the proposal to include an alternative compliance demonstration provision in 40 CFR 63.750(c), (e), (k) and (m). However, we do not have sufficient data to estimate the cost savings associated with the proposed alternative compliance demonstration. However, the estimated cost to perform an analysis of VOC content according to EPA Method 24, based on published vendor data, is about $575 per sample. Because the proposed alternative compliance demonstration would allow facilities to use coating manufacturers' documentation of VOC content based on coating composition, the cost of these coating analyses using EPA Method 24 would be avoided.

The EPA's cost analyses are documented in the memorandum, *Methodology for Estimating Control Costs for Specialty Coating Operations in the Aerospace Source Category,* January 2014, in the docket for this rulemaking.

EPA is specifically soliciting comment and additional data on the cost impacts associated with using coatings that are compliant with the proposed limits for specialty coatings.

*D. What are the economic impacts?*

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets are also examined. Both the magnitude of costs needed to comply with the rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a rule.

This rule applies to the surface coating and related operations at facilities that are major sources and are engaged, either in part or in whole, in the manufacture or rework of commercial, civil or military aerospace vehicles or components. The proposed rule would add recordkeeping and reporting provisions for specialty coating operations, but would not change the compliance costs for operations already being regulated by the existing emission standards. Therefore, the annual costs were calculated for only the 109 Aerospace Manufacturing and Rework Facilities that reported having specialty coating operations.

The estimated annual costs for this proposed rule are less than $1 million in the first year and in succeeding years (less than $850,000 in the first year and less than $600,000 in succeeding years). These costs are estimated for the 109 facilities that, based on information reported by facilities, appear to have specialty coating operations. Thus, the average cost per facility is less than $10,000 per year. These costs are small compared to sales for the companies in aerospace manufacturing and reworking. For example, in 2012 the average annual value of shipments (a rough estimate of sales) for firms in the category of ''other aircraft parts and auxiliary equipment manufacturing'' was almost $50 million (Source: U.S. Census Bureau, 2012 Economic Census for NAICS 336413 for 2012). In this case the cost-to-sales estimate would be approximately 0.02 percent of sales for each firm. Costs this small would not have significant market impacts, whether they were absorbed by the firm or passed on as price increases.

The EPA does not know of any firms that are small entities and using specialty coatings that are potentially subject to this proposed rule. Because no small firms face control costs, there is no significant impact on small entities. Therefore, we do not expect these proposed amendments to have a significant impact on a substantial number of small entities.

*E. What are the benefits?*

We anticipate this rulemaking to reduce organic and inorganic HAP emissions by approximately 58 tons each year. These avoided emissions will result in improvements in air quality and reduced negative health effects associated with exposure to air pollution of these emissions. However, we have not quantified or monetized the benefits of reducing these emissions for this rulemaking because the estimated costs for this action are less than $100 million.

## VI. Request for Comments

We solicit comments on all aspects of this proposed action. In addition to general comments on this proposed action, we are also interested in additional data that may improve the risk assessments and other analyses. We are specifically interested in receiving any improvements to the data used in the site-specific emissions profiles used for risk modeling. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Section VII of this preamble provides more information on submitting data.

## VII. Submitting Data Corrections

The site-specific emissions profiles used in the source category risk and demographic analyses and instructions are available for download on the RTR Web site at: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* The data files include detailed information for each HAP emissions release point for the facilities in the source category.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR page, complete the following steps:

1. Within this downloaded file, enter suggested revisions to the data fields appropriate for that information.

2. Fill in the commenter information fields for each suggested revision (*i.e.,* commenter name, commenter organization, commenter email address, commenter phone number and revision comments).

3. Gather documentation for any suggested emissions revisions (*e.g.,* performance test reports, material balance calculations, etc.).

4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID No. EPA–HQ–OAR–2014–0830 (through one of the methods described in the **ADDRESSES** section of this preamble).

5. If you are providing comments on a single facility or multiple facilities, you need only submit one file for all facilities. The file should contain all suggested changes for all sources at that facility. We request that all data revision comments be submitted in the form of updated Microsoft® Excel files that are generated by the Microsoft® Access file. These files are provided on the RTR Web site at: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.*

## VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is not a significant regulatory action and was therefore not submitted to the OMB for review.

*B. Paperwork Reduction Act (PRA)*

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 1687.10. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

Respondents are owners or operators of aerospace manufacturing and rework operations. The proposed rule would add recordkeeping and reporting provisions for specialty coating operations, but would not change the recordkeeping and reporting provisions for any other types of operations. Therefore, of the 144 Aerospace Manufacturing and Rework Facilities subject to the Aerospace NESHAP, the annual costs for increased recordkeeping and reporting would apply to only the 109 Aerospace Manufacturing and Rework Facilities that reported having specialty coating operations. Respondents must keep records of the specialty coatings used at the facility, including the name and VOC content of the coating, the HAP and VOC emitted per gallon of coating and the monthly volume of each coating used. Respondents must also submit semiannual reports of noncompliance. Recordkeeping and reporting of monitored parameters related to air pollution control technologies is required if controls are used to demonstrate compliance with the standards. The reports and records will be used to determine compliance with the standards.

*Respondents/affected entities:* Aerospace manufacturing and rework facilities using specialty coatings.

*Respondent's obligation to respond:* Mandatory (40 CFR part 63, subpart GG).

*Estimated number of respondents:* 109 facilities using specialty coatings.

*Frequency of response:* Initially, occasionally and semiannually.

*Total estimated burden:* 6,914 hours (per year) for the responding facilities and 148 hours (per year) for the agency. These are estimates for the average annual burden for the first 3 years after the rule is final. Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $695,570 (per year), which includes no annualized

capital or operation and maintenance costs, for the responding facilities and $8,740 (per year) for the agency. These are estimates for the average annual cost for the first 3 years after the rule is final.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. To comment on the agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden, the EPA has established a public docket for this rule, which includes this ICR, under Docket ID No. EPA–HQ–OAR–2014–0830.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *oria_submissions@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than March 19, 2015. The EPA will respond to any ICR-related comments in the final rule.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. No facilities meeting the Small Business Administration's definition of a small business would face significant control costs, based on the economic impact analysis completed for this action. The results of this analysis are summarized in section V.D of this preamble and can be found in the memorandum, *Economic Impact Analysis for Proposed National Emission Standards for Aerospace Manufacturing and Rework Facilities,* December 3, 2014. A copy of this memorandum is in the docket for this rulemaking.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain an unfunded mandate of $100 million or more as described in the UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. No tribal facilities are known to be engaged in the aerospace manufacturing or rework surface coating operations that would be affected by this action. 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 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III.A and B and sections IV.B and C of this preamble.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations.

These proposed standards will improve public health and welfare, now and in the future, by reducing HAP emissions contributing to environmental and human health impacts. These reductions in HAP associated with the rule are expected to benefit all populations.

To examine the potential for any environmental justice issues that might be associated with the Aerospace Manufacturing and Rework source category, we evaluated the distributions of HAP related cancer and non-cancer risks across different social, demographic and economic groups within the populations living near the facilities where this source category is located. The methods used to conduct demographic analyses for this proposed rule are described in the document, *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Aerospace Facilities,* which may be found in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2014–0830).

In the demographics analysis, we focused on populations within 50 km of the facilities in this source category with emissions sources subject to the MACT standard. More specifically, for these populations, we evaluated exposures to HAP that could result in cancer risks of 1-in-1 million or greater. We compared the percentages of particular demographic groups within the focused populations to the total percentages of those demographic groups nationwide. The results of this analysis are documented in the document, *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Aerospace Facilities.*

**List of Subjects in 40 CFR Part 63**

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 22, 2015.

**Gina McCarthy,**

*Administrator.*

For the reasons stated in the preamble, part 63 of title 40, chapter I, of the Code of Federal Regulations is proposed to be 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 GG—National Emission Standards for Aerospace Manufacturing and Rework Facilities

■ 2. Section 63.741 is amended by:

■ a. Revising paragraph (c) introductory text;
■ b. Redesignating paragraphs (c)(4) through (c)(7) as paragraphs (c)(5) through (c)(8);
■ c. Adding new paragraph (c)(4);
■ d. Revising newly redesignated paragraph (c)(8); and
■ e. Revising paragraphs (f) and (g).

The revisions and addition read as follows:

**§ 63.741 Applicability and designation of affected sources.**

* * * * *

(c) *Affected sources.* The affected sources to which the provisions of this subpart apply are specified in paragraphs (c)(1) through (8) of this section. The activities subject to this subpart are limited to the manufacture or rework of aerospace vehicles or components as defined in this subpart. Where a dispute arises relating to the applicability of this subpart to a specific activity, the owner or operator shall demonstrate whether or not the activity is regulated under this subpart.

* * * * *

(4) For organic HAP or VOC emissions, each specialty coating application operation, which is the total of all specialty coating applications at the facility.

* * * * *

(8) For inorganic HAP emissions, each spray booth or hangar that contains a primer, topcoat or specialty coating application operation subject to § 63.745(g), or a depainting operation subject to § 63.746(b)(4).

* * * * *

(f) This subpart does not regulate research and development, quality control and laboratory testing activities, chemical milling, metal finishing, electrodeposition (except for electrodeposition of paints), composites processing (except for cleaning and coating of composite parts or components that become part of an aerospace vehicle or component as well as composite tooling that comes in contact with such composite parts or components prior to cure), electronic parts and assemblies (except for cleaning and topcoating of completed assemblies), manufacture of aircraft transparencies and wastewater operations at aerospace facilities. These requirements do not apply to the rework of aircraft or aircraft components if the holder of the Federal Aviation Administration (FAA) design approval, or the holder's licensee, is not actively manufacturing the aircraft or aircraft components. These requirements also do not apply to parts and assemblies not critical to the vehicle's structural integrity or flight performance. The requirements of this subpart also do not apply to primers, topcoats, specialty coatings, chemical milling maskants, strippers and cleaning solvents containing HAP and VOC at concentrations less than 0.1 percent by mass for carcinogens or 1.0 percent by mass for noncarcinogens, as determined from manufacturer's representations, such as in a material safety data sheet or product data sheet or testing. Additional specific exemptions from regulatory coverage are set forth in paragraphs (e), (g), (h), (i) and (j) of this section and §§ 63.742, 63.744(a)(1), (b), (e), 63.745(a), (f)(3), (g)(4), 63.746(a), (b)(5), 63.747(c)(3) and 63.749(d).

(g) The requirements for primers, topcoats, specialty coatings and chemical milling maskants in §§ 63.745 and 63.747 do not apply to the use of low-volume coatings in these categories for which the annual total of each separate formulation used at a facility does not exceed 189 liters (50 gal), and the combined annual total of all such primers, topcoats, specialty coatings and chemical milling maskants used at a facility does not exceed 757 liters (200 gal). Primers, topcoats and specialty coatings exempted under paragraph (f) of this section and under § 63.745(f)(3) and (g)(4) are not included in the 50 and 200 gal limits. Chemical milling maskants exempted under § 63.747(c)(3) are also not included in these limits.

* * * * *

■ 3. Section 63.742 is amended by revising the definitions for ''Chemical milling maskant''; ''Softener''; and ''Stripper'' to read as follows:

**§ 63.742 Definitions.**

* * * * *

*Chemical milling maskant* means a coating that is applied directly to aluminum components to protect surface areas when chemical milling the component with a Type I or Type II etchant. Type I chemical milling maskants are used with a Type I etchant and Type II chemical milling maskants are used with a Type II etchant. This definition does not include bonding maskants, critical use and line sealer maskants and seal coat maskants. Additionally, maskants that must be used with a combination of Type I or II etchants and any of the above types of maskants (*i.e.,* bonding, critical use and line sealer and seal coat) are also not included in this definition. (See also Type I and Type II etchant definitions.)

* * * * *

*Softener* means a liquid that is applied to an aerospace vehicle or component to degrade coatings such as primers, topcoats and specialty coatings specifically as a preparatory step to subsequent depainting by non-chemical based depainting equipment. Softeners may contain VOC, but shall not contain any HAP as determined from MSDS's or manufacturer supplied information.

* * * * *

*Stripper* means a liquid that is applied to an aerospace vehicle or component to remove permanent coatings such as primers, topcoats and specialty coatings.

* * * * *

■ 4. Section 63.743 is amended by:
■ a. Revising paragraphs (a)(2), (8), and (10);
■ b. Removing and reserving paragraph (b);
■ c. Revising paragraphs (d)(1), (2), and (3);
■ d. Removing and reserving paragraphs (d)(4) and (5);
■ e. Adding paragraph (e).

The revisions and addition read as follows:

**§ 63.743 Standards: General.**

(a) * * *

(2) § 63.5, Preconstruction review and notification requirements; and

* * * * *

(8) For the purposes of this subpart, each owner or operator is to be provided 30 calendar days to present additional information to the Administrator after he/she is notified of the intended denial of a compliance extension request submitted under either § 63.6(i)(4) or (5), rather than 15 calendar days as provided for in § 63.6(i)(12)(iii)(B) and § 63.6(i)(13)(iii)(B).

* * * * *

(10) For the purposes of compliance with the requirements of § 63.5(b)(4) of the General Provisions and this subpart, owners or operators of existing primer, topcoat or specialty coating application operations and depainting operations who construct or reconstruct a spray booth or hangar that does not have the potential to emit 10 tons/yr or more of an individual inorganic HAP or 25 tons/yr or more of all inorganic HAP combined shall only be required to notify the Administrator of such construction or reconstruction on an annual basis. Notification shall be submitted on or before March 1 of each year and shall include the information required in § 63.5(b)(4) for each such spray booth or hangar constructed or reconstructed during the prior calendar year, except that such information shall be limited to inorganic HAP's. No advance notification or written approval from the Administrator pursuant to § 63.5(b)(3) shall be required for the

construction or reconstruction of such a spray booth or hangar unless the booth or hangar has the potential to emit 10 tons/yr or more of an individual inorganic HAP or 25 tons/yr or more of all inorganic HAP combined.

* * * * *

(d) * * *

(1) Each owner or operator of a new or existing source shall use any combination of primers, topcoats (including self-priming topcoats), specialty coatings, Type I chemical milling maskants or Type II chemical milling maskants such that the monthly volume-weighted average organic HAP and VOC contents of the combination of primers, topcoats, specialty coatings, Type I chemical milling maskants or Type II chemical milling maskants, as determined in accordance with the applicable procedures set forth in § 63.750, complies with the specified content limits in §§ 63.745(c) and 63.747(c), unless the permitting agency specifies a shorter averaging period as part of an ambient ozone control program.

(2) Averaging is allowed only for uncontrolled primers, topcoats (including self-priming topcoats), specialty coatings, Type I chemical milling maskants or Type II chemical milling maskants.

(3) Averaging is not allowed between specialty coating types defined in Appendix A to this subpart, or between the different types of coatings specified in paragraphs (d)(3)(i) through (vii) of this section.

(i) Primers and topcoats (including self-priming topcoats).

(ii) Type I and Type II chemical milling maskants.

(iii) Primers and chemical milling maskants.

(iv) Topcoats and chemical milling maskants.

(v) Primers and specialty coatings.

(vi) Topcoats and specialty coatings.

(vii) Chemical milling maskants and specialty coatings.

* * * * *

(e) At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records and inspection of the source.

■ 5. Section 63.744 is amended by:

■ a. Revising paragraph (a) introductory text; and

■ b. Correcting the numerical order of paragraphs (a)(3) and (4).

The revision reads as follows:

**§ 63.744 Standards: Cleaning operations.**

(a) *Housekeeping measures.* Each owner or operator of a new or existing cleaning operation subject to this subpart shall comply with the requirements in paragraphs (a)(1) through (4) of this section unless the cleaning solvent used is identified in Table 1 of this section or contains HAP and VOC below the de minimis levels specified in § 63.741(f).

* * * * *

■ 6. Section 63.745 is amended by:

■ a. Revising the section heading;

■ b. Revising paragraphs (a), (b), and (c) introductory text;

■ c. Adding paragraphs (c)(5), (c)(6) and Table 1;

■ d. Revising paragraphs (e) introductory text and (e)(1);

■ e. Revising paragraphs (f) introductory text, (f)(1) introductory text and (f)(2);

■ f. Revising paragraphs (g) introductory text, (g)(2)(i), (g)(2)(ii), and (g)(2)(iii)(B).

The revisions and additions read as follows:

**§ 63.745 Standards: Primer, topcoat and specialty coating application operations.**

(a) Each owner or operator of a new or existing primer, topcoat or specialty coating application operation subject to this subpart shall comply with the requirements specified in paragraph (c) of this section for those coatings that are uncontrolled (no control device is used to reduce organic HAP emissions from the operation), and in paragraph (d) of this section for those coatings that are controlled (organic HAP emissions from the operation are reduced by the use of a control device). Aerospace equipment that is no longer operational, intended for public display and not easily capable of being moved is exempt from the requirements of this section.

(b) Each owner or operator shall conduct the handling and transfer of primers, topcoats and specialty coatings to or from containers, tanks, vats, vessels and piping systems in such a manner that minimizes spills.

(c) *Uncontrolled coatings—organic HAP and VOC content levels.* Each owner or operator shall comply with the organic HAP and VOC content limits specified in paragraphs (c)(1) through (6) of this section for those coatings that are uncontrolled.

* * * * *

(5) Organic HAP emissions from specialty coatings shall be limited to an organic HAP content level of no more than the HAP content limit specified in Table 1 of this section for each applicable specialty coating type.

(6) VOC emissions from specialty coatings shall be limited to a VOC content level of no more than the VOC content limit specified in Table 1 of this section for each applicable specialty coating type.

TABLE 1—SPECIALTY COATINGS—HAP AND VOC CONTENT LIMITS

| Coating type | HAP limit g/L (lb/gallon) [1] | VOC Limit g/L (lb/gallon) [1] |
|---|---|---|
| Ablative Coating | 600 (5.0) | 600 (5.0) |
| Adhesion Promoter | 890 (7.4) | 890 (7.4) |
| Adhesive Bonding Primers: Cured at 250 °F or below | 850 (7.1) | 850 (7.1) |
| Adhesive Bonding Primers: Cured above 250 °F | 1,030 (8.6) | 1,030 (8.6) |
| Commercial Interior Adhesive | 760 (6.3) | 760 (6.3) |
| Cyanoacrylate Adhesive | 1,020 (8.5) | 1,020 (8.5) |
| Fuel Tank Adhesive | 620 (5.2) | 620 (5.2) |
| Nonstructural Adhesive | 360 (3.0) | 360 (3.0) |
| Rocket Motor Bonding Adhesive | 890 (7.4) | 890 (7.4) |
| Rubber-based Adhesive | 850 (7.1) | 850 (7.1) |
| Structural Autoclavable Adhesive | 60 (0.5) | 60 (0.5) |
| Structural Nonautoclavable Adhesive | 850 (7.1) | 850 (7.1) |

TABLE 1—SPECIALTY COATINGS—HAP AND VOC CONTENT LIMITS—Continued

| Coating type | HAP limit g/L (lb/gallon) [1] | VOC Limit g/L (lb/gallon) [1] |
|---|---|---|
| Antichafe Coating | 660 (5.5) | 660 (5.5) |
| Bearing Coating | 620 (5.2) | 620 (5.2) |
| Caulking and Smoothing Compounds | 850 (7.1) | 850 (7.1) |
| Chemical Agent-Resistant Coating | 550 (4.6) | 550 (4.6) |
| Clear Coating | 720 (6.0) | 720 (6.0) |
| Commercial Exterior Aerodynamic Structure Primer | 650 (5.4) | 650 (5.4) |
| Compatible Substrate Primer | 780 (6.5) | 780 (6.5) |
| Corrosion Prevention Compound | 710 (5.9) | 710 (5.9) |
| Cryogenic Flexible Primer | 645 (5.4) | 645 (5.4) |
| Cryoprotective Coating | 600 (5.0) | 600 (5.0) |
| Dry Lubricative Material | 880 (7.3) | 880 (7.3) |
| Electric or Radiation-Effect Coating | 800 (6.7) | 800 (6.7) |
| Electrostatic Discharge and Electromagnetic Interference (EMI) Coating | 800 (6.7) | 800 (6.7) |
| Elevated-Temperature Skydrol-Resistant Commercial Primer | 740 (6.2) | 740 (6.2) |
| Epoxy Polyamide Topcoat | 660 (5.5) | 660 (5.5) |
| Fire-Resistant (interior) Coating | 800 (6.7) | 800 (6.7) |
| Flexible Primer | 640 (5.3) | 640 (5.3) |
| Flight-Test Coatings: Missile or Single Use Aircraft | 420 (3.5) | 420 (3.5) |
| Flight-Test Coatings: All Other | 840 (7.0) | 840 (7.0) |
| Fuel-Tank Coating | 720 (6.0) | 720 (6.0) |
| High-Temperature Coating | 850 (7.1) | 850 (7.1) |
| Insulation Covering | 740 (6.2) | 740 (6.2) |
| Intermediate Release Coating | 750 (6.3) | 750 (6.3) |
| Lacquer | 830 (6.9) | 830 (6.9) |
| Bonding Maskant | 1,230 (10.3) | 1,230 (10.3) |
| Critical Use and Line Sealer Maskant | 1,020 (8.5) | 1,020 (8.5) |
| Seal Coat Maskant | 1,230 (10.3) | 1,230 (10.3) |
| Metalized Epoxy Coating | 740 (6.2) | 740 (6.2) |
| Mold Release | 780 (6.5) | 780 (6.5) |
| Optical Anti-Reflective Coating | 750 (6.3) | 750 (6.3) |
| Part Marking Coating | 850 (7.1) | 850 (7.1) |
| Pretreatment Coating | 780 (6.5) | 780 (6.5) |
| Rain Erosion-Resistant Coating | 850 (7.1) | 850 (7.1) |
| Rocket Motor Nozzle Coating | 660 (5.5) | 660 (5.5) |
| Scale Inhibitor | 880 (7.3) | 880 (7.3) |
| Screen Print Ink | 840 (7.0) | 840 (7.0) |
| Extrudable/Rollable/Brushable Sealant | 280 (2.3) | 280 (2.3) |
| Sprayable Sealant | 600 (5.0) | 600 (5.0) |
| Silicone Insulation Material | 850 (7.1) | 850 (7.1) |
| Solid Film Lubricant | 880 (7.3) | 880 (7.3) |
| Specialized Function Coating | 890 (7.4) | 890 (7.4) |
| Temporary Protective Coating | 320 (2.7) | 320 (2.7) |
| Thermal Control Coating | 800 (6.7) | 800 (6.7) |
| Wet Fastener Installation Coating | 675 (5.6) | 675 (5.6) |
| Wing Coating | 850 (7.1) | 850 (7.1) |

[1] Coating limits for HAP are expressed in terms of mass (grams or pounds) of HAP per volume (liters or gallons) of coating less water. Coating limits for VOC are expressed in terms of mass (grams or pounds) of VOC per volume (liters or gallons) of coating less water and less exempt solvent.

* * * * *

(e) *Compliance methods.* Compliance with the organic HAP and VOC content limits specified in paragraphs (c)(1) through (6) of this section shall be accomplished by using the methods specified in paragraphs (e)(1) and (2) of this section either by themselves or in conjunction with one another.

(1) Use primers, topcoats (including self-priming topcoats) and specialty coatings with HAP and VOC content levels equal to or less than the limits specified in paragraphs (c)(1) through (6) of this section; or

* * * * *

(f) *Application equipment.* Except as provided in paragraph (f)(3) of this section, each owner or operator of a new or existing primer, topcoat (including self-priming topcoat) or specialty coating application operation subject to this subpart in which any of the coatings contain organic HAP or VOC shall comply with the requirements specified in paragraphs (f)(1) and (2) of this section.

(1) All primers, topcoats (including self-priming topcoats) and specialty coatings shall be applied using one or more of the application techniques specified in paragraphs (f)(1)(i) through (ix) of this section.

* * * * *

(2) All application devices used to apply primers, topcoats (including self-priming topcoats) or specialty coatings shall be operated according to company procedures, local specified operating procedures and/or the manufacturer's specifications, whichever is most stringent, at all times. Equipment modified by the facility shall maintain a transfer efficiency equivalent to HVLP and electrostatic spray application techniques.

* * * * *

(g) *Inorganic HAP emissions.* Except as provided in paragraph (g)(4) of this section, each owner or operator of a new or existing primer, topcoat or specialty coating application operation subject to this subpart in which any of the coatings that are spray applied contain

inorganic HAP, shall comply with the applicable requirements in paragraphs (g)(1) through (3) of this section.

* * * * *

(2) * * *

(i) For existing sources, the owner or operator must choose one of the following:

(A) Before exhausting it to the atmosphere, pass the air stream through a dry particulate filter system certified using the methods described in § 63.750(o) to meet or exceed the efficiency data points in Tables 2 and 3 of this section; or

(C) Before exhausting it to the atmosphere, pass the air stream through an air pollution control system that meets or exceeds the efficiency data points in Tables 2 and 3 of this section and is approved by the permitting authority.

TABLE 2—TWO-STAGE ARRESTOR; LIQUID PHASE CHALLENGE FOR EXISTING SOURCES

| Filtration efficiency requirement, % | Aerodynamic particle size range, μm |
|---|---|
| >90 | >5.7 |
| >50 | >4.1 |
| >10 | >2.2 |

TABLE 3—TWO-STAGE ARRESTOR; SOLID PHASE CHALLENGE FOR EXISTING SOURCES

| Filtration efficiency requirement, % | Aerodynamic particle size range, μm |
|---|---|
| >90 | >8.1 |
| >50 | >5.0 |
| >10 | >2.6 |

(ii) For new sources, either:

(A) Before exhausting it to the atmosphere, pass the air stream through a dry particulate filter system certified using the methods described in § 63.750(o) to meet or exceed the efficiency data points in Tables 4 and 5 of this section; or (B) Before exhausting it to the atmosphere, pass the air stream through an air pollution control system that meets or exceeds the efficiency data points in Tables 4 and 5 of this section and is approved by the permitting authority.

TABLE 4—THREE-STAGE ARRESTOR; LIQUID PHASE CHALLENGE FOR NEW SOURCES

| Filtration efficiency requirement, % | Aerodynamic particle size range, μm |
|---|---|
| >95 | >2.0 |
| >80 | >1.0 |
| >65 | >0.42 |

TABLE 5—THREE-STAGE ARRESTOR; SOLID PHASE CHALLENGE FOR NEW SOURCES

| Filtration efficiency requirement, % | Aerodynamic particle size range, μm |
|---|---|
| >95 | >2.5 |
| >85 | >1.1 |
| >75 | >0.70 |

(iii) * * *

(B) If the primer, topcoat or specialty coating contains chromium or cadmium, control shall consist of a HEPA filter system, three-stage filter system or other control system equivalent to the three stage filter system as approved by the permitting agency.

* * * * *

■ 7. Section 63.746 is amended by revising (b)(4)(ii)(A) and (B) to read as follows:

**§ 63.746 Standards: Depainting operations.**

* * * * *

(b) * * *

(4) * * *

(ii)(A) For existing sources, pass any air stream removed from the enclosed area or closed-cycle depainting system through a dry particulate filter system, certified using the method described in § 63.750(o) to meet or exceed the efficiency data points in Tables 2 and 3 of § 63.745, through a baghouse or through a waterwash system before exhausting it to the atmosphere.

(B) For new sources, pass any air stream removed from the enclosed area or closed-cycle depainting system through a dry particulate filter system certified using the method described in § 63.750(o) to meet or exceed the efficiency data points in Tables 4 and 5 of § 63.745 or through a baghouse before exhausting it to the atmosphere.

* * * * *

■ 8. Section 63.749 is amended by:

■ a. Revising paragraphs (a)(1) and (2);

■ b. Adding paragraph (a)(3);

■ c. Revising paragraph (b);

■ d. Revising the heading of paragraph (d), paragraph (d)(4) introductory text and paragraph (d)(4)(i);

■ e. Revising paragraph (e) introductory text;

■ f. Adding paragraph (j).

The revisions and additions read as follows:

**§ 63.749 Compliance dates and determinations.**

(a) * * * (1) Each owner or operator of an existing affected source subject to this subpart shall comply with the requirements of this subpart by September 1, 1998, except as specified in paragraphs (a)(2) and (3) of this section. Owners or operators of new affected sources subject to this subpart shall comply on the effective date or upon startup, whichever is later. In addition, each owner or operator shall comply with the compliance dates specified in § 63.6(b) and (c) as indicated in Table 1 to subpart GG of part 63.

(2) Owners or operators of existing primer, topcoat or specialty coating application operations and depainting operations who construct or reconstruct a spray booth or hangar must comply with the new source requirements for inorganic HAP specified in §§ 63.745(g)(2)(ii) and 63.746(b)(4) for that new spray booth or hangar upon startup. Such sources must still comply with all other existing source requirements by September 1, 1998.

(3) Each owner or operator of a specialty coating application operation that begins construction or reconstruction after [date of publication of final rule in the **Federal Register**] shall be in compliance with the requirements of this subpart on [date of publication of final rule in the **Federal Register**] or upon startup, whichever is later. Each owner or operator of a specialty coating application operation that is existing on [date of publication of final rule in the **Federal Register**] shall be in compliance with the requirements of this subpart on or before [date 1 year after date of publication of final rule in the **Federal Register**].

(b) *General.* Each facility subject to this subpart shall be considered in noncompliance if the owner or operator fails to use a control device other than one specified in this subpart that has not been approved by the Administrator, as required by § 63.743(c).

* * * * *

(d) *Organic HAP and VOC content levels—primer, topcoat and specialty coating application operations* —

* * * * *

(4) The topcoat or specialty coating application operation is considered in compliance when the conditions

specified in paragraphs (d)(4)(i) through (iv) of this section, as applicable, and in paragraph (e) of this section are met. Failure to meet any of the conditions identified in these paragraphs shall constitute noncompliance.

(i) The topcoat application operation is considered in compliance when the conditions specified in paragraphs (d)(4)(i)(A) are met. The specialty coating application operation is considered in compliance when the conditions specified in paragraphs (d)(4)(i)(B) are met.

(A) For all uncontrolled topcoats, all values of $H_i$ and $H_a$ (as determined using the procedures specified in § 63.750(c) and (d)) are less than or equal to 420 grams organic HAP per liter (3.5 lb/gal) of topcoat (less water) as applied, and all values of $G_i$ and $G_a$ (as determined using the procedures specified in § 63.750(e) and (f)) are less than or equal to 420 grams organic VOC per liter (3.5 lb/gal) of topcoat (less water and exempt solvents) as applied.

(B) For all uncontrolled specialty coatings, all values of $H_i$ and $H_a$ (as determined using the procedures specified in § 63.750(c) and (d)) are less than or equal to the HAP content limits specified in Table 1 to § 63.745 for the applicable specialty coating types (less water) as applied, and all values of $G_i$ and $G_a$ (as determined using the procedures specified in § 63.750(e) and (f)) are less than or equal to the VOC content limits specified in Table 1 to § 63.745 for the applicable specialty coating types (less water and exempt solvents) as applied.

* * * * *

(e) *Inorganic HAP emissions—primer, topcoat and specialty coating application operations.* For each primer, topcoat or specialty coating application operation that emits inorganic HAP, the operation is in compliance when:

* * * * *

(j) Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

■ 9. Section 63.750 is amended by:

■ a. Revising paragraphs (c) introductory text, (d) introductory text and (e) introductory text;

■ b. Revising paragraphs (f) introductory text and (f)(1)(iii);

■ c. Revising paragraph (h)(3)(i)(1); and

■ d. Revising paragraphs (k) introductory text, (m) introductory text and (o).

The revisions are as follows:

**§ 63.750 Test methods and procedures.**

* * * * *

(c) *Organic HAP content level determination—compliant primers, topcoats and specialty coatings.* For those uncontrolled primers, topcoats and specialty coatings complying with the primer, topcoat or specialty coating organic HAP content limits specified in § 63.745(c) without being averaged, the procedures in paragraphs (c)(1) through (3) of this section shall be used to determine the mass of organic HAP emitted per volume of coating (less water) as applied. As an alternative to the procedures in paragraphs (c)(1) through (3) of this section, an owner or operator may use the coating manufacturer's supplied data to demonstrate that organic HAP emitted per volume of coating (less water), as applied, is less than or equal to the applicable organic HAP limit specified in § 63.745(c).

* * * * *

(d) *Organic HAP content level determination—averaged primers, topcoats and specialty coatings.* For those uncontrolled primers, topcoats and specialty coatings that are averaged together in order to comply with the primer, topcoat and specialty coating organic HAP content limits specified in § 63.745(c), the following procedure shall be used to determine the monthly volume-weighted average mass of organic HAP emitted per volume of coating (less water) as applied, unless the permitting agency specifies a shorter averaging period as part of an ambient ozone control program.

* * * * *

(e) *VOC content level determination—compliant primers, topcoats and specialty coatings.* For those uncontrolled primers, topcoats and specialty coatings complying with the primer, topcoat and specialty coating VOC content levels specified in § 63.745(c) without being averaged, the procedures in paragraphs (e)(1) through (3) of this section shall be used to determine the mass of VOC emitted per volume of coating (less water and exempt solvents) as applied. As an alternative to the procedures in paragraphs (e)(1) through (3) of this section, an owner or operator may use coating manufacturer's supplied data to demonstrate that VOC emitted per volume of coating (less water and exempt solvents), as applied, is less than or equal to the applicable VOC limit specified in § 63.745(c).

* * * * *

(f) *VOC content level determination—averaged primers, topcoats and specialty coatings.* For those uncontrolled primers, topcoats and specialty coatings that are averaged within their respective coating category in order to comply with the primer, topcoat and specialty coating VOC content limits specified in § 63.745 (c)(2), (4), and (6), the following procedure shall be used to determine the monthly volume-weighted average mass of VOC emitted per volume of coating (less water and exempt solvents) as applied, unless the permitting agency specifies a shorter averaging period as part of an ambient ozone control program.

(1) * * *

(iii) Determine the VOC content of each primer, topcoat and specialty coating formulation (less water and exempt solvents) as applied using EPA Method 24 or from manufacturer's data.

* * * * *

(h) * * *

(3) * * *

(i)(1) *Alternative application method—primers, topcoats and specialty coatings.* Each owner or operator seeking to use an alternative application method (as allowed in § 63.745(f)(1)(ix)) in complying with the standards for primers, topcoats and specialty coatings shall use the procedures specified in paragraphs (i)(2)(i) and (ii) or (iii) of this section to determine the organic HAP and VOC emission levels of the alternative application technique as compared to either HVLP or electrostatic spray application methods.

* * * * *

(k) *Organic HAP content level determination—compliant chemical milling maskants.* For those uncontrolled chemical milling maskants complying with the chemical milling maskant organic HAP content limit specified in § 63.747(c)(1) without being averaged, the procedure in paragraph (k)(1) of this section shall be used to determine the mass of organic HAP emitted per unit volume of coating (chemical milling maskant) i as applied (less water), $H_i$ (lb/gal). As an alternative

to the procedures in paragraph (k)(1) of this section, an owner or operator may use coating manufacturer's supplied data to demonstrate that organic HAP emitted per volume of coating (less water), as applied, is less than or equal to the applicable organic HAP limit specified in § 63.747(c).

* * * * *

(m) *VOC content level determination—compliant chemical milling maskants.* For those uncontrolled chemical milling maskants complying with the chemical milling maskant VOC content limit specified in § 63.747(c)(2) without being averaged, the procedure specified in paragraphs (m)(1) and (2) of this section shall be used to determine the mass of VOC emitted per volume of chemical milling maskant (less water and exempt solvents) as applied. As an alternative to the procedures in paragraphs (m)(1) and (2) of this section, an owner or operator may use coating manufacturer's supplied data to demonstrate that VOC emitted per volume of coating (less water and exempt solvents), as applied, is less than or equal to the applicable VOC limit specified in § 63.747(c).

* * * * *

(o) *Inorganic HAP emissions—dry particulate filter certification requirements.* Dry particulate filters used to comply with § 63.745(g)(2) or § 63.746(b)(4) must be certified by the filter manufacturer or distributor, paint/depainting booth supplier and/or the facility owner or operator using method 319 in appendix A of this part, to meet or exceed the efficiency data points found in Tables 2 and 3 or 4 and 5 of § 63.745 for existing or new sources respectively.

■ 10. Section 63.751 is amended by revising paragraph (c) to read as follows:

**§ 63.751 Monitoring requirements.**

* * * * *

(c) *Dry particulate filter, HEPA filter and waterwash systems—primer, topcoat and specialty coating application operations.* (1) Each owner or operator using a dry particulate filter system to meet the requirements of § 63.745(g)(2) shall, while primer, topcoat and specialty coating application operations are occurring, continuously monitor the pressure drop across the system and read and record the pressure drop once per shift following the recordkeeping requirements of § 63.752(d).

(2) Each owner or operator using a conventional waterwash system to meet the requirements of § 63.745(g)(2) shall, while primer or topcoat application operations are occurring, continuously monitor the water flow rate through the system and read and record the water flow rate once per shift following the recordkeeping requirements of § 63.752(d). Each owner or operator using a pumpless waterwash system to meet the requirements of § 63.745(g)(2) shall, while primer, topcoat and specialty coating application operations are occurring, measure and record the parameter(s) recommended by the booth manufacturer that indicate booth performance once per shift, following the recordkeeping requirements of § 63.752(d).

* * * * *

■ 11. Section 63.752 is amended by:

■ a. Revising paragraph (a);

■ b. Revising paragraphs (c) introductory text, (c)(1), (c)(2) introductory text, (c)(4) introductory text, (c)(5) introductory text and (c)(6) introductory text;

■ c. Revising paragraphs (d) paragraph heading and (d)(1); and

■ d. Revising paragraph (f) introductory text.

The revisions read as follows:

**§ 63.752 Recordkeeping requirements.**

(a) *General.* Each owner or operator of a source subject to this subpart shall fulfill all recordkeeping requirements specified in § 63.10 (a), (b), (d) and (f), except § 63.10(b)(2)(i), (iv), and (v). Each owner or operator must also record and maintain according to § 63.10(b)(1) the information specified in paragraph (a)(1) through (3) of this section.

(1) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time and duration of each failure.

(2) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(3) Record actions taken to minimize emissions in accordance with § 63.743(e), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

* * * * *

(c) *Primer, topcoat and specialty coating application operations—organic HAP and VOC.* Each owner or operator required to comply with the organic HAP and VOC content limits specified in § 63.745(c) shall record the information specified in paragraphs (c)(1) through (6) of this section, as appropriate. Each owner and operator using coating manufacturer's supplied data to demonstrate compliance with the applicable organic HAP or VOC limit specified in § 63.745(c) may retain the manufacturer's documentation and annual purchase records in place of the records specified in paragraphs (c)(2) and (3) of this section.

(1) The name and VOC content as received and as applied of each primer, topcoat and specialty coating used at the facility.

(2) For uncontrolled primers, topcoats and specialty coatings that meet the organic HAP and VOC content limits in § 63.745(c)(1) through (6) without averaging:

* * * * *

(4) For primers, topcoats and specialty coatings complying with the organic HAP or VOC content level by averaging:

* * * * *

(5) For primers, topcoats and specialty coatings that are controlled by a control device other than a carbon adsorber:

* * * * *

(6) For primers, topcoats and specialty coatings that are controlled by a carbon adsorber:

* * * * *

(d) *Primer, topcoat and specialty coating application operations—inorganic HAP emissions.* (1) Each owner or operator complying with § 63.745(g) for the control of inorganic HAP emissions from primer, topcoat and specialty coating application operations through the use of a dry particulate filter system or a HEPA filter system shall record the pressure drop across the operating system once each shift during which coating operations occur.

(f) *Chemical milling maskant application operations.* Each owner or operator seeking to comply with the organic HAP and VOC content limits for the chemical milling maskant application operation, as specified in § 63.747(c), or the control system requirements specified in § 63.747(d), shall record the information specified in paragraphs (f)(1) through (4) of this section, as appropriate. Each owner and operator using coating manufacturer's supplied data to demonstrate compliance with the applicable organic HAP or VOC limit specified in § 63.747(c) may retain the manufacturer's documentation and annual purchase records in place of the records specified in paragraph (f)(1) of this section.

* * * * *

■ 12. Section 63.753 is amended by:

■ a. Revising paragraph (a)(1) introductory text and (a)(2);

■ b. Adding paragraphs (a)(4) and (5);

■ c. Revising paragraphs (c) introductory text, (c)(1)(i) and (ii).

■ d. Revising paragraph (e)(1).

The revisions and additions read as follows:

**§ 63.753 Reporting requirements.**

(a)(1) Except as provided in paragraphs (a)(2) through (5) of this section, each owner or operator subject to this subpart shall fulfill the requirements contained in § 63.9(a) through (e) and (h) through (j), Notification requirements and § 63.10(a), (b), (d) and (f), Recordkeeping and reporting requirements, of the General Provisions, 40 CFR part 63, subpart A and that the initial notification for existing sources required in § 63.9(b)(2) shall be submitted not later than September 1, 1997, or as specified in § 63.9(b)(2). In addition to the requirements of § 63.9(h), the notification of compliance status shall include:

* * * * *

(2) The initial notification for existing sources, required in § 63.9(b)(2) shall be submitted no later than September 1, 1997, or as specified in § 63.9(b)(2). For the purposes of this subpart, a title V or part 70 permit application may be used in lieu of the initial notification required under § 63.9(b)(2), provided the same information is contained in the permit application as required by § 63.9(b)(2), and the State to which the permit application has been submitted has an approved operating permit program under part 70 of this chapter and has received delegation of authority from the EPA. Permit applications shall be submitted by the same due dates as those specified for the initial notifications.

* * * * *

(4) Each owner or operator subject to this subpart is not required to comply with § 63.10(b)(2)(i), (b)(2)(iv), (b)(2)(v), and (d)(5).

(5) If a source fails to meet an applicable standard specified in §§ 63.744 through 63.748, report such events in the semiannual report:

(i) The number of failures to meet an applicable standard.

(ii) For each instance, report the date, time and duration of each failure.

(iii) For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

* * * * *

(c) *Primer, topcoat and specialty coating application operations.* Each owner or operator of a primer or topcoat application operation subject to this subpart shall submit the following information:

(1) * * *

(i) For primers, topcoats and specialty coatings where compliance is not being achieved through the use of averaging or a control device, the HAP or VOC content in manufacturer's supplied data as recorded under § 63.752(c), or each value of $H_i$ and $G_i$ as recorded under § 63.752(c)(2)(i), that exceeds the applicable organic HAP or VOC content limit specified in § 63.745(c);

(ii) For primers, topcoats and specialty coatings where compliance is being achieved through the use of averaging, each value of $H_a$ and $G_a$, as recorded under § 63.752(c)(4)(i), that exceeds the applicable organic HAP or VOC content limit specified in § 63.745(c);

* * * * *

(e) * * *

(1) For chemical milling maskants where compliance is not being achieved through the use of averaging or a control device, the HAP or VOC content in manufacturer's supplied data as recorded under § 63.752(f), or each value of $H_i$ and $G_i$ as recorded under § 63.752(f)(1)(i), that exceeds the applicable organic HAP or VOC content limit specified in § 63.747(c);

* * * * *

■ 13. Revise Table 1 to Subpart GG of Part 63 to read as follows:

TABLE 1 TO SUBPART GG OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART GG

| Reference | Applies to affected sources in subpart GG | Comment |
|---|---|---|
| 63.1(a)(1) | Yes. | |
| 63.1(a)(2) | Yes. | |
| 63.1(a)(3) | Yes. | |
| 63.1(a)(4) | Yes. | |
| 63.1(a)(5) | No | Reserved. |
| 63.1(a)(6) | Yes. | |
| 63.1(a)(7) | Yes. | |
| 63.1(a)(8) | Yes. | |
| 63.1(a)(9) | No | Reserved. |
| 63.1(a)(10) | Yes. | |
| 63.1(a)(11) | Yes. | |
| 63.1(a)(12) | Yes. | |
| 63.1(a)(13) | Yes. | |
| 63.1(a)(14) | Yes. | |
| 63.1(b)(1) | Yes. | |
| 63.1(b)(2) | Yes. | |
| 63.1(b)(3) | Yes. | |
| 63.1(c)(1) | Yes. | |
| 63.1(c)(2) | Yes | Subpart GG does not apply to area sources. |
| 63.1(c)(3) | No | Reserved. |
| 63.1(c)(4) | Yes. | |
| 63.1(c)(5) | Yes. | |
| 63.1(d) | No | Reserved. |
| 63.1(e) | Yes. | |
| 63.2 | Yes. | |
| 63.3 | Yes. | |
| 63.4(a)(1) | Yes. | |
| 63.4(a)(2) | Yes. | |
| 63.4(a)(3) | Yes. | |
| 63.4(a)(4) | No | Reserved. |
| 63.4(a)(5) | Yes. | |

TABLE 1 TO SUBPART GG OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART GG—Continued

| Reference | Applies to affected sources in subpart GG | Comment |
|---|---|---|
| 63.4(b) | Yes. | |
| 63.4(c) | Yes. | |
| 63.5(a) | Yes. | |
| 63.5(b)(1) | Yes. | |
| 63.5(b)(2) | No | Reserved. |
| 63.5(b)(3) | Yes. | |
| 63.5(b)(4) | Yes. | |
| 63.5(b)(5) | Yes. | |
| 63.5(b)(6) | Yes. | |
| 63.5(c) | No | Reserved. |
| 63.5(d)(1)(i) | Yes. | |
| 63.5(d)(1)(ii)(A) through (H) | Yes. | |
| 63.5(d)(1)(ii)(I) | No | Reserved. |
| 63.5(d)(1)(ii)(J) | Yes. | |
| 63.5(d)(1)(iii) | Yes. | |
| 63.5(d)(2) through (4) | Yes. | |
| 63.5(e) | Yes. | |
| 63.5(f) | Yes. | |
| 63.6(a) | Yes. | |
| 63.6(b)(1) through (5) | Yes | § 63.749(a) specifies compliance dates for new sources. |
| 63.6(b)(6) | No | Reserved. |
| 63.6(b)(7) | Yes. | |
| 63.6(c)(1) | Yes. | |
| 63.6(c)(2) | No | The standards in subpart GG are promulgated under section 112(d) of the CAA. |
| 63.6(c)(3) and (4) | No | Reserved. |
| 63.6(c)(5) | Yes. | |
| 63.6(d) | No | Reserved. |
| 63.6(e)(1)(i) | No | See § 63.743(e) for general duty requirement. |
| 63.6(e)(1)(ii) | No. | |
| 63.6(e)(2) | No | Section reserved. |
| 63.6(e)(3) | No. | |
| 63.6(f)(1) | No. | |
| 63.6(f)(2) and (3) | Yes. | |
| 63.6(g) | Yes. | |
| 63.6(h) | No | The standards in subpart GG do not include opacity standards. |
| 63.6(i)(1) and (3) | Yes. | |
| 63.6(i)(4)(i)(A) | Yes. | |
| 63.6(i)(4)(i)(B) | No | § 63.743(a)(4) specifies that requests for extension of compliance must be submitted no later than 120 days before an affected source's compliance date. |
| 63.6(i)(4)(ii) | No | The standards in subpart GG are promulgated under section 112(d) of the CAA. |
| 63.6(i)(5) through (12) | Yes. | |
| 63.6(i)(13) | Yes. | |
| 63.6(i)(14) | Yes. | |
| 63.6(i)(15) | No | Reserved. |
| 63.6(i)(16) | Yes. | |
| 63.6(j) | Yes. | |
| 63.7(a)(1) | Yes. | |
| 63.7(a)(2)(i) through (vi) | Yes. | |
| 63.7(a)(2)(vii) and (viii) | No | Reserved. |
| 63.7(a)(2)(ix) | Yes. | |
| 63.7(a)(3) | Yes. | |
| 63.7(b) | Yes. | |
| 63.7(c) | Yes. | |
| 63.7(d) | Yes. | |
| 63.7(e)(1) | No | See § 63.749(j). |
| 63.7(e)(2) through (4) | Yes. | |
| 63.7(f) | Yes. | |
| 63.7(g)(1) | Yes. | |
| 63.7(g)(2) | No | Reserved. |
| 63.7(g)(3) | Yes. | |
| 63.7(h) | Yes. | |
| 63.8(a)(1) and (2) | Yes. | |
| 63.8(a)(3) | No | Reserved. |
| 63.8(a)(4) | Yes. | |
| 63.8(b) | Yes. | |
| 63.8(c)(1)(i) | No. | |

TABLE 1 TO SUBPART GG OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART GG—Continued

| Reference | Applies to affected sources in subpart GG | Comment |
|---|---|---|
| 63.8(c)(1)(ii) | Yes. | |
| 63.8(c)(1)(iii) | No. | |
| 63.8(c)(2) through (d)(2) | Yes. | |
| 63.8(d)(3) | No. | |
| 63.8(e)(1) through (4) | Yes. | |
| 63.8(e)(5)(i) | Yes. | |
| 63.8(e)(5)(ii) | No | The standards in subpart GG do not include opacity standards. |
| 63.8(f)(1) | Yes. | |
| 63.8(f)(2)(i) through (vii) | Yes. | |
| 63.8(f)(2)(viii) | No | The standards in subpart GG do not include opacity standards. |
| 63.8(f)(2)(ix) | Yes. | |
| 63.8(f)(3) through (6) | Yes. | |
| 63.8(g) | Yes. | |
| 63.9(a) | Yes. | |
| 63.9(b)(1) | Yes. | |
| 63.9(b)(2) | Yes | § 63.753(a)(1) requires submittal of the initial notification at least 1 year prior to the compliance date; § 63.753(a)(2) allows a title V or part 70 permit application to be substituted for the initial notification in certain circumstances. |
| 63.9(b)(3) | Yes. | |
| 63.9(b)(4) | Yes. | |
| 63.9(b)(5) | Yes. | |
| 63.9(c) | Yes. | |
| 63.9(d) | Yes. | |
| 63.9(e) | Yes. | |
| 63.9(f) | No | The standards in subpart GG do not include opacity standards. |
| 63.9(g)(1) | No. | |
| 63.9(g)(2) | No | The standards in subpart GG do not include opacity standards. |
| 63.9(g)(3) | No. | |
| 63.9(h)(1) through (3) | Yes | § 63.753(a)(1) also specifies additional information to be included in the notification of compliance status. |
| 63.9(h)(4) | No | Reserved. |
| 63.9(h)(5) and (6) | Yes. | |
| 63.9(i) | Yes. | |
| 63.9(j) | Yes. | |
| 63.10(a) | Yes. | |
| 63.10(b)(1) | Yes. | |
| 63.10(b)(2)(i) | No. | |
| 63.10(b)(2)(ii) | No | See § 63.752(a) for recordkeeping of: (1) Date, time and duration; (2) Listing of affected source or equipment and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) Actions to minimize emissions and correct the failure. |
| 63.10(b)(2)(iii) | Yes. | |
| 63.10(b)(2)(iv) and (v) | No. | |
| 63.10(b)(2)(vi) | Yes. | |
| 63.10(b)(2)(vi)(A) through (C) | No | § 63.10(b)(vii)(A), (B) and (C) do not apply because subpart GG does not require the use of CEMS. |
| 63.10(b)(2)(vii) through (xiv). | | |
| 63.10(b)(3) | Yes. | |
| 63.10(c)(1) | No. | |
| 63.10(c)(2) through (4) | No | Reserved. |
| 63.10(c)(5) and (6) | No. | |
| 63.10(c)(7) and (8) | Yes. | |
| 63.10(c)(9) | No | Reserved. |
| 63.10(c)(10) through (13) | No. | |
| 63.10(c)(14) | No | § 63.8(d) does not apply to this subpart. |
| 63.10(c)(15) | No. | |
| 63.10(d)(1) and (2) | Yes. | |
| 63.10(d)(3) | No | The standards in subpart GG do not include opacity standards. |
| 63.10(d)(4) | Yes. | |
| 63.10(d)(5) | No. See § 63.753 (a)(5) for malfunction reporting requirements.. | |
| 63.(10)(e)(1) | No. | |

TABLE 1 TO SUBPART GG OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART GG—Continued

| Reference | Applies to affected sources in subpart GG | Comment |
|---|---|---|
| 63.10(e)(2)(i) | No. | |
| 63.10(e)(2)(ii) | No | The standards in subpart GG do not include opacity standards. |
| 63.10(e)(3) | No. | |
| 63.10(e)(4) | No | The standards in subpart GG do not include opacity standards. |
| 63.10(f) | Yes. | |
| 63.11 | Yes. | |
| 63.12 | Yes. | |
| 63.13 | Yes. | |
| 63.14 | Yes. | |
| 63.15 | Yes. | |
| 63.16 | Yes. | |

[FR Doc. 2015–02055 Filed 2–13–15; 8:45 am]

BILLING CODE 6560–50–P

# FEDERAL REGISTER

Vol. 80 Tuesday,
No. 31 February 17, 2015

Part III

## Environmental Protection Agency

40 CFR Parts 60 and 63
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; Revisions; Proposed Rule

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 60 and 63

**[EPA–HQ–OAR–2009–0234 and EPA–HQ–OAR–2011–0044; FRL–9921–04–OAR]**

**RIN 2060–AS41**

## 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; Revisions

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is proposing this action to correct and clarify certain text of the final action 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,'' which was published in the **Federal Register** of Thursday, February 16, 2012. We are also proposing to remove rule provisions establishing an affirmative defense for malfunction events in light of a recent court decision on the issue.

**DATES:** *Comments.* Comments must be received on or before April 3, 2015.

*Public Hearing.* If anyone contacts the EPA requesting a public hearing by February 23, 2015, the EPA will hold a public hearing on March 4, 2015 from 1 p.m. (Eastern Standard Time) to 5 p.m. (Eastern Standard Time) at the U.S. Environmental Protection Agency building located at 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. 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.

**ADDRESSES:** Submit your comments, identified by Docket ID. No. EPA–HQ–OAR–2011–0044 (NSPS action) or Docket ID No. EPA–HQ–OAR–2009–0234 (NESHAP/MATS action), by one of the following methods:

- *Federal rulemaking portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web site: http://www.epa.gov/oar/docket.html.* Follow the instructions for submitting comments on the EPA Air and Radiation Docket Web site.
- *Email:* Comments may be sent by electronic mail (email) to *a-and-r-docket@epa.gov,* Attention EPA–HQ–OAR–2011–0044 (NSPS action) or EPA–HQ–OAR–2009–0234 (NESHAP/MATS action).
- *Fax:* Fax your comments to: (202) 566–9744, Docket ID No. EPA–HQ–OAR–2011–0044 (NSPS action) or Docket ID No. EPA–HQ–OAR–2009–0234 (NESHAP/MATS action).
- *Mail:* Send your comments on the NESHAP/MATS action to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Docket ID No. EPA–HQ–OAR–2009–0234. Send your comments on the NSPS action to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Docket ID. No. EPA–HQ–OAR–2011–0044.
- *Hand Delivery or Courier:* Deliver your comments to: EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holiday), and special arrangements should be made for deliveries of boxed information.

**FOR FURTHER INFORMATION CONTACT:** For the NESHAP action: Mr. Barrett Parker, Measurement Policy Group, Sector Policies and Programs Division, (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–5635; Fax number (919) 541–3207; email address: *parker.barrett@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:**

*Comment Instructions.* All submissions must include agency name and respective docket number or Regulatory Information Number (RIN) for this rulemaking. All comments will be posted without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Public Hearing.* If requested by February 23, 2015, we will hold a public hearing on March 4, 2015, from 1 p.m. (Eastern Standard Time) to 5 p.m. (Eastern Standard Time) at the U.S. Environmental Protection Agency building located at 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. Please contact Ms. Pamela Garrett of the Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919–541–7966; email address: *garrett.pamela@epa.gov*; to request a hearing, register to speak at the hearing or to inquire as to whether or not a hearing will be held. The last day to pre-register in advance to speak at the hearing will be March 2, 2015. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, we ask that you pre-register for the hearing, 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. 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 not be held on this rulemaking unless requested. A hearing needs to be requested by February 23, 2015. Again, please contact Ms. Pamela Garrett of the Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919–541–7966; email address: *garrett.pamela@epa.gov* to request a hearing.

*Docket.* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available (*e.g.,* CBI or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy 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.

## I. Technical Corrections

The final Clean Air Act (CAA) rules published in the **Federal Register** on February 16, 2012 (77 FR 9303), establish national emission standards for hazardous air pollutants (NESHAP) from coal- and oil-fired electric utility steam generating units (EGUs), referred to as ''the Mercury and Air Toxics Standards'' or ''MATS,'' and new source performance standards (NSPS) for fossil-fuel-fired electric utility, industrial-commercial-institutional, and small industrial-commercial-institutional steam generating units, referred to as the Utility NSPS.

In this document, the EPA proposes to correct certain regulatory text. The proposed corrections can be categorized generally as follows: (a) Resolution of conflicts between preamble and regulatory text, (b) corrections that we stated we would make in response to comments that were inadvertently not made, and (c) clarification of language in regulatory text. Below, we identify each proposed technical correction to the regulatory text as found in the Code of Federal Regulations (*i.e.,* 40 CFR). The EPA is soliciting comments on all of these proposed corrections.

1. Section 60.49Da(f) is revised to amend the procedures for calculating compliance with the NSPS daily average particulate matter (PM) emission limit for affected facilities using PM continuous emission monitoring systems (CEMS) and that commenced construction, modification, or reconstruction before May 4, 2011. Even though it was not included in the proposal, in an effort to clarify certain language in 40 CFR 60.48Da(f), we amended the procedure for calculating compliance with the daily average PM limit for affected facilities for which construction, modification, or reconstruction commenced before May 4, 2011, using PM CEMS (78 FR 24073; April 24, 2013). The amendments removed the provision that for operating days with less than 18 hours of PM CEMS data, the data for that day would be rolled into the following operating day(s) until 18 hours of data are available. The intent of the original language was to assure that compliance with the daily PM emission rate was not determined with significantly less than 24 hours of data, but that all emissions data would still be used. The intent of the revised data was to eliminate the requirement to roll emissions data recorded on days without sufficient data to determine a daily average to the following operating day, but that a minimum of 18 hours would still be required to determine compliance with the daily PM standard. Industry requested reconsideration stating that they did not have an opportunity to comment on the issue, and that the revised calculation procedures could in fact require compliance determinations with significantly less than 24 hours of data. The proposed revisions would undo those changes and return the calculation procedures to the approach used prior to April 24, 2013. Specifically, for operating days with less than 18 hours of PM CEMS data, that data would be rolled into the following operating day(s) until over 18 hours of data are available to determine compliance with the operating day standard. We are soliciting comment on whether the intent of the current calculation procedures should be maintained (*i.e.,* data collected on days with less than 18 hours of data would not be used to determine compliance with the PM standard and would also not be rolled into the following operating day(s)). If the current approach is maintained, the regulatory language would be revised to avoid situations where compliance calculations would be made with less than 18 hours of data.

2. Section 63.9983(a) is revised to clarify that MATS does not apply to either major or area source combustion turbines, except for integrated gasification combined cycle (IGCC) units. In the final MATS rule, 40 CFR 63.9983(a) exempted from MATS ''any unit designated as a stationary combustion turbine, except an integrated gasification combined cycle (IGCC) unit, covered by 40 CFR part 63, subpart YYYY.'' Because area source stationary combustion turbines are not subject to subpart YYYY, which is applicable to stationary combustion turbines located at major sources, the Agency received questions concerning the applicability of MATS to the area

source units in that category. The EPA intended by the exemption to exempt all stationary source combustion turbines other than IGCC units from the requirements of MATS, because the EPA does not interpret the statute to include those units within the definition of EGU in CAA section 112(a)(8). The proposed revisions to the regulations will clarify the EPA's interpretation and intent and prevent future confusion concerning the applicability of the MATS rule to stationary combustion turbines located at area sources.

3. Section 63.9983(b) and (c) is revised consistent with the definitional changes discussed below. The definitional changes are being proposed so that sources will know the time period to consider when determining whether their coal or oil utilization triggers applicability of the MATS rule. As explained below, the change is particularly important in the first 3 years after the compliance date when sources will be required to estimate coal and oil utilization in their EGUs to determine applicability of the MATS rule.

4. Section 63.9983(e) is added to clarify CAA section 112 applicability to the units that meet the definition of a natural gas-fired EGU in MATS, and, because they combust greater than 10 percent biomass, also meet the definition of a biomass-fired boiler in the Industrial Boiler NESHAP (40 CFR part 63, subpart DDDDD). These overlapping definitions led to confusion in the regulated community about whether such units are natural gas-fired EGUS pursuant to MATS or biomass-fired boilers subject to the Industrial Boiler NESHAP. We are revising the MATS rule to make clear that such units are biomass-fired boilers subject to the industrial boiler NESHAP. Similar revisions to the applicability provisions of the Industrial Boiler NESHAP have been proposed.[1]

5. Section 63.9991(c)(1) and (2) is being revised to clarify the conditions that are required in order to use the alternate sulfur dioxide ($SO_2$) limit.

6. Sections 63.10000(c)(1)(i)(A) and 63.10005(h) are revised to clarify the provisions of units designated as being low emitting EGUs (LEE) when an acid gas scrubber and a bypass stack are present.

7. Section 63.10000(c)(1)(i)(C) is added to allow EGUs the ability to seek LEE status if their bypass stacks vent through stacks that are able to measure emissions. In addition, the proposed language would allow EGUs with LEE status the ability to bypass emissions control devices during emergency periods provided certain fuel and time restrictions, along with notification requirements, occur.

The final MATS rule did not allow EGUs whose emissions control devices had bypasses to seek LEE status. Owners and operators of EGUs whose emissions control devices had no bypass stacks, but instead routed bypass emissions through main stacks equipped with emissions measurement capability, requested that we allow their EGUs to seek LEE status provided emissions were measured during bypass events. We believe that EGU owners or operators that have the ability to measure and report emissions during bypass events should be able to seek LEE status as long as bypass emissions are included in the calculations required to demonstrate the LEE status eligibility. For this reason, we are proposing to allow this option.

Also, a number of EGU owners or operators requested that we allow EGUs with LEE status the ability to bypass their emissions control devices in emergency conditions, provided that the EGUs were combusting clean fuels and that the bypass periods were of short duration.[2] We reviewed the requests and believe that control device bypass operation for up to 2 percent of EGU operating hours while combusting clean fuel during emergency periods is reasonable, provided a report detailing the emergency event, its cause, the corrective action taken to alleviate the emergency event, and estimates of the emissions released during the emergency event are provided. In addition, an EGU owner or operator must include these emergency emissions along with performance test results in assessing whether its EGU maintains LEE status. We seek comment on the adequacy of the restrictions associated with bypass conditions regarding maintaining LEE status.

8. Section 63.10000(c)(2)(iii) is revised to state that EGU owners or operators who choose to use quarterly testing and parametric monitoring for hydrogen fluoride (HF) or hydrogen chloride (HCl) compliance must include the continuous monitoring systems (CMS) that will be used in their site-specific monitoring plans to comply with the monitoring requirements.

9. Section 63.10000(m) is added to clarify that EGU owners or operators who choose to meet the work practice standards contained in paragraph (2) of the definition of startup may verify, instead of certify, monitoring systems used to generate data to meet the work practice standards. Moreover, this addition clarifies that those monitoring systems may be installed, verified, operated, maintained, and quality assured using manufacturer's specifications.

10. Section 63.10001 is revised to remove the affirmative defense provisions as explained in Section II below. The section is reserved.

11. Section 63.10005(a) is revised to clarify that different compliance demonstrations may require different and additional types of data collection and to clarify the date by which compliance must be demonstrated for existing EGUs.

12. Section 63.10005(a)(2) is revised to clarify the date by which compliance must be demonstrated for EGUs using CMS or sorbent trap monitoring systems.

13. Section 63.10005(a)(2)(i) is revised to clarify applicability of the provision to both the 30- and 90-boiler operating day performance testing requirements.

14. Section 63.10005(b)(1) is revised to clarify the time period allowed for existing EGUs to use stack test data collected prior to the applicable compliance date.

15. Section 63.10005(b)(6) is added to clarify the date EGUs must begin conducting required stack tests when stack test data collected prior to the applicable compliance date are submitted to satisfy the initial performance test requirement.

16. Section 63.10005(d)(3) and (d)(4)(i) is revised to more clearly state when compliance must be demonstrated.

17. Section 63.10005(f) is revised to clarify when sources must complete the initial boiler tune-up after the compliance date, and the timing for subsequent tune-ups when a tune-up conducted prior to the compliance date is used to satisfy the initial tune-up requirement.

18. Section 63.10005(h)(3) is revised to clarify that the alternate 30- and 90-day averaging provisions are both applicable to mercury (Hg) emission limits, and to clarify the sampling probe location.

19. Section 63.10005(i)(4) is revised to delete paragraphs (iii) and (iv). The identified test methods contain requirements for fuel sampling, not determining fuel moisture content, as required in the provision.

[1] Prepublication version found at *http://www.epa.gov/ttn/atw/boiler/boilerpg.html*. The prepublication version will be replaced with the **Federal Register** document when the proposal is published.

[2] To the extent these EGUs bypassed their control devices without measuring emissions, the hours of bypass operation would need to be reported as hours of monitoring deviation and subject to potential enforcement action.

20. Section 63.10006(f) is revised to specify EGU operational status with respect to performance testing; to identify the requirements—including make-up testing and reporting—if the performance testing schedule is missed apart from using existing skip procedures; and to identify intervals between performance tests. The final MATS rule had no provision that allowed an EGU owner or operator to skip a required performance test if its EGU was otherwise not operating; we did not believe the rule needed to be explicit in stating that EGUs need not be turned on solely to conduct performance testing. However, we have received questions regarding this circumstance. We believe it is appropriate to allow an EGU owner or operator the ability to skip a required performance test if its EGU is not otherwise operating, and are proposing this in this action. The final MATS rule had no provisions regarding make-up testing and reporting should a regularly scheduled performance test be missed for reasons other than the existing skip procedures. We believe it is appropriate to specify a schedule for required make-up testing and reporting, and are proposing such a schedule in this action. The final MATS rule specified the time periods between performance tests, but EGU owners or operators expressed concerns about being able to adhere to such a schedule. We believe their concerns about having too tight a timeline for retesting to occur and our concern about having a sufficient interval of time between tests such that the results better reflect characteristics of different periods can be addressed by specifying a minimum interval of time between subsequent performance tests, which we are proposing in this action. We welcome comments as to the need for, as well as efficacy of, these proposed revisions, as well as on these proposed intervals.

21. Section 63.10009(a)(2) and (a)(2)(i) is revised to clarify that the 90-boiler operating day averaging period is available as an option for Hg emissions from non-low rank virgin coal-fired EGUs (*i.e.,* EGUs in the subcategory ''unit designed for coal ≥8,300 Btu/lb''). In the final MATS (77 FR 9303 at 9385), we had indicated that we were providing the 90-boiler operating day averaging period as an alternative compliance approach (to the standard 30-boiler operating day averaging period) for Hg emissions from EGUs in that subcategory. However, the regulatory text in 40 CFR 63.10009(a)(2) did not clearly reflect this option.

The term ''gross electric output'' is also corrected to ''gross output'' which is the term defined in 40 CFR 63.10042.

22. Section 63.10009(b)(1) is revised to clarify group eligibility equations 1a and 1b. These equations were developed to provide EGU owners or operators a quick method for determining if their emissions averaging group could meet the emissions limit when operated at the maximum rated heat input and, in some cases, steam production. Commenters reported difficulty in using the equations in the final rule, so the equations have been revised so that individual EGU characteristics, whether from CEMS or stack testing results, are easier to input. We request comment on the proposed revisions concerning their usefulness in calculating the maximum potential emissions rate from an emissions averaging group. The term ''gross electric output'' is also corrected to ''gross output'' which is the term defined in 40 CFR 63.10042.

23. Section 63.10009(b)(2) and (3) is revised to correct the term ''gross electric output'' to ''gross output'' which is the term defined in 40 CFR 63.10042.

24. Section 63.10009(f) is revised to clarify the conditions for determining the ability of the emissions averaging group to meet the emissions limit and to clarify use of the alternate Hg emission limit. Instead of relying on the maximum normal operating load of each EGU in determining the ability of the emissions averaging group to demonstrate initial compliance, as was contained in the final MATS rule, we are proposing in this action to use the maximum possible heat input or gross output of each EGU in determining the ability of the emission averaging group to demonstrate initial compliance. In addition, instead of calculating the maximum weighted average emissions rate, as used in the final MATS rule, we are proposing in this action to calculate the initial weighted average emissions rate. Finally, instead of specifying just one date for submitting an emissions averaging plan, as was done in the final MATS rule, we are proposing in this action to allow an EGU owner or operator the flexibility to choose other dates to begin using an emissions averaging plan by allowing the submission of an emissions averaging plan at least 120 days before the date on which emissions averaging is to begin. We believe these changes will provide additional flexibility without undermining the enforceability of the final standards.

25. Section 63.10009(f)(2), (g)(1), (g)(2), and (j)(1)(ii) is revised to correct the term ''gross electric output'' to ''gross output'' which is the term defined in 40 CFR 63.10042.

26. Section 63.10010(a)(4) is revised to add a requirement to route exhaust gases that bypass emissions control devices through stacks that contain monitoring so that emissions can be measured and to clarify that hours that a bypass stack is in use are to be counted as hours of deviation from monitoring requirements.

27. Section 63.10010(f)(3) is revised to clarify that 30-boiler operating day rolling averages are to be based only on valid hourly $SO_2$ emission rates.

28. Section 63.10010(h)(6)(i) and (ii), (i)(5)(A) and (B), and (j)(4)(i)(A) and (B) is revised to clarify that data collected during certain periods are not to be included in compliance assessments but such periods are to be included in annual deviation reports. The final MATS rule established that all data collected with PM CPMS, PM CEMS, and HAP metals CEMS during all boiler operating hours were to be used in assessing compliance except those data collected during monitoring system malfunctions, repairs associated with monitoring system malfunctions, required quality assurance or quality control activities, or monitoring out-of-control periods. In addition, the final MATS rule sections combined the requirement to report the periods when data collected during these operating periods as deviations into one long sentence. In this action, we are proposing to separate these requirements into two sentences to ease readability.

29. Section 63.10010(l)(i) is revised to replace the incorrect reference to § 63.7(e) with the correct reference to § 63.8(d)(2).

30. Section 63.10010(l) and (l)(4) is revised to clarify that EGU owners or operators who choose to meet the work practice standards contained in paragraph (2) of the definition of startup may verify, instead of certify, monitoring systems used to generate data to meet the work practice standards. Moreover, this revision clarifies that those monitoring systems may be installed, verified, operated, maintained, and quality assured using manufacturer's specifications.

31. Section 63.10011(b) is revised to remove the incorrect reference to Table 4 and to replace the incorrect reference to Table 7 with the correct reference to Table 6.

32. Section 63.10011(c)(1) and (2) is revised to clarify the date by which compliance must be demonstrated by EGUs that use CEMS or sorbent trap monitoring systems. In addition, § 63.10011(c)(1) is revised to clarify that

the alternate Hg emission limit may be used.

33. Section 63.10011(e) is revised to replace ''according to'' with ''in accordance with.''

34. Section 63.10011(g)(4)(v)(A) and Table 3 are revised to clarify our intent regarding clean fuel use ''to the maximum extent possible.'' Our goal in the work practice is to minimize HAP emissions during startup and shutdown periods, and that goal can be accomplished by minimizing primary fuel use and maximizing clean fuel use because of the inherently low HAP content of the defined ''clean fuels.'' As stated in the preamble to the final startup and shutdown reconsideration rule, 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 can be brought on line at the same time as, or within 1 hour of, the addition of the primary fuel to the EGU. 79 FR 68777 at 68779, November 19, 2014. We recognize that the clean fuel requirement may require sources to increase clean fuel capacity, modify the startup burners, and/or take additional actions to comply with the final rule. 79 FR 68777 at 68779, November 19, 2014. Thus, we expect clean fuels to be combusted in at least the amount needed to bring the emissions control devices to operational levels necessary to comply with the numeric standards at the end of startup. We do not expect clean fuel use to the extent that it compromises the integrity of the boiler or its control devices; neither do we expect clean fuel to be combusted in excess of the amount needed to bring the emissions control devices to expected operational levels. We have determined that it is appropriate to slightly revise the language in the November 19, 2014, final rule. 79 FR 68777. The proposed revision would change the language from ''to the maximum extent possible'' to ''to the maximum extent practicable, taking into account boiler or control device integrity.''

35. Section 63.10020(e) is revised to clarify that it applies only to those EGU owners or operators who choose to meet the work practice standards contained in paragraph (2) of the definition of startup. In addition, the undefined term ''electrical load'' has been replaced with the defined term ''gross output'' and the incorrect terms ''liquid to fuel ratio'' and ''the differential pressure of the liquid'' in § 63.10020(e)(3)(i)(E) have been replaced with the correct terms ''liquid to flue gas ratio'' and ''the pressure drop across the scrubber.'' Finally, in order to clarify our intent that existing instrumentation or engineering calculations can be used to provide flow information, § 63.10020(e)(3)(i)(A) and (B) is revised to remove the term ''rate'' and to acknowledge the use of existing combustion air flow monitors or combustion equations.

36. Section 63.10021(d)(3) is revised to clarify the type of monitoring that is to be used to demonstrate compliance.

37. Section 63.10021(e) is revised to clarify the condition that allows delay of burner inspections for initial boiler tune-ups.

38. Section 63.10021(e)(9)(i) and (ii) is revised to clarify the dates that tune-ups must be reported.

39. Section 63.10023(b) and Table 6 are revised to clarify that all EGUs using PM continuous parametric monitoring systems (CPMS) for compliance purposes are to follow the same procedure for determining the operating limit. The final rule allowed existing EGUs to determine the operating limit based on the highest 1-hour average PM CPMS value recorded during a performance test, even if that average time was associated with a test run in excess of the numeric standards, while new EGUs were required to use a scaling factor or the average PM CPMS value recorded during the PM compliance test demonstrating compliance with the PM limit to establish the operating limit.[3] We believe all EGUs should use a consistent set of procedures for both new and existing EGUs for establishing an operating PM limit, so we are proposing in this action to revise the procedures for existing EGUs. The procedures for existing EGUs, contained in § 63.10023(b)(1) are reserved, and § 63.10023(b)(2) and Table 6 are revised so that all EGUs are to follow the operating limit development procedures for new EGUs (*i.e.,* use a scaling factor or the average PM CPMS value recorded during the PM compliance test demonstrating compliance with the PM limit to establish the operating limit).

40. Section 63.10030(e)(1) is revised to replace the phrase ''identification of which subcategory the source is in'' with ''identification of the subcategory of the source.''

41. Section 63.10030(e)(7)(i) is revised to clarify that the date of each stack test conducted for purposes of demonstrating LEE eligibility is to be provided. The final rule establishes that each test for pollutants other than Hg conducted over a 3-year period must meet the LEE emission limit in order for an EGU to be eligible for LEE status.

42. Section 63.10030(e)(7)(iii) is added to establish the procedures by which an EGU owner or operator may switch between mass per heat input and mass per gross output emission limits. The EPA has received questions about how frequently an existing EGU could alternate between the two compliance formats. Although we did not envision that an owner or operator of an existing EGU would want to change the basis of the EGU's emission limits, we believe it is reasonable to allow such action provided certain conditions, including performance testing demonstrating compliance with the new format, submission of a written request to change formats, and receipt of permission from the Administrator to change formats, are met. We request comment on these procedures, as well as on the concept of switching emission limits, particularly during performance averaging periods.

43. Section 63.10030(e)(8)(i) is revised to clarify that it applies only to those EGU owners or operators who choose to meet the work practice standards contained in paragraph (2) of the definition of startup. Moreover, the provisions requiring a description of PM control device efficiencies and PM emission rates are revised to clarify that such efficiencies and emission rates are those of periods other than startup and shutdown periods. As the uncontrolled emission rates can be calculated from control device efficiencies and corresponding emission rates, the provisions requiring reporting of uncontrolled emission rates have been removed.

In addition, as current EGU characteristics are most relevant for compliance with the MATS rule, the requirements concerning identification of intermediate changes to the EGU design have been removed. In order to reduce redundant reporting, the rule has been revised to require no additional identification if no changes to the EGU's design characteristics have occurred.

Finally, § 63.10030(e)(8)(ii)(A) has been revised to remove the requirement for use of an independent professional engineer. Consistent with the discussion contained in 71 FR 16869 (April 4, 2006), we believe that a professional engineer, regardless of whether they are independent, is able to give a fair technical review because of the programs established by the state licensing boards, which serve to enforce objectivity from each registrant. We believe that the revision will allow EGUs to reduce burden without compromising environmental safety by

[3] See the description of the ''third approach'' at 79 FR 24708 (April 24, 2013).

using in-house expertise. Professional engineers employed by an EGU should be more familiar with its design and operational characteristics and should be in a position to expedite collection and submission of required information.

44. Section 63.10030(f) is revised to add notification requirements for EGUs that move in and out of MATS applicability.

45. Section 63.10031(c)(4) is revised to clarify the reporting requirements for EGU tune-ups.

46. Section 63.10031(c)(5) is revised to clarify that it applies only to those EGU owners or operators who choose to meet the work practice standards contained in paragraph (2) of the definition of startup.

47. Section 63.10031(c)(6) is revised to add emergency bypass reporting for EGUs with LEE status.

48. Section 63.10031(f)(5) is revised to state that the Administrator retains the right to require submittal of reports subject to paragraph (f)(4), as well as paragraphs (f)(1) through (3).

49. Section 63.10032(f) is revised to clarify that the requirements of § 63.10032(f)(1) apply only to those EGU owners or operators who choose to meet the work practice standards contained in paragraph (1) of the definition of startup, while the requirements of § 63.10032(f)(2) apply only to those EGU owners or operators who choose to meet the work practice standards contained in paragraph (2) of the definition of startup.

50. The definitions of ''Coal-fired electric utility steam generating unit,'' ''Coal refuse,'' ''Fossil fuel-fired,'' ''Integrated gasification combined cycle electric utility steam generating unit or IGCC,'' ''Limited-use liquid oil-fired subcategory,'' ''Natural gas-fired electric utility steam generating unit,'' and ''Oil-fired electric utility steam generating unit'' in § 63.10042 are revised to clarify the period of time to be included in determining the source's applicability to the MATS.

During the comment period on the proposed MATS rule, industry noted that many EGUs would convert to natural gas or other non-fossil fuel prior to the compliance date and those sources would remain subject to MATS because the proposed rule required sources to determine applicability based on the 3 calendar years prior to the compliance date. *See, e.g.,* 40 CFR 63.10042 (definition of ''fossil fuel-fired''). The EPA agreed that this was not the EPA's intent and in the final MATS rule revised several definitions, including the definition of fossil fuel-fired, that required sources to evaluate usage after the applicable compliance date.

The EPA inadvertently created confusion in its attempt to address industry concerns in the final MATS rule. The confusion is best illustrated by an analysis of the proposed and final definitions of ''fossil fuel-fired.'' The EPA's proposed definition stated, in part, that ''[i]n addition, fossil fuel-fired means any EGU that fired fossil fuel for more than 10.0 percent of the average annual heat input during the *previous 3 calendar years* or for more than 15.0 percent of the annual heat input *during any one of those calendar year.*'' *See* 76 FR 24975 at 25123 (emphasis added). The intent in this definition was to require sources to look at the usage from the 3 previous years to determine if the average or the single year usage from those 3 years exceeded either of the thresholds.

To address the commenters' concern, the EPA revised the definition of ''fossil fuel-fired'' in the final rule to state, in part, that ''[i]n addition, fossil fuel-fired means any EGU that fired fossil fuels for more than 10.0 percent of the average annual year input during *any 3 consecutive calendar years* or for more than 15.0 percent of the annual heat input during *any one calendar year* after the applicable compliance date.'' 40 CFR 63.10042 (emphasis added). This definition creates at least two potential compliance issues: (1) It creates confusion as to how sources are to determine MATS applicability during the first 3 years after the applicable compliance date; and (2) it subjects sources to MATS in perpetuity if the usage thresholds are ever exceeded after the compliance date—''any 3 consecutive calendar years'' or ''any one calendar year'' ''after the applicable compliance date.''

The proposed revisions to the definitions address both issues. Concerning applicability in the first 3 years after the applicable compliance date, this proposed rule states that sources must project their coal and oil usage for the first 3 years to determine whether the EGU will exceed either the 10.0 or 15.0 percent threshold. The EPA's understanding is that sources know with sufficient specificity the fuels they will use in advance, and requiring sources to project their usage accommodates industry concerns that the sources that are converting to natural gas or biomass prior to the compliance date not be subject to MATS. The EPA is also proposing that sources that permanently convert to natural gas or biomass after the compliance date are no longer subject to MATS, notwithstanding the coal or oil usage the previous 3 calendar years.

The EPA is also proposing to revise the definitions to make clear that after the first 3 years of compliance, EGUs are required to evaluate applicability based on coal or oil usage from the 3 previous calendar years on an annual rolling basis, consistent with the definition of ''fossil fuel-fired'' proposed in the MATS rule. This proposed change will prevent EGUs from being subject to MATS in perpetuity if they exceed the 10 or 15 percent threshold at any time after the compliance date.

A definition of ''neural network'' is also being added because the term is used in 40 CFR 63.10005(f), 63.10006(i), and 63.10021(e) and Table 3 to subpart UUUUU of Part 63 but is not defined.

51. Table 1 to subpart UUUUU of Part 63 is revised to correct the term ''gross electric output'' to ''gross output'' which is the term defined in 40 CFR 63.10042 in footnotes 1, 4, and 5.

52. Table 2 to subpart UUUUU of Part 63 is revised to correct the term ''gross electric output'' to ''gross output'' which is the term defined in 40 CFR 63.10042 in footnote 2. Provision 1(c) (the Hg limit for EGUs in the subcategory ''unit designed for coal ≥8,300 Btu/lb'') is also revised to clarify the applicability of the alternate 90-boiler operating day compliance option.

53. Table 3 to subpart UUUUU of Part 63 is revised as described earlier to clarify the term ''maximum extent possible.''

In addition, we have received questions concerning the interpretation of the definition of startup, particularly the language defining the end of startup. Industry has inquired whether the triggering action is either the generation of electricity or of steam for any useful purpose under both definitions of startup. The EPA does interpret the end of startup in a consistent manner as between the two definitions. Specifically, we interpret the phrase ''. . . when any of the steam from the boiler is used . . . for any other purpose,'' contained in paragraph (1) of the definition of startup, to have the same meaning as the phrase ''for industrial, commercial, heating, or cooling purposes (other than the first-ever firing of fuel in a boiler following construction of the boiler,'' as provided in paragraph (2) of the definition of startup. EGUs trigger the end of startup whenever they use either electricity or steam for any useful purpose either on or offsite.

54. Table 4 to subpart UUUUU of Part 63 is revised to clarify that existing as well as new EGUs using PM CPMS share the same procedures for

developing operating limits (*i.e.,* those that are based on the higher of a parameter scaled from all values obtained during an individual emissions test to 75 percent of the emissions limit or the average parameter value obtained from all runs of an individual emission test as the operating limit provided that the result of the individual emissions test met the emissions limit requirements).

55. Table 5 to subpart UUUUU of Part 63 is revised to state that when using Method 5, you are to report the average of the final 2 filter weighings, and to clarify that when using Method 29, you are to report the metals matrix spike and recovery levels. These provisions are needed for the required electronic reporting.

56. Table 6 to subpart UUUUU of Part 63 is revised to clarify that existing, as well as new, EGUs using PM CPMS share the same procedures for developing operating limits (*i.e.,* those that are based on the higher of a parameter scaled from all values obtained during an individual emissions test to 75 percent of the emissions limit or the average parameter value obtained from all runs of an individual emission test as the operating limit provided that the result of the individual emissions test met the emissions limit).

57. Table 8 to subpart UUUUU of Part 63 is revised to clarify that compliance reports are to include information required by § 63.10031(c)(5) and (6).

58. Table 9 to subpart UUUUU of Part 63 is revised to correct an inadvertent omission of 30-day notification requirements of § 63.9.

59. Paragraphs 4.1.1.3 and 5.1.2.3 and Tables A–1 and A–2 to Appendix A to subpart UUUUU of Part 63 are revised to adjust Hg CEMS language regarding converters. Research has shown that all Hg CEMS need weekly single-level system integrity checks.

60. Paragraph 7.1.2.5 to Appendix A to subpart UUUUU of Part 63 is added to require that owners or operators flag EGUs that are part of emission averaging groups.

61. Paragraph 3.2.1.2.1 of Appendix A to subpart UUUUU of Part 63 is revised to specifically indicate that Hg gas generators and cylinders are allowed.

62. Paragraphs 4.1.1.1, Table A–1, Table A–2, 5.1.2.1, and 4.1.1.3 of Appendix A to subpart UUUUU of Part 63 are revised to exclude use of oxidized Hg gas standards for daily calibration of Hg CEMS.

63. Paragraph 5.1.2.3 of Appendix A to subpart UUUUU of Part 63 is revised to make the weekly single level system integrity check mandatory.

64. Paragraphs 4.1.1.5.2, Table A–1, Table A–2, and 4.1.1.5 of Appendix A to subpart UUUUU of Part 63 are revised to provide an alternative relative accuracy test audit (RATA) procedure for EGUs with low emissions that is related specifically to the emission standard.

65. Paragraph 5.2.1 of Appendix A to subpart UUUUU of Part 63 is revised to correct the number of days for sorbent trap use from 14 to 15.

66. Paragraph 6.2.2.3 of Appendix A to subpart UUUUU of Part 63 is revised to clarify that the 90-day alternative Hg standard may be used and that electrical output is gross output.

67. Paragraph 7.1.2.6 of Appendix A to subpart UUUUU of Part 63 is added to clarify that EGU owners or operators are to keep records of their EGUs that constitute emissions averaging groups.

68. Paragraphs 2.1, 2.3, 2.3.1, 2.3.2, 3.1, 3.2, 3.3, 5, 5.1, 5.2, and 5.3 of Appendix B to subpart UUUUU of Part 63 are revised to clarify that use of Performance Specification (PS) 18, a proposed technology-neutral PS for HCl CEMS which will soon be promulgated, will be allowed. Consistent with our statements in the final rule, we expect that PS 18 will likely be promulgated in advance of the rule's compliance date. An EGU owner or operator who wishes to use proposed PS 18, along with quality assurance (QA) procedure 6, prior to their promulgation dates is welcome to submit an alternative monitoring request in accordance with the requirements of § 63.8(f) for use of proposed PS 18 and QA Procedure 6 to us.

69. Paragraph 5.4 of Appendix B to subpart UUUUU of Part 63 is added as part of the renumbering due to the addition of PS 18.

70. Paragraph 8 of Appendix B to subpart UUUUU of Part 63 is revised to accommodate use of PS 18.

71. Paragraphs 10.1.8, 10.1.8.1, 10.1.8.1.1, and 10.1.8.1.2 of Appendix B to Subpart UUUUU of Part 63 are revised as part of the renumbering due to the addition of PS 18.

72. Paragraph 10.1.8.1.3 of Appendix B to Subpart UUUUU of Part 63 is revised to clarify that records of relative accuracy audits (RAAs) are also required.

73. Paragraphs 10.1.8.2, 10.1.8.1.2.1, and 10.1.8.1.2.2 of Appendix B to Subpart UUUUU of Part 63 are revised to clarify the quarterly gas audit recordkeeping requirements for PS 15 and the quarterly data accuracy assessments for PS 18 (which are reserved).

74. Paragraph 11.4 of Appendix B to Subpart UUUUU of Part 63 is revised to replace the incorrect abbreviation ''*i.e.*'' with ''*e.g.*''

75. Paragraph 11.4.2 of Appendix B to Subpart UUUUU of Part 63 is revised to specify the requirements of the daily beam intensity checks for EGUs using PS 18.

76. Paragraphs 11.4.2.1, 11.4.2.2, 11.4.2.3, 11.4.2.4, 11.4.2.5, 11.4.2.6, 11.4.2.7, 11.4.2.8, 11.4.2.9, 11.4.2.10, 11.4.2.11, 11.4.2.12, and 11.4.2.13 of Appendix B to Subpart UUUUU of Part 63 are revised to hold the requirements of the daily beam intensity checks for PS 18 (which are reserved).

77. Paragraph 11.4.3 of Appendix B to Subpart UUUUU of Part 63 is revised to reflect the reporting requirements for PS 15.

78. Paragraphs 11.4.3.1, 11.4.3.2, 11.4.3.3, 11.4.3.4, 11.4.3.5, 11.4.3.6, 11.4.3.7, 11.4.3.8, 11.4.3.9, 11.4.3.10, 11.4.3.11, 11.4.3.12, and 11.4.3.13 of Appendix B to Subpart UUUUU of Part 63 are revised to include PS 15 reporting requirements.

79. Paragraph 11.4.4 of Appendix B to Subpart UUUUU of Part 63 is revised to reserve the reporting requirements for quarterly parameter verification checks for PS 18.

80. Paragraphs 11.4.4.1, 11.4.5, 11.4.5.1, 11.4.6, 11.4.6.1 of Appendix B to Subpart UUUUU of Part 63 are added to reserve the reporting requirements for quarterly gas audit information and for quarterly dynamic spiking for PS 18.

81. Paragraph 11.4.7 of Appendix B to Subpart UUUUU of Part 63 is added to include reporting requirements for RAAs.

82. Paragraphs 11.4.7.1, 11.4.7.2, 11.4.7.3, 11.4.7.4, 11.4.7.5, 11.4.7.6, 11.4.7.7, 11.4.7.8, 11.4.7.9, 11.4.7.10, 11.4.7.11, 11.4.7.12, and 11.4.7.13 of Appendix B to Subpart UUUUU of Part 63 are added as part of the renumbering due to the addition of PS 18.

83. Paragraph 11.5.3.4 of Appendix B to Subpart UUUUU of Part 63 is revised to include reporting requirements for beam intensity checks for PS 18.

## II. Affirmative Defense for Violation of Emission Standards During Malfunction

In several prior CAA section 112 and CAA section 129 rules, including this rule, the EPA included an affirmative defense to civil penalties for violations caused by malfunctions in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances

entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense to provide a more formalized approach and more regulatory clarity. *See Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); *but see Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of ''upsets beyond the control of the permit holder.''). Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. Recently, the United States Court of Appeals for the District of Columbia Circuit vacated an affirmative defense in one of the EPA's CAA section 112 regulations. *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir., 2014) (vacating affirmative defense provisions in CAA section 112 rule establishing emission standards for Portland cement kilns). 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.' '' *See NRDC,* 749 F.3d at 1063 (''[U]nder this statute, deciding whether penalties are 'appropriate' . . . is a job for the courts, not EPA.'').

In light of *NRDC,* the EPA is proposing to remove the regulatory affirmative defense provision in the current rule. As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the D.C. Circuit recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. Cf. *NRDC,* at 1064 (arguments that violation were caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same is true for the presiding officer in EPA administrative enforcement actions.

## III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is not a significant regulatory action and was, therefore, not subject to review by the Office of Management and Budget (OMB).

### *B. Paperwork Reduction Act (PRA)*

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. The OMB has previously approved the information collection requirements contained in the existing regulations (see 77 FR 9303, February 16, 2012) under the provisions of the PRA, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0567. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9.

### *C. Regulatory Flexibility Act (RFA)*

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 (UMRA)*

This action does not contain an unfunded mandate as described in 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

### *E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. This action does not significantly or uniquely affect the communities of 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 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

### *I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. The corrections do not involve special consideration of environmental justice-related issues as required by Executive Order 12898, and an evaluation was not necessary for this action.

The EPA's compliance with the above statutes and Executive Orders for the underlying rule is discussed in the February 16, 2012, **Federal Register** document containing ''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.'' (77 FR 9303).

**List of Subjects**

*40 CFR Part 60*

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

*40 CFR Part 63*

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

Dated: December 19, 2014.

**Gina McCarthy,**

*Administrator.*

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

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

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

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

■ 2. Section 60.48Da is amended by revising paragraph (f) to read as follows:

**§ 60.48Da Compliance provisions.**

* * * * *

(f) For affected facilities for which construction, modification, or reconstruction commenced before May 4, 2011, compliance with the applicable daily average PM emissions limit is determined by calculating the arithmetic average of all hourly emission rates each boiler operating day, except for data obtained during startup, shutdown, or malfunction periods. Daily averages are only calculated for boiler operating days that have non-out-of-control data for at least 18 hours of unit operation during which the standard applies. Instead, all of the non-out-of-control hourly emission rates of the operating day(s) not meeting the minimum 18 hours non-out-of-control data daily average requirement are averaged with all of the non-out-of-control hourly emission rates of the next boiler operating day with 18 hours or more of non-out-of-control PM CEMS data to determine compliance. For affected facilities for which construction or reconstruction commenced after May 3, 2011 that elect to demonstrate compliance using PM CEMS, compliance with the applicable PM emissions limit in § 60.42Da is determined on a 30-boiler operating day rolling average basis by calculating the arithmetic average of all hourly PM emission rates for the 30 successive boiler operating days, except for data obtained during periods of startup and shutdown.

* * * * *

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

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

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

■ 4. Section 63.9983 is amended by:
■ a. Revising the section heading and paragraphs (a), (b), and (c); and
■ Adding paragraph (e).

The revisions and addition read as follows:

**§ 63.9983 Are any fossil fuel-fired electric generating units not subject to this subpart?**

* * * * *

(a) Any unit designated as a major source stationary combustion turbine subject to 40 CFR part 63, subpart YYYY and any unit designated as an area source stationary combustion turbine, other than an integrated gasification combined cycle (IGCC) unit.

(b) Any electric utility steam generating unit that is not a coal- or oil-fired EGU and that meets the definition of a natural gas-fired EGU in § 63.10042.

(c) Any electric utility steam generating unit that has the capability of combusting more than 25 MW of coal or oil but does not meet the definition of a coal- or oil-fired EGU because it did not fire sufficient coal or oil to satisfy the average annual heat input requirement set forth in the definitions for coal-fired and oil-fired EGUs in § 63.10042. Heat input means heat derived from combustion of fuel in an EGU and does not include the heat derived from preheated combustion air, recirculated flue gases or exhaust gases from other sources (such as stationary gas turbines, internal combustion engines, and industrial boilers).

* * * * *

(e) Any electric utility steam generating unit that meets the definition of a natural gas-fired EGU under this subpart and that fires at least 10 percent biomass is an industrial boiler subject to standards established under 40 CFR part 63, subpart DDDDD, if it otherwise meets the applicability provisions in that rule.

■ 5. Section 63.9991 is amended by revising paragraphs (c)(1) and (2) to read as follows:

**§ 63.9991 What emission limitations, work practice standards, and operating limits must I meet?**

* * * * *

(c) * * *

(1) Has a system using wet or dry flue gas desulfurization technology and an $SO_2$ continuous emissions monitoring system (CEMS) installed on the EGU; and

(2) At all times, you operate the wet or dry flue gas desulfurization technology and the $SO_2$ CEMS installed on the EGU consistent with § 63.10000(b).

■ 6. Section 63.10000 is amended by:
■ a. Revising paragraph (c)(1)(i);
■ b. Revising paragraph (c)(2)(iii); and
■ c. Adding paragraph (m).

The revisions and additions read as follows:

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

* * * * *

(c)(1) * * *

(i) For a coal-fired or solid oil-derived fuel-fired EGU or IGCC EGU, you may conduct initial performance testing in accordance with § 63.10005(h), to determine whether the EGU qualifies as a low emitting EGU (LEE) for one or more applicable emission limits, except:

(A) You may not pursue the LEE option if your coal-fired, IGCC, or solid oil-derived fuel-fired EGU is equipped with a main stack and a bypass stack exhaust configuration that allows the EGU to bypass any pollutant control device.

(B) You may not pursue the LEE option for Hg if your coal-fired, solid oil-derived fuel-fired EGU or IGCC EGU is new.

(C) Notwithstanding paragraph (c)(1)(i)(A) of this section, you may pursue the LEE option provided:

(*1*) Your control device bypass stack is routed through the EGU main stack so that emissions are measured during the bypass event; or

(*2*) You bypass your EGU control device only during emergency periods for no more than a total of 2 percent of your EGU's annual operating hours; you use clean fuels to the maximum extent practicable during an emergency period; and you prepare and submit a report describing the emergency event, its cause, corrective action taken, and estimates of emissions released during the emergency event. You must include these emergency emissions along with performance test results in assessing

whether your EGU maintains LEE status.

* * * * *

(2) * * *

(iii) If your existing liquid oil-fired unit does not qualify as a LEE for hydrogen chloride (HCl) or for hydrogen fluoride (HF), you may demonstrate initial and continuous compliance through use of an HCl CEMS, an HF CEMS, or an HCl and HF CEMS, installed and operated in accordance with Appendix B to this rule. As an alternative to HCl CEMS, HF CEMS, or HCl and HF CEMS, you may demonstrate initial and continuous compliance through quarterly performance testing and parametric monitoring for HCl and HF. If you choose to use quarterly testing and parametric monitoring, then you must also develop a site-specific monitoring plan that identifies the CMS you will use to ensure that the operations of the EGU remains consistent with those during the performance test. As another alternative, you may measure or obtain, and keep records of, fuel moisture content; as long as fuel moisture does not exceed 1.0 percent by weight, you need not conduct other HCl or HF monitoring or testing.

* * * * *

(m) Should you choose to rely on paragraph (2) of the definition of ''startup'' in § 63.10042 for your EGU, on or before the date your EGU is subject to this subpart, you must install, verify, operate, maintain, and quality assure each monitoring system necessary for demonstrating compliance with the work practice standards for PM or non-mercury HAP metals controls during startup periods and shutdown periods required to comply with § 63.10020(e).

(1) You may rely on monitoring system specifications or instructions or manufacturer's specifications when installing, verifying, operating, maintaining, and quality assuring each monitoring system.

(2) You must collect, record, report, and maintain data obtained from these monitoring systems during startup periods and shutdown periods.

**§ 63.10001 [Removed and reserved]**

■ 7. Section 63.10001 is removed and reserved.

■ 8. Section 63.10005 is amended by:

■ a. Revising paragraphs (a) introductory text, (a)(2) introductory text and (a)(2)(i);

■ b. Revising paragraph (b)(1);

■ c. Adding paragraph (b)(6);

■ d. Revising paragraphs (d)(3), (d)(4)(i);

■ f. Revising paragraph (f);

■ g. Revising paragraph (h) introductory text, and (h)(3) introductory text;

■ h. Removing paragraphs (i)(4)(iii) and (iv).

The revisions and additions read as follows:

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

(a) *General requirements.* For each of your affected EGUs, you must demonstrate initial compliance with each applicable emissions limit in Table 1 or 2 of this subpart through performance testing. Where two emissions limits are specified for a particular pollutant (*e.g.,* a heat input-based limit in lb/MMBtu and an electrical output-based limit in lb/MWh), you may demonstrate compliance with either emission limit. For a particular compliance demonstration, you may be required to conduct one or more of the following activities in conjunction with performance testing: collection of data, *e.g.,* hourly electrical load data (megawatts); establishment of operating limits according to § 63.10011 and Tables 4 and 7 to this subpart; and CMS performance evaluations. In all cases, you must demonstrate initial compliance no later than the date in paragraph (f) of this section for tune-up work practices for existing EGUs; the date that compliance must be demonstrated, as given in § 63.9984 for other requirements for existing EGUs; and in paragraph (g) of this section for all requirements for new EGUs.

(1) * * *

(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 may occur on or before the first averaging period (30- or, for certain coal-fired existing EGUs that use emissions averaging for Hg, 90-boiler operating days) after the date that compliance with this subpart is required but must occur such that the averaging period is completed on or before the date that compliance must be demonstrated.

(i) The 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.

* * * * *

(b) * * *

(1) For a performance test of an existing EGU based on stack test data, the test was conducted between 180 and 365 calendar days prior to the date that compliance must be demonstrated as specified in § 63.9984.

* * * * *

(6) If the performance test data that are collected prior to the date that compliance must be demonstrated are used to demonstrate initial compliance with applicable emissions limits, the interval for subsequent stack tests begins on the date that compliance must be demonstrated.

* * * * *

(d) * * *

(3) For affected EGUs that are either required to or elect to demonstrate initial compliance with the applicable Hg emission limit in Table 1 or 2 of this subpart using Hg CEMS or sorbent trap monitoring systems, initial compliance must be demonstrated no later than the applicable date specified in § 63.9984(f) for existing EGUs and in paragraph (g) of this section for new EGUs. Initial compliance is achieved if the arithmetic average of 30- (or 90-) boiler operating days of quality-assured CEMS (or sorbent trap monitoring system) data, expressed in units of the standard (see section 6.2 of appendix A to this subpart), meets the applicable Hg emission limit in Table 1 or 2 to this subpart.

(4) * * *

(i) You must demonstrate initial compliance no later than the applicable date specified in § 63.9984(f) for existing EGUs and in paragraph (g) of this section for new EGUs.

* * * * *

(f) For an existing EGU without a neural network, a tune-up must occur on or before 180 days after April 16, 2015. For an existing EGU with a neural network, a tune-up must occur on or before 180 days after April 16, 2016. If a tune-up occurs prior to April 16, 2015, you must keep records showing that the operating conditions remain the same and that the tune-up met all rule requirements.

* * * * *

(h) *Low emitting EGUs.* The provisions of this paragraph (h) apply to pollutants with emissions limits from new EGUs except Hg and to all pollutants with emissions limits from existing EGUs. You may pursue this compliance option unless prohibited pursuant to § 63.10000(c)(1)(i).

* * * * *

(3) For Hg, you must conduct a 30- (or 90-) boiler operating day performance test using Method 30B in appendix A–8 to part 60 of this chapter to determine whether a unit qualifies for LEE status. Locate the Method 30B sampling probe tip at a point within 10 percent of the duct area centered about the duct's

centroid at a location that meets Method 1 in appendix A–1 to part 60 of this chapter and conduct at least three nominally equal length test runs over the 30-boiler operating day test period. Collect Hg emissions data continuously over the entire test period (except when changing sorbent traps or performing required reference method QA procedures). As an alternative to constant rate sampling per Method 30B, you may use proportional sampling per section 8.2.2 of Performance Specification 12 B in appendix B to part 60 of this chapter.

* * * * *

■ 9. Section 63.10006 is amended by revising paragraph (f) to read as follows:

**§ 63.10006 When must I conduct subsequent performance tests or tune-ups?**

* * * * *

(f) *Time between performance tests.* (1) Notwithstanding the provisions of § 63.10021(d)(1), the requirements listed in paragraphs (g) and (h) of this section, and the requirements of paragraph (f)(3) of this section, you must complete performance tests for your EGU as follows:

(i) At least 45 calendar days must separate performance tests conducted every quarter;

(ii) At least 370 calendar days must separate performance tests conducted every year; and

(iii) At least 1,050 calendar days must separate performance tests conducted every 3 years.

(2) Although you are not required to operate your EGU solely in order to conduct a performance test, you must conduct a performance test in the 4th quarter of a calendar year if your EGU has skipped performance tests in the 3 quarters of the calendar year.

(3) If your EGU misses a performance test deadline due to being inoperative and if you have at least 168 boiler operating hours in the next test period, you must complete an additional performance test in that period as follows:

(i) At least 15 calendar days must separate two performance tests conducted in the same quarter.

(ii) At least 107 calendar days must separate two performance tests conducted in the same calendar year.

(iii) At least 350 calendar days must separate two performance tests conducted in the same 3 year period.

* * * * *

■ 10. Section 63.10009 is amended by:

■ a. Revising paragraphs (a)(2) introductory text and (a)(2)(i);

■ b. Revising paragraphs (b)(1) through (3);

■ c. Revising paragraphs (f) introductory text and paragraph (f)(2);

■ d. Revising paragraphs (g)(1) and (2); and

■ e. Revising paragraph (j)(1)(ii).

The revisions read as follows:

**§ 63.10009 May I use emissions averaging to comply with this subpart?**

(a) * * *

(2) You may demonstrate compliance by emissions averaging among the existing EGUs in the same subcategory, if your averaged Hg emissions for EGUs in the ''unit designed for coal ≥8,300 Btu/lb'' subcategory are equal to or less than 1.2 lb/TBtu or 1.3E–2 lb/GWh on a 30-boiler operating day basis or if your averaged emissions of individual, other pollutants from other subcategories of such EGUs are equal to or less than the applicable emissions limit in Table 2 to this subpart, according to the procedures in this section. Note that except for the alternate Hg emissions limit from EGUs in the ''unit designed for coal ≥8,300 Btu/lb'' subcategory, the averaging time for emissions averaging for pollutants is 30 days (rolling daily) using data from CEMS or a combination of data from CEMS and manual performance testing. The averaging time for emissions averaging for the alternate Hg limit (equal to or less than 1.0 lb/TBtu or 1.1E–2 lb/GWh) from EGUs in the ''unit designed for coal ≥8,300 Btu/lb'' subcategory is 90-boiler operating days (rolling daily) using data from CEMS, sorbent trap monitoring, or a combination of monitoring data and data from manual performance testing. For the purposes of this paragraph, 30- (or 90-) group boiler operating days is defined as a period during which at least one unit in the emissions averaging group has operated 30 (or 90) days. You must calculate the weighted average emissions rate for the group in accordance with the procedures in this paragraph using the data from all units in the group including any that operate fewer than 30 (or 90) days during the preceding 30 (or 90) group boiler days.

(i) You may choose to have your EGU emissions averaging group meet either the heat input basis (MMBtu or TBtu, as appropriate for the pollutant) or gross output basis (MWh or GWh, as appropriate for the pollutant).

* * * * *

(b) * * *

(1) *Group eligibility equations.*

$$WAER_m = \frac{\sum_{j=1}^{p}\left[\left(\sum_{i=1}^{n} Herm_{i,j}\right) \times Rmm_j \times q_j\right] + \sum_{k=1}^{m} Ter_k \times Rmt_k \times r_k}{\left(\sum_{j=1}^{p} Rmm_j \times q_j\right) + \left(\sum_{k=1}^{m} Rmt_k \times r_k\right)} \quad (Eq.\ 1a)$$

Where:

$WAER_m$ = Maximum Weighted Average Emission Rate in terms of lb/heat input or lb/gross output,

$Herm_{i,j}$ = hourly emission rate (*e.g.,* lb/MMBtu, lb/MWh) from CEMS or sorbent trap monitoring for hour i from EGU j,

$Rmm_j$ = Maximum rated heat input, MMBtu/h, or maximum rated gross output, MWh/h, for EGU j,

p = number of EGUs in emissions averaging group that rely on CEMS,

n = hours in an averaging period (*e.g.,* 720 for a 30-group boiler operating day averaging period or 2160 for a 90-group boiler operating day averaging period),

$q_j$ = hours in an averaging period for EGU j (*e.g.,* 720 for a 30-group boiler operating day averaging period or 2160 for a 90-group boiler operating day averaging period),

$Ter_k$ = Emissions rate (lb/MMBTU or lb/MWh) from the most recent test of EGU k,

$Rmt_k$ = Maximum rated heat input, MMBtu/h, or maximum rated gross output, MWh/h, for EGU k,

$r_k$ = hours in an averaging period for EGU k (*e.g.,* 720 for a 30-group boiler operating day averaging period or 2160 for a 90-group boiler operating day averaging period), and

m = number of EGUs in emissions averaging group that rely on emissions testing.

$$WAER_m = \frac{\sum_{j=1}^{p}\left[\left(\sum_{i=1}^{n} Herm_{i,j}\right) \times Smm_j \times Cfm_j \times q_j\right] + \sum_{k=1}^{m} Ter_k \times Smt_k \times Cft_k \times r_k}{\sum_{j=1}^{p}\left[\sum_{i=1}^{n} Smm_j \times Cfm_j \times q_j\right] + \sum_{k=1}^{m} Smt_k \times Cft_k \times r_k} \quad (Eq.\ 1b)$$

Where:

Variables with the similar names share the descriptions for Equation 1a,

$Smm_j$ = maximum steam generation, $lb_{steam}$/h or lb/gross output, for EGU j,

$Cfm_j$ = conversion factor, calculated from the most recent compliance test results, in terms units of heat input or electrical output per pound of steam generated (MMBtu/$lb_{steam}$ or MWh/$lb_{steam}$) from EGU j,

$Smt_k$ = maximum steam generation, $lb_{steam}$/h or lb/gross output, for EGU k, and

$Cfm_k$ = conversion factor, calculated from the most recent compliance test results, in terms units of heat input or electrical output per pound of steam generated (MMBtu/$lb_{steam}$ or MWh/$lb_{steam}$) from EGU k.

(2) Weighted 30-boiler operating day rolling average emissions rate equations for pollutants other than Hg. Use equation 2a or 2b to calculate the 30 day rolling average emissions daily.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Her_i \times Rm_i)\right]_p + \sum_{i=1}^{m}(Ter_i \times Rt_i)}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Rm_i)\right]_p + \sum_{i=1}^{m} Rt_i} \quad (Eq.\ 2a)$$

Where:

$Her_i$ = hourly emission rate (*e.g.,* lb/MMBtu, lb/MWh) from unit i's CEMS for the preceding 30-group boiler operating days,

$Rm_i$ = hourly heat input or gross output from unit i for the preceding 30-group boiler operating days,

p = number of EGUs in emissions averaging group that rely on CEMS or sorbent trap monitoring,

n = number of hours that hourly rates are collected over 30-group boiler operating days,

$Ter_i$ = Emissions rate from most recent emissions test of unit i in terms of lb/heat input or lb/gross output,

$Rt_i$ = Total heat input or gross output of unit i for the preceding 30-boiler operating days, and

m = number of EGUs in emissions averaging group that rely on emissions testing.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Her_i \times Sm_i \times Cfm_i)\right]_p + \sum_{i=1}^{m}(Ter_i \times St_i \times Cft_i)}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Sm_i \times Cfm_i)\right]_p + \sum_{i=1}^{m} St_i \times Cft_i} \quad (Eq.\ 2b)$$

Where:

variables with similar names share the descriptions for Equation 2a,

$Sm_i$ = steam generation in units of pounds from unit i that uses CEMS for the preceding 30-group boiler operating days,

$Cfm_i$ = conversion factor, calculated from the most recent compliance test results, in units of heat input per pound of steam generated or gross output per pound of steam generated, from unit i that uses CEMS from the preceding 30 group boiler operating days,

$St_i$ = steam generation in units of pounds from unit i that uses emissions testing, and

$Cft_i$ = conversion factor, calculated from the most recent compliance test results, in units of heat input per pound of steam generated or gross output per pound of steam generated, from unit i that uses emissions testing.

(3) Weighted 90-boiler operating day rolling average emissions rate equations for Hg emissions from EGUs in the ''coal-fired unit not low rank virgin coal'' subcategory. Use equation 3a or 3b to calculate the 90-day rolling average emissions daily.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Her_i \times Rm_i)\right]_p + \sum_{i=1}^{m}(Ter_i \times Rt_i)}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Rm_i)\right]_p + \sum_{i=1}^{m} Rt_i} \quad (Eq.\ 3a)$$

Where:

$Her_i$ = hourly emission rate from unit i's CEMS or Hg sorbent trap monitoring system for the preceding 90-group boiler operating days,

$Rm_i$ = hourly heat input or gross output from unit i for the preceding 90-group boiler operating days,

p = number of EGUs in emissions averaging group that rely on CEMS,

n = number of hours that hourly rates are collected over the 90-group boiler operating days,

$Ter_i$ = Emissions rate from most recent emissions test of unit i in terms of lb/heat input or lb/gross output,

$Rt_i$ = Total heat input or gross output of unit i for the preceding 90-boiler operating days, and

m = number of EGUs in emissions averaging group that rely on emissions testing.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Her_i \times Sm_i \times Cfm_i)\right]_p + \sum_{i=1}^{m}(Ter_i \times St_i \times Cft_i)}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Sm_i \times Cfm_i)\right]_p + \sum_{i=1}^{m} St_i \times Cft_i} \quad (Eq.\ 3b)$$

Where:

variables with similar names share the descriptions for Equation 2a,

$Sm_i$ = steam generation in units of pounds from unit i that uses CEMS or a Hg

sorbent trap monitoring for the preceding 90-group boiler operating days,

$Cfm_i$ = conversion factor, calculated from the most recent compliance test results, in units of heat input per pound of steam generated or gross output per pound of steam generated, from unit i that uses CEMS or sorbent trap monitoring from the preceding 90-group boiler operating days,

$St_i$ = steam generation in units of pounds from unit i that uses emissions testing, and

$Cft_i$ = conversion factor, calculated from the most recent emissions test results, in units of heat input per pound of steam generated or gross output per pound of steam generated, from unit i that uses emissions testing.

* * * * *

(f) Emissions averaging group eligibility demonstration. You must demonstrate the ability for the EGUs included in the emissions averaging group to demonstrate initial compliance according to paragraph (f)(1) or (2) of this section using the maximum possible heat input or gross output over a 30- (or 90-) boiler operating day period of each EGU and the results of the initial performance tests. For this demonstration and prior to preparing your emissions averaging plan, you must conduct required emissions monitoring for 30- (or 90-) days of boiler operation and any required manual performance testing to calculate maximum weighted average emissions rate in accordance with this section. Should the Administrator require approval, you must submit your proposed emissions averaging plan and supporting data at least 120 days before the date on which you plan to being using emissions averaging. If the Administrator requires approval of your plan, you may not begin using emissions averaging until the Administrator approves your plan.

* * * * *

(2) If you are not capable of monitoring heat input or gross output, and the EGU generates steam for purposes other than generating electricity, you may use Equation 1b of this section as an alternative to using Equation 1a of this section to demonstrate that the maximum weighted average emissions rates of filterable PM, HF, $SO_2$, HCl, non-Hg HAP metals, or Hg emissions from the existing units participating in the emissions averaging group do not exceed the emission limits in Table 2 to this subpart.

* * * * *

(g) * * *

(1) You must use Equation 2a or 3a of paragraph (b) of this section to calculate the weighted average emissions rate using the actual heat input or gross output for each existing unit participating in the emissions averaging option.

(2) If you are not capable of monitoring heat input or gross output, you may use Equation 2b or 3b of paragraph (b) of this section as an alternative to using Equation 2a of paragraph (b) of this section to calculate the average weighted emission rate using the actual steam generation from the units participating in the emissions averaging option.

* * * * *

(j) * * *

(1) * * *

(ii) The process weighting parameter (heat input, gross output, or steam generated) that will be monitored for each averaging group;

* * * * *

■ 11. Section 63.10010 is amended by:

■ a. Revising paragraph (a)(4);

■ b. Revising paragraph (f)(3);

■ c. Revising paragraphs (h)(6)(i) and (ii);

■ d. Revising paragraphs (i)(5)(i)(A) and (B);

■ e. Revising paragraph (j)(1)(i) and (j)(4)(i)(A) and (B); and

■ f. Revising paragraph (l).

The revisions read as follows:

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

* * * * *

(a) * * *

(4) *Unit with a main stack and a bypass stack that exhausts to the atmosphere independent of the main stack.* If the exhaust configuration of an affected unit consists of a main stack and a bypass stack, you shall install CEMS on both the main stack and the bypass stack. If it is not feasible to certify and quality-assure the data from a monitoring system on the bypass stack, you shall:

(i) Route the exhaust from the bypass through the main stack and its monitoring so that bypass emissions are measured, or

(ii) Install a CEMS only on the main stack and count hours that the bypass stack is in use as hours of deviation from the monitoring requirements.

* * * * *

(f) * * *

(3) Calculate and record a 30-boiler operating day rolling average $SO_2$ emission rate in the units of the standard, updated after each new boiler operating day. Each 30-boiler operating day rolling average emission rate is the average of all of the valid hourly $SO_2$ emission rates in the preceding 30 boiler operating days.

* * * * *

(h) * * *

(6) * * *

(i) Any data collected during periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or quality control activities conducted during monitoring system malfunctions. You must report any such periods in your annual deviation report;

(ii) Any data collected during periods when the monitoring system is out of control as specified in your site-specific monitoring plan, repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any such periods in your annual deviation report.

* * * * *

(i) * * *

(5) * * *

(i) * * *

(A) Any data collected during periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or quality control activities conducted during monitoring system malfunctions. You must report any such periods in your annual deviation report;

(B) Any data collected during periods when the monitoring system is out of control as specified in your site-specific monitoring plan, repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any such periods in your annual deviation report.

* * * * *

(j) * * *

(1) * * *

(i) Install, calibrate, operate, and maintain your HAP metals CEMS according to your CMS quality control program, as described in § 63.8(d)(2). The reportable measurement output from the HAP metals CEMS must be expressed in units of the applicable emissions limit (*e.g.,* lb/MMBtu, lb/MWh) and in the form of a 30-boiler operating day rolling average.

* * * * *

(4) * * *

(i) * * *

(A) Any data collected during periods of monitoring system malfunctions, repairs associated with monitoring

system malfunctions, or required monitoring system quality assurance or quality control activities conducted during monitoring system malfunctions. You must report any such periods in your annual deviation report;

(B) Any data collected during periods when the monitoring system is out of control as specified in your site-specific monitoring plan, repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any such periods in your annual deviation report.

* * * * *

(l) Should you choose to rely on paragraph (2) of the definition of ''startup'' in § 63.10042 for your EGU, you must install, verify, operate, maintain, and quality assure each monitoring system necessary for demonstrating compliance with the PM or non-mercury metals work practice standards required to comply with § 63.10020(e).

(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 or manufacturer's specifications 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.

■ 12. Section 63.10011 is amended by revising paragraphs (b), (c), (e) and (g) to read as follows:

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

* * * * *

(b) If you are subject to an operating limit in Table 4 to this subpart, you demonstrate initial compliance with HAP metals or filterable PM emission limit(s) through performance stack tests and you elect to use a PM CPMS to demonstrate continuous performance, or if, for a liquid oil-fired EGU, and you use quarterly stack testing for HCl and HF plus site-specific parameter monitoring to demonstrate continuous performance, you must also establish a site-specific operating limit, in accordance with § 63.10007 and Table 6 to this subpart. You may use only the parametric data recorded during successful performance tests (*i.e.,* tests that demonstrate compliance with the applicable emissions limits) to establish an operating limit.

(c)(1) If you use CEMS or sorbent trap monitoring systems to measure a HAP (*e.g.,* Hg or HCl) directly, the initial performance test, consisting of a 30-boiler operating day (or, for certain coal-fired, existing EGUs that use emissions averaging for Hg, a 90-boiler operating day) rolling average emissions rate obtained with certified CEMS, expressed in units of the standard, may occur on or before the first averaging period after the date that compliance with the subpart is required but must occur such that the averaging period is completed on or before the date that compliance must be demonstrated. Initial compliance is demonstrated if the results of the performance test meet the applicable emission limit in Table 1 or 2 to this subpart.

(2) For an EGU that uses a CEMS to measure $SO_2$ or PM emission for initial compliance, the initial performance test, consisting of a 30-boiler operating day average emission rate obtained with certified CEMS, expressed in units of the standard, may occur on or before the first averaging period after the date that compliance with the subpart is required but must occur such that the averaging period is completed on or before the date that compliance must be demonstrated. Initial compliance is demonstrated if the results of the performance test meet the applicable $SO_2$ or PM emission limit in Table 1 or 2 to this subpart.

* * * * *

(e) You must submit a Notification of Compliance Status containing the results of the initial compliance demonstration, in accordance with § 63.10030(e).

* * * * *

(g) You must follow the startup or shutdown requirements as established 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 safety 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 practicable, taking into account considerations such as not compromising boiler or control device integrity, 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.

■ 13. Section 63.10020 is amended by revising paragraph (e) to read as follows:

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

* * * * *

(e) Additional requirements during startup periods or shutdown periods if you choose to rely on paragraph (2) of the definition of ''startup'' in § 63.10042 for your EGU.

(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 gross output 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 gross output 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 § 63.10010(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 combustion air flow or calculated flow as determined from combustion equations of post-combustion (exhaust) gas, as well as amperage of forced draft fan(s), upstream of the filterable PM control devices during each hour of startup.

(B) Record temperature and flow of exhaust gas, as well as amperage of any induced draft fan(s), downstream of the filterable PM control devices 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 flue gas ratio and the differential pressure across the scrubber of the liquid during each hour of startup.

■ 14. Section 63.10021 is amended by revising paragraphs (d)(3), (e) introductory text, and (e)(9)(i) and (ii) to read as follows:

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

* * * * *

(d) * * *

(3) Must conduct site-specific monitoring using CMS to demonstrate compliance with the site-specific monitoring requirements in Table 7 to this subpart pertaining to HCl and HF emissions from a liquid oil-fired EGU to ensure compliance with the HCl and HF emission limits in Tables 1 and 2 to this subpart, in accordance with the requirements of § 63.10000(c)(2)(iii). The monitoring must meet the general operating requirements provided in § 63.10020.

(e) Conduct periodic performance tune-ups of your EGU(s), as specified in paragraphs (e)(1) through (9) of this section. For your first tune-up, you may delay the burner inspection until the next scheduled EGU outage provided you meet the requirements of § 63.10005. Subsequently, you must perform an inspection of the burner at least once every 36 calendar months unless your EGU employs neural network combustion optimization during normal operations in which case you must perform an inspection of the burner and combustion controls at least once every 48 calendar months.

* * * * *

(9) * * *

(i) If the first tune-up is performed prior to April 16, 2015, report the date of the tune-up in hard copy (as specified in § 63.10030) and electronically (as specified in § 63.10031). Report the date of each subsequent tune-up electronically (as specified in § 63.10031).

(ii) If the first tune-up is performed on or after April 16, 2015, report the date of the tune-up and all subsequent tune-ups electronically, in accordance with § 63.10031.

* * * * *

■ 15. Section 63.10023 is amended by removing and reserving paragraph (b)(1) and revising (b)(2) introductory text to read as follows:

**§ 63.10023 How do I establish my PM CPMS operating limit and determine compliance with it?**

* * * * *

(b) * * *

(2) Determine your operating limit as follows:

* * * * *

■ 16. Section 63.10030 is amended by:

■ a. Revising paragraphs (e)(1) and (e)(7)(i);

■ b. Adding paragraph (e)(7)(iii);

■ c. Revising paragraph (e)(8);

■ d. Adding paragraph (f).

The revisions and additions read as follows:

**§ 63.10030 What notifications must I submit and when?**

* * * * *

(e) * * *

(1) A description of the affected source(s), including identification of the subcategory of the source, the design capacity of the source, a description of the add-on controls used on the source, description of the fuel(s) burned, including whether the fuel(s) were determined by you or EPA through a petition process to be a non-waste under 40 CFR 241.3, whether the fuel(s) were processed from discarded non-hazardous secondary materials within the meaning of 40 CFR 241.3, and justification for the selection of fuel(s) burned during the performance test.

* * * * *

(7) * * *

(i) A summary of the results of the annual performance tests and documentation of any operating limits that were reestablished during this test, if applicable. If you are conducting stack tests once every 3 years consistent with § 63.10006(b), the date of each stack test conducted during the previous 3 years, a comparison of emission level you achieved in each stack test conducted during the previous 3 years to the 50 percent emission limit threshold required in § 63.10006(i), and a statement as to whether there have been any operational changes since the last stack test that could increase emissions.

* * * * *

(iii) For each of your existing EGUs, identification of each emissions limit as specified in Table 2 to this subpart with which you plan to comply.

(A) You may switch between mass per heat input and mass per gross output levels, provided:

(*1*) You submit a Notification of Compliance Status that identifies for each EGU or EGU emissions averaging group involved in proposed switch both the current and proposed emission limit;

(*2*) Your submission arrives to the Administrator at least 30 calendar days prior to the date that the switch is proposed to occur;

(*3*) Your submission demonstrates through performance stack test results conducted within 30 days prior to your submission, compliance for each EGU or EGU emissions averaging group with both the mass per heat input and mass per electric output limits;

(*4*) You revise and submit all other applicable plans, *e.g.,* monitoring and emissions averaging, with your submission; and

(*5*) You maintain records of all information regarding your choice of emission limits.

(B) You may begin to use the revised emission limits the semi-annual reporting period after receipt of written acknowledgement from the Administrator of the switch.

(C) From submission until the semi-annual reporting period after receipt of written acknowledgement from the Administrator of the switch, you must demonstrate compliance with both the mass per heat input and mass per electric output emission limits for each pollutant for each EGU or EGU emissions averaging group.

(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 mix and PM controls;

(C) Each design PM control device efficiency established during performance testing or while operating in periods other than startup and shutdown periods;

(D) The design PM emission rate from the EGU in terms of pounds PM per MMBtu and pounds PM per hour established during performance testing or while operating in periods other than startup and shutdown periods;

(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, if different from the efficiency provided in paragraph (e)(8)(i)(C) of this section;

(G) Current EGU PM producing characteristics, including, but not limited to, fuel mix and PM controls, if different from the characteristics provided in paragraph (e)(8)(i)(B) of this section;

(H) Current PM control device efficiency from each PM control device, if different from the efficiency provided in paragraph (e)(8)(i)(C) of this section;

(I) Current PM emission rate from the EGU in terms of pounds PM per MMBtu and pounds per hour, if different from the rate provided in paragraph (e)(8)(i)(D) of this section;

(J) Current time from start of fuel combustion to conditions necessary for each PM control device startup, if different from the time provided in paragraph (e)(8)(i)(E) of this section; and

(M) Current PM control device efficiency upon startup of each PM control device, if different from the efficiency provided in paragraph (e)(8)(i)(H) of this section.

(ii) The report shall be prepared, signed, and sealed by a professional engineer licensed in the state where your EGU is located.

(f) You must submit the notifications in § 63.10000(h)(2) and (i)(2) that may apply to you by the dates specified.

■ 17. Section 63.10031 is amended by:

■ a. Revising paragraphs (c)(4) and (5);

■ b. Adding paragraph (c)(6); and

■ c. Revising paragraph (f)(5).

The revisions and addition read as follows:

**§ 63.10031 What reports must I submit and when?**

* * * * *

(c) * * *

(4) Include the date of the most recent tune-up for each EGU. For the first tune-up, include the date of the burner inspection if it was delayed.

(5) Should you choose to rely on paragraph (2) of the definition of ''startup'' in § 63.10042 for your EGU, for each instance of startup or shutdown you shall:

(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 to demonstrate compliance with numerical limits, include hourly average CEMS values and hourly average flow values during startup periods or shutdown periods. Use units of milligrams per cubic meter for PM CEMS values, micrograms per cubic meter for Hg CEMS values, and ppmv for HCl, HF, or $SO_2$ CEMS values. Use units of standard cubic meters per hour on a wet basis for flow values.

(iv) If you choose to use a separate sorbent trap measurement system for startup or shutdown reporting periods, include hourly average mercury concentration values 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.

(6) Emergency bypass reports from EGUs with LEE status.

* * * * *

(f) * * *

(5) All reports required by this subpart not subject to the requirements in paragraphs (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 an EGU, these reports may be submitted on electronic media. The Administrator retains the right to require submittal of reports subject to paragraphs (f)(1) through (4) of this section in paper format.

* * * * *

■ 18. 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) Should you choose to rely on paragraph (1) of the definition of ''startup'' in § 63.10042 for your EGU, you must keep records of the occurrence and duration of each startup or shutdown.

(2) Should you choose to rely on paragraph (2) of the definition of ''startup'' in § 63.10042 for your EGU, you must keep records of:

(i) The determination of the maximum clean fuel capacity for each EGU;

(ii) The determination of the maximum hourly clean fuel heat input and of the hourly clean fuel heat input for each EGU; and

(iii) The information required in § 63.10020(e).

* * * * *

■ 19. Section 63.10042 is amended by:

■ a. Revising the definitions of ''Coal-fired electric utility steam generating

unit,'' ''Coal refuse,'' ''Fossil fuel-fired,'' ''Integrated gasification combined cycle electric utility steam generating unit or IGCC,'' ''Limited-use liquid oil-fired subcategory,'' and ''Natural gas-fired electric utility steam generating unit'';

■ b. Adding, in alphabetical order, a definition of ''Neural network or neural net''; and

■ c. Revising the definition of ''Oil-fired electric utility steam generating unit.''

The revisions and additions read as follows:

**§ 63.10042 What definitions apply to this subpart?**

* * * * *

*Coal-fired electric utility steam generating unit* means an electric utility steam generating unit meeting the definition of ''fossil fuel-fired'' that burns coal for more than 10.0 percent of the average annual heat input during the 3 previous calendar years after the compliance date for your facility in § 63.9984 or for more than 15.0 percent of the annual heat input during any one of those calendar years. EGU owners and operators must estimate coal, oil, and natural gas usage for the first 3 calendar years after the applicable compliance date and they are solely responsible for assuring compliance with this final rule or other applicable standard based on their fuel usage projections.

*Coal refuse* means waste products of coal mining, physical coal cleaning, and coal preparation operations (*e.g.* culm, gob, etc.) containing coal, matrix material, clay, and other organic and inorganic material.

* * * * *

*Fossil fuel-fired* means an electric utility steam generating unit (EGU) that is capable of combusting more than 25 MW of fossil fuels. To be ''capable of combusting'' fossil fuels, an EGU would need to have these fuels allowed in its operating permit and have the appropriate fuel handling facilities on-site or otherwise available (*e.g.,* coal handling equipment, including coal storage area, belts and conveyers, pulverizers, etc.; oil storage facilities). In addition, fossil fuel-fired means any EGU that fired fossil fuels for more than 10.0 percent of the average annual heat input during the 3 previous calendar years after the compliance date for your facility in § 63.9984 or for more than 15.0 percent of the annual heat input during any one of those calendar years. EGU owners and operators must estimate coal, oil, and natural gas usage for the first 3 calendar years after the applicable compliance date and they are solely responsible for assuring compliance with this final rule or other applicable standard based on their fuel usage projections.

* * * * *

*Integrated gasification combined cycle electric utility steam generating unit* or *IGCC* means an electric utility steam generating unit meeting the definition of ''fossil fuel-fired'' that burns a synthetic gas derived from coal and/or solid oil-derived fuel for more than 10.0 percent of the average annual heat input during the 3 previous calendar years after the compliance date for your facility in § 63.9984 or for more than 15.0 percent of the annual heat input during any one of those calendar years in a combined-cycle gas turbine. EGU owners and operators must estimate coal, oil, and natural gas usage for the first 3 calendar years after the applicable compliance date and they are solely responsible for assuring compliance with this final rule or other applicable standard based on their fuel usage projections. No solid coal or solid oil-derived fuel is directly burned in the unit during operation.

* * * * *

*Limited-use liquid oil-fired subcategory* means an oil-fired electric utility steam generating unit with an annual capacity factor when burning oil of less than 8 percent of its maximum or nameplate heat input, whichever is greater, averaged over a 24-month block contiguous period commencing April 16, 2015.

* * * * *

*Natural gas-fired electric utility steam generating unit* means an electric utility steam generating unit meeting the definition of ''fossil fuel-fired'' that is not a coal-fired, oil-fired, or IGCC electric utility steam generating unit and that burns natural gas for more than 10.0 percent of the average annual heat input during the 3 previous calendar years after the compliance date for your facility in § 63.9984 or for more than 15.0 percent of the annual heat input during any one of those calendar years. EGU owners and operators must estimate coal, oil, and natural gas usage for the first 3 calendar years after the applicable compliance date and they are solely responsible for assuring compliance with this final rule or other applicable standard based on their fuel usage projections.

* * * * *

*Neural network* or *neural net* for purposes of this rule means an automated boiler optimization system. A neural network typically has the ability to process data from many inputs to develop, remember, update, and enable algorithms for efficient boiler operation.

* * * * *

*Oil-fired electric utility steam generating unit* means an electric utility steam generating unit meeting the definition of ''fossil fuel-fired'' that is not a coal-fired electric utility steam generating unit and that burns oil for more than 10.0 percent of the average annual heat input during the 3 previous calendar years after the compliance date for your facility in § 63.9984 or for more than 15.0 percent of the annual heat input during any one of those calendar years.

* * * * *

■ 20. Revise Table 1 to subpart UUUUU of part 63 to read as follows:

TABLE 1 TO SUBPART UUUUU OF PART 63—EMISSION LIMITS FOR NEW OR RECONSTRUCTED EGUS

[As stated in § 63.9991, you must comply with the following applicable emission limits:]

| If your EGU is in this subcategory . . . | For the following pollutants . . . | You must meet the following emission limits and work practice standards . . . | Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 to Subpart UUUUU of Part 63—Performance Testing Requirements . . . |
|---|---|---|---|
| 1. Coal-fired unit not low rank virgin coal. | a. Filterable particulate matter (PM). | 9.0E–2 lb/MWh [1] | Collect a minimum of 4 dscm per run. |
| | OR | OR | |
| | Total non-Hg HAP metals | 6.0E–2 lb/GWh | Collect a minimum of 4 dscm per run. |
| | OR | OR | |

TABLE 1 TO SUBPART UUUUU OF PART 63—EMISSION LIMITS FOR NEW OR RECONSTRUCTED EGUS—Continued

[As stated in § 63.9991, you must comply with the following applicable emission limits:]

| If your EGU is in this subcategory . . . | For the following pollutants . . . | You must meet the following emission limits and work practice standards . . . | Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 to Subpart UUUUU of Part 63—Performance Testing Requirements . . . |
|---|---|---|---|
| | Individual HAP metals: | | Collect a minimum of 3 dscm per run. |
| | Antimony (Sb) | 8.0E–3 lb/GWh. | |
| | Arsenic (As) | 3.0E–3 lb/GWh. | |
| | Beryllium (Be) | 6.0E–4 lb/GWh. | |
| | Cadmium (Cd) | 4.0E–4 lb/GWh. | |
| | Chromium (Cr) | 7.0E–3 lb/GWh. | |
| | Cobalt (Co) | 2.0E–3 lb/GWh. | |
| | Lead (Pb) | 2.0E–2 lb/GWh. | |
| | Manganese (Mn) | 4.0E–3 lb/GWh. | |
| | Nickel (Ni) | 4.0E–2 lb/GWh. | |
| | Selenium (Se) | 5.0E–2 lb/GWh. | |
| | b. Hydrogen chloride (HCl) | 1.0E–2 lb/MWh | For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour. |
| | OR | | |
| | Sulfur dioxide ($SO_2$)[3] | 1.0 lb/MWh | $SO_2$ CEMS. |
| | c. Mercury (Hg) | 3.0E–3 lb/GWh | Hg CEMS or sorbent trap monitoring system only. |
| 2. Coal-fired units low rank virgin coal. | a. Filterable particulate matter (PM). | 9.0E–2 lb/MWh[1] | Collect a minimum of 4 dscm per run. |
| | OR | OR | |
| | Total non-Hg HAP metals | 6.0E–2 lb/GWh | Collect a minimum of 4 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | | Collect a minimum of 3 dscm per run. |
| | Antimony (Sb) | 8.0E–3 lb/GWh. | |
| | Arsenic (As) | 3.0E–3 lb/GWh. | |
| | Beryllium (Be) | 6.0E–4 lb/GWh. | |
| | Cadmium (Cd) | 4.0E–4 lb/GWh. | |
| | Chromium (Cr) | 7.0E–3 lb/GWh. | |
| | Cobalt (Co) | 2.0E–3 lb/GWh. | |
| | Lead (Pb) | 2.0E–2 lb/GWh. | |
| | Manganese (Mn) | 4.0E–3 lb/GWh. | |
| | Nickel (Ni) | 4.0E–2 lb/GWh. | |
| | Selenium (Se) | 5.0E–2 lb/GWh. | |
| | b. Hydrogen chloride (HCl) | 1.0E–2 lb/MWh | For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour. |
| | OR | | |
| | Sulfur dioxide ($SO_2$)[3] | 1.0 lb/MWh | $SO_2$ CEMS. |
| | c. Mercury (Hg) | 4.0E–2 lb/GWh | Hg CEMS or sorbent trap monitoring system only. |
| 3. IGCC unit | a. Filterable particulate matter (PM). | 7.0E–2 lb/MWh[4]<br>9.0E–2 lb/MWh[5] | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Total non-Hg HAP metals | 4.0E–1 lb/GWh | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | | Collect a minimum of 2 dscm per run. |
| | Antimony (Sb) | 2.0E–2 lb/GWh. | |
| | Arsenic (As) | 2.0E–2 lb/GWh. | |
| | Beryllium (Be) | 1.0E–3 lb/GWh. | |
| | Cadmium (Cd) | 2.0E–3 lb/GWh. | |
| | Chromium (Cr) | 4.0E–2 lb/GWh. | |
| | Cobalt (Co) | 4.0E–3 lb/GWh. | |
| | Lead (Pb) | 9.0E–3 lb/GWh. | |

TABLE 1 TO SUBPART UUUUU OF PART 63—EMISSION LIMITS FOR NEW OR RECONSTRUCTED EGUS—Continued

[As stated in § 63.9991, you must comply with the following applicable emission limits:]

| If your EGU is in this subcategory . . . | For the following pollutants . . . | You must meet the following emission limits and work practice standards . . . | Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 to Subpart UUUUU of Part 63—Performance Testing Requirements . . . |
|---|---|---|---|
| | Manganese (Mn) | 2.0E–2 lb/GWh. | |
| | Nickel (Ni) | 7.0E–2 lb/GWh. | |
| | Selenium (Se) | 3.0E–1 lb/GWh. | |
| | b. Hydrogen chloride (HCl) | 2.0E–3 lb/MWh | For Method 26A, collect a minimum of 1 dscm per run; for Method 26, collect a minimum of 120 liters per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour. |
| | OR | | |
| | Sulfur dioxide ($SO_2$)[3] | 4.0E–1 lb/MWh | $SO_2$ CEMS. |
| | c. Mercury (Hg) | 3.0E–3 lb/GWh | Hg CEMS or sorbent trap monitoring system only. |
| 4. Liquid oil-fired unit—continental (excluding limited-use liquid oil-fired subcategory units). | a. Filterable particulate matter (PM). | 3.0E–1 lb/MWh[1] | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Total HAP metals | 2.0E–4 lb/MWh | Collect a minimum of 2 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | Collect a minimum of 2 dscm per run. | |
| | Antimony (Sb) | 1.0E–2 lb/GWh. | |
| | Arsenic (As) | 3.0E–3 lb/GWh. | |
| | Beryllium (Be) | 5.0E–4 lb/GWh. | |
| | Cadmium (Cd) | 2.0E–4 lb/GWh. | |
| | Chromium (Cr) | 2.0E–2 lb/GWh. | |
| | Cobalt (Co) | 3.0E–2 lb/GWh. | |
| | Lead (Pb) | 8.0E–3 lb/GWh. | |
| | Manganese (Mn) | 2.0E–2 lb/GWh. | |
| | Nickel (Ni) | 9.0E–2 lb/GWh. | |
| | Selenium (Se) | 2.0E–2 lb/GWh. | |
| | Mercury (Hg) | 1.0E–4 lb/GWh | For Method 30B sample volume determination (Section 8.2.4), the estimated Hg concentration should nominally be <½ the standard. |
| | b. Hydrogen chloride (HCl) | 4.0E–4 lb/MWh | For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour. |
| | c. Hydrogen fluoride (HF) | 4.0E–4 lb/MWh | For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour. |
| 5. Liquid oil-fired unit—non-continental (excluding limited-use liquid oil-fired subcategory units). | a. Filterable particulate matter (PM). | 2.0E–1 lb/MWh[1] | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Total HAP metals | 7.0E–3 lb/MWh | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | | Collect a minimum of 3 dscm per run. |
| | Antimony (Sb) | 8.0E–3 lb/GWh. | |
| | Arsenic (As) | 6.0E–2 lb/GWh. | |
| | Beryllium (Be) | 2.0E–3 lb/GWh. | |
| | Cadmium (Cd) | 2.0E–3 lb/GWh. | |
| | Chromium (Cr) | 2.0E–2 lb/GWh. | |
| | Cobalt (Co) | 3.0E–1 lb/GWh. | |

TABLE 1 TO SUBPART UUUUU OF PART 63—EMISSION LIMITS FOR NEW OR RECONSTRUCTED EGUS—Continued

[As stated in § 63.9991, you must comply with the following applicable emission limits:]

| If your EGU is in this subcategory . . . | For the following pollutants . . . | You must meet the following emission limits and work practice standards . . . | Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 to Subpart UUUUU of Part 63—Performance Testing Requirements . . . |
|---|---|---|---|
| | Lead (Pb) | 3.0E–2 lb/GWh. | |
| | Manganese (Mn) | 1.0E–1 lb/GWh. | |
| | Nickel (Ni) | 4.1E0 lb/GWh. | |
| | Selenium (Se) | 2.0E–2 lb/GWh. | |
| | Mercury (Hg) | 4.0E–4 lb/GWh | For Method 30B sample volume determination (Section 8.2.4), the estimated Hg concentration should nominally be <½ the standard. |
| | b. Hydrogen chloride (HCl) | 2.0E–3 lb/MWh | For Method 26A, collect a minimum of 1 dscm per run; for Method 26, collect a minimum of 120 liters per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour. |
| | c. Hydrogen fluoride (HF) | 5.0E–4 lb/MWh | For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour. |
| 6. Solid oil-derived fuel-fired unit ... | a. Filterable particulate matter (PM). | 3.0E–2 lb/MWh[1] | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Total non-Hg HAP metals | 6.0E–1 lb/GWh | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | | Collect a minimum of 3 dscm per run. |
| | Antimony (Sb) | 8.0E–3 lb/GWh. | |
| | Arsenic (As) | 3.0E–3 lb/GWh. | |
| | Beryllium (Be) | 6.0E–4 lb/GWh. | |
| | Cadmium (Cd) | 7.0E–4 lb/GWh. | |
| | Chromium (Cr) | 6.0E–3 lb/GWh. | |
| | Cobalt (Co) | 2.0E–3 lb/GWh. | |
| | Lead (Pb) | 2.0E–2 lb/GWh. | |
| | Manganese (Mn) | 7.0E–3 lb/GWh. | |
| | Nickel (Ni) | 4.0E–2 lb/GWh. | |
| | Selenium (Se) | 6.0E–3 lb/GWh. | |
| | b. Hydrogen chloride (HCl) | 4.0E–4 lb/MWh | For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour. |
| | OR | | |
| | Sulfur dioxide ($SO_2$)[3] | 1.0 lb/MWh | $SO_2$ CEMS. |
| | c. Mercury (Hg) | 2.0E–3 lb/GWh | Hg CEMS or Sorbent trap monitoring system only. |

[1] Gross output.

[2] Incorporated by reference, see § 63.14.

[3] You may not use the alternate $SO_2$ limit if your EGU does not have some form of FGD system (or, in the case of IGCC EGUs, some other acid gas removal system either upstream or downstream of the combined cycle block) and $SO_2$ CEMS installed.

[4] Duct burners on syngas; gross output.

[5] Duct burners on natural gas; gross output.

■ 21. Revise Table 2 to subpart UUUUU of part 63 to read as follows:

TABLE 2 TO SUBPART UUUUU OF PART 63—EMISSION LIMITS FOR EXISTING EGUS

[As stated in § 63.9991, you must comply with the following applicable emission limits: [1]]

| If your EGU is in this subcategory . . . | For the following pollutants . . . | You must meet the following emission limits and work practice standards . . . | Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 to Subpart UUUUU of Part 63—Performance Testing Requirements . . . |
|---|---|---|---|
| 1. Coal-fired unit not low rank virgin coal. | a. Filterable particulate matter (PM). | 3.0E–2 lb/MMBtu or 3.0E–1 lb/MWh [2]. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Total non-Hg HAP metals | 5.0E–5 lb/MMBtu or 5.0E–1 lb/GWh. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | | Collect a minimum of 3 dscm per run. |
| | Antimony (Sb) | 8.0E–1 lb/TBtu or 8.0E–3 lb/GWh. | |
| | Arsenic (As) | 1.1E0 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Beryllium (Be) | 2.0E–1 lb/TBtu or 2.0E–3 lb/GWh. | |
| | Cadmium (Cd) | 3.0E–1 lb/TBtu or 3.0E–3 lb/GWh. | |
| | Chromium (Cr) | 2.8E0 lb/TBtu or 3.0E–2 lb/GWh. | |
| | Cobalt (Co) | 8.0E–1 lb/TBtu or 8.0E–3 lb/GWh. | |
| | Lead (Pb) | 1.2E0 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Manganese (Mn) | 4.0E0 lb/TBtu or 5.0E–2 lb/GWh. | |
| | Nickel (Ni) | 3.5E0 lb/TBtu or 4.0E–2 lb/GWh. | |
| | Selenium (Se) | 5.0E0 lb/TBtu or 6.0E–2 lb/GWh. | |
| | b. Hydrogen chloride (HCl) | 2.0E–3 lb/MMBtu or 2.0E–2 lb/MWh. | For Method 26A, collect a minimum of 0.75 dscm per run; for Method 26, collect a minimum of 120 liters per run. For ASTM D6348–03 [3] or Method 320, sample for a minimum of 1 hour. |
| | OR | | |
| | Sulfur dioxide ($SO_2$) [4] | 2.0E–1 lb/MMBtu or 1.5E0 lb/MWh. | $SO_2$ CEMS. |
| | c. Mercury (Hg) | 1.2E0 lb/TBtu or 1.3E–2 lb/GWh .. | LEE Testing for 30 days with 10 days maximum per Method 30B run or Hg CEMS or sorbent trap monitoring system only. |
| | | OR | |
| | | 1.0E0 lb/TBtu or 1.1E–2 lb/GWh .. | LEE Testing for 90 days with 10 days maximum per Method 30B run or Hg CEMS or sorbent trap monitoring system only. |
| 2. Coal-fired unit low rank virgin coal. | a. Filterable particulate matter (PM). | 3.0E–2 lb/MMBtu or 3.0E–1 lb/MWh [2]. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Total non-Hg HAP metals | 5.0E–5 lb/MMBtu or 5.0E–1 lb/GWh. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | | Collect a minimum of 3 dscm per run. |
| | Antimony (Sb) | 8.0E–1 lb/TBtu or 8.0E–3 lb/GWh. | |
| | Arsenic (As) | 1.1E0 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Beryllium (Be) | 2.0E–1 lb/TBtu or 2.0E–3 lb/GWh. | |
| | Cadmium (Cd) | 3.0E–1 lb/TBtu or 3.0E–3 lb/GWh. | |
| | Chromium (Cr) | 2.8E0 lb/TBtu or 3.0E–2 lb/GWh. | |
| | Cobalt (Co) | 8.0E–1 lb/TBtu or 8.0E–3 lb/GWh. | |
| | Lead (Pb) | 1.2E0 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Manganese (Mn) | 4.0E0 lb/TBtu or 5.0E–2 lb/GWh. | |
| | Nickel (Ni) | 3.5E0 lb/TBtu or 4.0E–2 lb/GWh. | |
| | Selenium (Se) | 5.0E0 lb/TBtu or 6.0E–2 lb/GWh. | |
| | b. Hydrogen chloride (HCl) | 2.0E–3 lb/MMBtu or 2.0E–2 lb/MWh. | For Method 26A, collect a minimum of 0.75 dscm per run; for Method 26, collect a minimum of 120 liters per run. For ASTM D6348–03 [3] or Method 320, sample for a minimum of 1 hour. |
| | OR | | |

TABLE 2 TO SUBPART UUUUU OF PART 63—EMISSION LIMITS FOR EXISTING EGUS—Continued

[As stated in § 63.9991, you must comply with the following applicable emission limits: [1]]

| If your EGU is in this subcategory . . . | For the following pollutants . . . | You must meet the following emission limits and work practice standards . . . | Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 to Subpart UUUUU of Part 63—Performance Testing Requirements . . . |
|---|---|---|---|
| | Sulfur dioxide ($SO_2$) [4] | 2.0E–1 lb/MMBtu or 1.5E0 lb/MWh. | $SO_2$ CEMS. |
| | c. Mercury (Hg) | 4.0E0 lb/TBtu or 4.0E–2 lb/GWh .. | LEE Testing for 30 days with 10 days maximum per Method 30B run or Hg CEMS or sorbent trap monitoring system only. |
| 3. IGCC unit | a. Filterable particulate matter (PM). | 4.0E–2 lb/MMBtu or 4.0E–1 lb/MWh [2]. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Total non-Hg HAP metals | 6.0E–5 lb/MMBtu or 5.0E–1 lb/GWh. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | | Collect a minimum of 2 dscm per run. |
| | Antimony (Sb) | 1.4E0 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Arsenic (As) | 1.5E0 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Beryllium (Be) | 1.0E–1 lb/TBtu or 1.0E–3 lb/GWh. | |
| | Cadmium (Cd) | 1.5E–1 lb/TBtu or 2.0E–3 lb/GWh. | |
| | Chromium (Cr) | 2.9E0 lb/TBtu or 3.0E–2 lb/GWh. | |
| | Cobalt (Co) | 1.2E0 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Lead (Pb) | 1.9E+2 lb/TBtu or 1.8E0 lb/GWh. | |
| | Manganese (Mn) | 2.5E0 lb/TBtu or 3.0E–2 lb/GWh. | |
| | Nickel (Ni) | 6.5E0 lb/TBtu or 7.0E–2 lb/GWh. | |
| | Selenium (Se) | 2.2E+1 lb/TBtu or 3.0E–1 lb/GWh. | |
| | b. Hydrogen chloride (HCl) | 5.0E–4 lb/MMBtu or 5.0E–3 lb/MWh. | For Method 26A, collect a minimum of 1 dscm per run; for Method 26, collect a minimum of 120 liters per run. For ASTM D6348–03 [3] or Method 320, sample for a minimum of 1 hour. |
| | c. Mercury (Hg) | 2.5E0 lb/TBtu or 3.0E–2 lb/GWh .. | LEE Testing for 30 days with 10 days maximum per Method 30B run or Hg CEMS or sorbent trap monitoring system only. |
| 4. Liquid oil-fired unit—continental (excluding limited-use liquid oil-fired subcategory units). | a. Filterable particulate matter (PM). | 3.0E–2 lb/MMBtu or 3.0E–1 lb/MWh [2]. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Total HAP metals | 8.0E–4 lb/MMBtu or 8.0E–3 lb/MWh. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | | Collect a minimum of 1 dscm per run. |
| | Antimony (Sb) | 1.3E+1 lb/TBtu or 2.0E–1 lb/GWh. | |
| | Arsenic (As) | 2.8E0 lb/TBtu or 3.0E–2 lb/GWh. | |
| | Beryllium (Be) | 2.0E–1 lb/TBtu or 2.0E–3 lb/GWh. | |
| | Cadmium (Cd) | 3.0E–1 lb/TBtu or 2.0E–3 lb/GWh. | |
| | Chromium (Cr) | 5.5E0 lb/TBtu or 6.0E–2 lb/GWh. | |
| | Cobalt (Co) | 2.1E+1 lb/TBtu or 3.0E–1 lb/GWh. | |
| | Lead (Pb) | 8.1E0 lb/TBtu or 8.0E–2 lb/GWh. | |
| | Manganese (Mn) | 2.2E+1 lb/TBtu or 3.0E–1 lb/GWh. | |
| | Nickel (Ni) | 1.1E+2 lb/TBtu or 1.1E0 lb/GWh. | |
| | Selenium (Se) | 3.3E0 lb/TBtu or 4.0E–2 lb/GWh. | |
| | Mercury (Hg) | 2.0E–1 lb/TBtu or 2.0E–3 lb/GWh | For Method 30B sample volume determination (Section 8.2.4), the estimated Hg concentration should nominally be <½ the standard. |
| | b. Hydrogen chloride (HCl) | 2.0E–3 lb/MMBtu or 1.0E–2 lb/MWh. | For Method 26A, collect a minimum of 1 dscm per run; for Method 26, collect a minimum of 120 liters per run. |

TABLE 2 TO SUBPART UUUUU OF PART 63—EMISSION LIMITS FOR EXISTING EGUS—Continued

[As stated in § 63.9991, you must comply with the following applicable emission limits: [1]]

| If your EGU is in this subcategory . . . | For the following pollutants . . . | You must meet the following emission limits and work practice standards . . . | Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 to Subpart UUUUU of Part 63—Performance Testing Requirements . . . |
|---|---|---|---|
| | c. Hydrogen fluoride (HF) | 4.0E–4 lb/MMBtu or 4.0E–3 lb/MWh. | For ASTM D6348–03 [3] or Method 320, sample for a minimum of 1 hour. For Method 26A, collect a minimum of 1 dscm per run; for Method 26, collect a minimum of 120 liters per run. For ASTM D6348–03 [3] or Method 320, sample for a minimum of 1 hour. |
| 5. Liquid oil-fired unit—non-continental (excluding limited-use liquid oil-fired subcategory units). | a. Filterable particulate matter (PM). | 3.0E–2 lb/MMBtu or 3.0E–1 lb/MWh [2]. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Total HAP metals | 6.0E–4 lb/MMBtu or 7.0E–3 lb/MWh. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | | Collect a minimum of 2 dscm per run. |
| | Antimony (Sb) | 2.2E0 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Arsenic (As) | 4.3E0 lb/TBtu or 8.0E–2 lb/GWh. | |
| | Beryllium (Be) | 6.0E–1 lb/TBtu or 3.0E–3 lb/GWh. | |
| | Cadmium (Cd) | 3.0E–1 lb/TBtu or 3.0E–3 lb/GWh. | |
| | Chromium (Cr) | 3.1E+1 lb/TBtu or 3.0E–1 lb/GWh. | |
| | Cobalt (Co) | 1.1E+2 lb/TBtu or 1.4E0 lb/GWh. | |
| | Lead (Pb) | 4.9E0 lb/TBtu or 8.0E–2 lb/GWh. | |
| | Manganese (Mn) | 2.0E+1 lb/TBtu or 3.0E–1 lb/GWh. | |
| | Nickel (Ni) | 4.7E+2 lb/TBtu or 4.1E0 lb/GWh. | |
| | Selenium (Se) | 9.8E0 lb/TBtu or 2.0E–1 lb/GWh. | |
| | Mercury (Hg) | 4.0E–2 lb/TBtu or 4.0E–4 lb/GWh | For Method 30B sample volume determination (Section 8.2.4), the estimated Hg concentration should nominally be <½ the standard. |
| | b. Hydrogen chloride (HCl) | 2.0E–4 lb/MMBtu or 2.0E–3 lb/MWh. | For Method 26A, collect a minimum of 1 dscm per run; for Method 26, collect a minimum of 120 liters per run. For ASTM D6348–03 [3] or Method 320, sample for a minimum of 2 hours. |
| | c. Hydrogen fluoride (HF) | 6.0E–5 lb/MMBtu or 5.0E–4 lb/MWh. | For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03 [3] or Method 320, sample for a minimum of 2 hours. |
| 6. Solid oil-derived fuel-fired unit ... | a. Filterable particulate matter (PM). | 8.0E–3 lb/MMBtu or 9.0E–2 lb/MWh [2]. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Total non-Hg HAP metals | 4.0E–5 lb/MMBtu or 6.0E–1 lb/GWh. | Collect a minimum of 1 dscm per run. |
| | OR | OR | |
| | Individual HAP metals: | | Collect a minimum of 3 dscm per run. |
| | Antimony (Sb) | 8.0E–1 lb/TBtu or 7.0E–3 lb/GWh. | |
| | Arsenic (As) | 3.0E–1 lb/TBtu or 5.0E–3 lb/GWh. | |
| | Beryllium (Be) | 6.0E–2 lb/TBtu or 5.0E–4 lb/GWh. | |
| | Cadmium (Cd) | 3.0E–1 lb/TBtu or 4.0E–3 lb/GWh. | |
| | Chromium (Cr) | 8.0E–1 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Cobalt (Co) | 1.1E0 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Lead (Pb) | 8.0E–1 lb/TBtu or 2.0E–2 lb/GWh. | |
| | Manganese (Mn) | 2.3E0 lb/TBtu or 4.0E–2 lb/GWh. | |
| | Nickel (Ni) | 9.0E0 lb/TBtu or 2.0E–1 lb/GWh. | |

TABLE 2 TO SUBPART UUUUU OF PART 63—EMISSION LIMITS FOR EXISTING EGUS—Continued

[As stated in § 63.9991, you must comply with the following applicable emission limits: [1]]

| If your EGU is in this subcategory . . . | For the following pollutants . . . | You must meet the following emission limits and work practice standards . . . | Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 to Subpart UUUUU of Part 63—Performance Testing Requirements . . . |
|---|---|---|---|
| | Selenium (Se) ..... | 1.2E0 lb/Tbtu or 2.0E–2 lb/GWh. | |
| | b. Hydrogen chloride (HCl) ..... | 5.0E–3 lb/MMBtu or 8.0E–2 lb/MWh. | For Method 26A, collect a minimum of 0.75 dscm per run; for Method 26, collect a minimum of 120 liters per run. For ASTM D6348–03 [3] or Method 320, sample for a minimum of 1 hour. |
| | OR | | |
| | Sulfur dioxide ($SO_2$) [4] ..... | 3.0E–1 lb/MMBtu or 2.0E0 lb/MWh. | $SO_2$ CEMS. |
| | c. Mercury (Hg) ..... | 2.0E–1 lb/TBtu or 2.0E–3 lb/GWh | LEE Testing for 30 days with 10 days maximum per Method 30B run or Hg CEMS or Sorbent trap monitoring system only. |

[1] For LEE emissions testing for total PM, total HAP metals, individual HAP metals, HCl, and HF, the required minimum sampling volume must be increased nominally by a factor of two.
[2] Gross output.
[3] Incorporated by reference, see § 63.14.
[4] You may not use the alternate $SO_2$ limit if your EGU does not have some form of FGD system and $SO_2$ CEMS installed.

■ 22. 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). |
| 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:<br>(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).<br>(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.<br>For startup of an EGU, you must use one or a combination of the clean fuels defined in § 63.10042 to the maximum extent practicable, taking into account considerations such as boiler or control device integrity, throughout the start-up 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).<br>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.<br>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. |

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 . . . |
|---|---|
| | 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.<br>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.<br>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.<br>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 practicable.<br>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.<br>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. |

■ 23. Revise Table 4 to subpart UUUUU of part 63 to read as follows:

TABLE 4 TO SUBPART UUUUU OF PART 63—OPERATING LIMITS FOR EGUS

[As stated in § 63.9991, you must comply with the applicable operating limits:]

| If you demonstrate compliance using . . . | You must meet these operating limits . . . |
|---|---|
| PM CPMS ..... | Maintain the 30-boiler operating day rolling average PM CPMS output determined in accordance with the requirements of § 63.10023(b)(2) and obtained during the most recent performance test run demonstrating compliance with the filterable PM, total non-mercury HAP metals (total HAP metals, for liquid oil-fired units), or individual non-mercury HAP metals (individual HAP metals including Hg, for liquid oil-fired units) emissions limitation(s). |

■ 24. Revise Table 5 to subpart UUUUU of part 63 to read as follows:

**Table 5 to Subpart UUUUU of Part 63 — Performance Testing Requirements**

As stated in § 63.10007, you must comply with the following requirements for performance testing for existing, new or reconstructed affected sources:[1]

| To conduct a performance test for the following pollutant ... | Using... | You must perform the following activities, as applicable to your input- or output-based emission limit ... | Using ...[2] |
|---|---|---|---|
| 1. Filterable Particulate matter (PM) | Emissions Testing | a. Select sampling ports location and the number of traverse points. | Method 1 at Appendix A-1 to Part 60 of this chapter. |
| | | b. Determine velocity and volumetric flow-rate of the stack gas. | Method 2, 2A, 2C, 2F, 2G or 2H at Appendix A-1 or A-2 to Part 60 of this chapter. |
| | | c. Determine oxygen and carbon dioxide concentrations of the stack gas. | Method 3A or 3B at Appendix A-2 to Part 60 of this chapter, or ANSI/ASME PTC 19.10-1981.[3] |

| | | | |
|---|---|---|---|
| | | d. Measure the moisture content of the stack gas. | Method 4 at Appendix A-3 to Part 60 of this chapter. |
| | | e. Measure the filterable PM concentration. | Method 5 at Appendix A-3 to Part 60 of this chapter. When using Method 5, use the average of the final 2 filter weightings. |
| | | | For positive pressure fabric filters, Method 5D at Appendix A-3 to Part 60 of this chapter for filterable PM emissions. |
| | | | Note that the Method 5 front half temperature shall be 160° ± 14°C (320° ± 25°F). |
| | | f. Convert emissions concentration to lb/MMBtu or lb/MWh emissions rates. | Method 19 F-factor methodology at Appendix A-7 to Part 60 of this chapter, or calculate using mass emissions rate and electrical output data (see § 63.10007(e)). |
| | OR | OR | |
| | PM CEMS | a. Install, certify, operate, and maintain the PM CEMS. | Performance Specification 11 at Appendix B to Part 60 of this chapter and Procedure 2 at Appendix F to Part 60 of this chapter. |
| | | b. Install, certify, operate, and maintain the diluent gas, | Part 75 of this chapter and §§ 63.10010 (a), (b), (c), and (d). |

| | | | |
|---|---|---|---|
| | | flow rate, and/or moisture monitoring systems. | |
| | | c. Convert hourly emissions concentrations to 30 boiler operating day rolling average lb/MMBtu or lb/MWh emissions rates. | Method 19 F-factor methodology at Appendix A-7 to Part 60 of this chapter, or calculate using mass emissions rate and electrical output data (see § 63.10007(e)). |
| 2. Total or individual non-Hg HAP metals | Emissions Testing | a. Select sampling ports location and the number of traverse points. | Method 1 at Appendix A-1 to Part 60 of this chapter. |
| | | b. Determine velocity and volumetric flow-rate of the stack gas. | Method 2, 2A, 2C, 2F, 2G or 2H at Appendix A-1 or A-2 to Part 60 of this chapter. |
| | | c. Determine oxygen and carbon dioxide concentrations of the stack gas. | Method 3A or 3B at Appendix A-2 to Part 60 of this chapter, or ANSI/ASME PTC 19.10-1981.[3] |

| | | | |
|---|---|---|---|
| | | d. Measure the moisture content of the stack gas. | Method 4 at Appendix A-3 to Part 60 of this chapter. |
| | | e. Measure the HAP metals emissions concentrations and determine each individual HAP metals emissions concentration, as well as the total filterable HAP metals emissions concentration and total HAP metals emissions concentration. | Method 29 at Appendix A-8 to Part 60 of this chapter. For liquid oil-fired units, Hg is included in HAP metals and you may use Method 29, Method 30B at Appendix A-8 to Part 60 of this chapter; for Method 29, you must report the front half and back half results separately. When using Method 29, report metals matrix spike and recovery levels. |
| | | f. Convert emissions concentrations (individual HAP metals, total filterable HAP metals, and total HAP metals) to lb/MMBtu or lb/MWh emissions | Method 19 F-factor methodology at Appendix A-7 to Part 60 of this chapter, or calculate using mass emissions rate and electrical output data (see § 63.10007(e)). |

| | | | |
|---|---|---|---|
| | | rates. | |
| 3. Hydrogen chloride (HCl) and hydrogen fluoride (HF) | Emissions Testing | a. Select sampling ports location and the number of traverse points. | Method 1 at Appendix A-1 to Part 60 of this chapter. |
| | | b. Determine velocity and volumetric flow-rate of the stack gas. | Method 2, 2A, 2C, 2F, 2G or 2H at Appendix A-1 or A-2 to Part 60 of this chapter. |
| | | c. Determine oxygen and carbon dioxide concentrations of the stack gas. | Method 3A or 3B at Appendix A-2 to Part 60 of this chapter, or ANSI/ASME PTC 19.10-1981.[3] |
| | | d. Measure the moisture content of the stack gas. | Method 4 at Appendix A-3 to Part 60 of this chapter. |
| | | e. Measure the HCl and HF emissions concentrations. | Method 26 or Method 26A at Appendix A-8 to Part 60 of this chapter or Method 320 at Appendix A to Part 63 of this chapter or ASTM 6348-03[3] with (1) the following conditions using ASTM D6348-03: (A) The test plan preparation and implementation in the Annexes to ASTM D6348-03, Sections A1 through A8 are mandatory; (B) For ASTM D6348-03 Annex A5 (Analyte Spiking Technique), the percent |

| | | | |
|---|---|---|---|
| | | | (%) R must be determined for each target analyte (see Equation A5.5); (C) For the ASTM D6348-03 test data to be acceptable for a target analyte, %R must be 70 % ≥ R ≤ 130%; and (D) The %R value for each compound must be reported in the test report and all field measurements corrected with the calculated %R value for that compound using the following equation:<br><br>$Reported\ Result = \frac{(Measured\ Concentration\ in\ Stack)}{\%R}\ x\ 100$<br><br>and (2) spiking levels nominally no greater than two times the level corresponding to the applicable emission limit.<br>Method 26A must be used if there are entrained water droplets in the exhaust stream. |
| | | f. Convert emissions concentration to lb/MMBtu or lb/MWh emissions rates. | Method 19 F-factor methodology at Appendix A-7 to Part 60 of this chapter, or calculate using mass emissions rate and electrical output data (see § 63.10007(e)). |
| | OR | OR | |
| | HCl and/or HF CEMS | a. Install, certify, operate, and maintain the HCl or HF CEMS. | Appendix B of this subpart. |
| | | b. Install, certify, | Part 75 of this chapter and §§ 63.10010 (a), (b), (c), and (d). |

| | | | |
|---|---|---|---|
| | | operate, and maintain the diluent gas, flow rate, and/or moisture monitoring systems. | |
| | | c. Convert hourly emissions concentrations to 30 boiler operating day rolling average lb/MMBtu or lb/MWh emissions rates. | Method 19 F-factor methodology at Appendix A-7 to Part 60 of this chapter, or calculate using mass emissions rate and electrical output data (see § 63.10007(e)). |
| 4. Mercury (Hg) | Emissions Testing | a. Select sampling ports location and the number of traverse points. | Method 1 at Appendix A-1 to Part 60 of this chapter or Method 30B at Appendix A-8 for Method 30B point selection. |
| | | b. Determine velocity and volumetric flow-rate of the stack gas. | Method 2, 2A, 2C, 2F, 2G or 2H at Appendix A-1 or A-2 to Part 60 of this chapter. |
| | | c. Determine oxygen and carbon dioxide | Method 3A or 3B at Appendix A-1 to Part 60 of this chapter, or ANSI/ASME PTC 19.10-1981.[3] |

| | | | |
|---|---|---|---|
| | | concentrations of the stack gas. | |
| | | d. Measure the moisture content of the stack gas. | Method 4 at Appendix A-3 to Part 60 of this chapter. |
| | | e. Measure the Hg emission concentration. | Method 30B at Appendix A-8 to Part 60 of this chapter, ASTM D6784[3], or Method 29 at Appendix A-8 to Part 60 of this chapter; for Method 29, you must report the front half and back half results separately. |
| | | f. Convert emissions concentration to lb/TBtu or lb/GWh emission rates. | Method 19 F-factor methodology at Appendix A-7 to Part 60 of this chapter, or calculate using mass emissions rate and electrical output data (see § 63.10007(e)). |
| | OR | OR | |
| | Hg CEMS | a. Install, certify, operate, and maintain the CEMS. | Sections 3.2.1 and 5.1 of Appendix A of this subpart. |
| | | b. Install, certify, operate, and maintain the diluent gas, | Part 75 of this chapter and §§ 63.10010 (a), (b), (c), and (d). |

| | | | |
|---|---|---|---|
| | | flow rate, and/or moisture monitoring systems. | |
| | | c. Convert hourly emissions concentrations to 30 boiler operating day rolling average lb/TBtu or lb/GWh emissions rates. | Section 6 of Appendix A to this subpart. |
| | OR | OR | |
| | Sorbent trap monitoring system | a. Install, certify, operate, and maintain the sorbent trap monitoring system. | Sections 3.2.2 and 5.2 of Appendix A to this subpart. |
| | | b. Install, operate, and maintain the diluent gas, flow rate, and/or moisture monitoring systems. | Part 75 of this chapter and §§ 63.10010 (a), (b), (c), and (d). |

| | | | |
|---|---|---|---|
| | | c. Convert emissions concentrations to 30 boiler operating day rolling average lb/TBtu or lb/GWh emissions rates. | Section 6 of Appendix A to this subpart. |
| | OR | OR | |
| | LEE testing | a. Select sampling ports location and the number of traverse points. | Single point located at the 10% centroidal area of the duct at a port location per Method 1 at Appendix A-1 to Part 60 of this chapter or Method 30B at Appendix A-8 for Method 30B point selection. |
| | | b. Determine velocity and volumetric flow-rate of the stack gas. | Method 2, 2A, 2C, 2F, 2G, or 2H at Appendix A-1 or A-2 to Part 60 of this chapter or flow monitoring system certified per Appendix A of this subpart. |
| | | c. Determine oxygen and carbon dioxide concentrations of the stack gas. | Method 3A or 3B at Appendix A-1 to Part 60 of this chapter, or ANSI/ASME PTC 19.10-1981,[3] or diluent gas monitoring systems certified according to Part 75 of this chapter. |
| | | d. Measure the moisture content of the stack gas. | Method 4 at Appendix A-3 to Part 60 of this chapter, or moisture monitoring systems certified according to Part 75 of this chapter. |

| | | | |
|---|---|---|---|
| | | e. Measure the Hg emission concentration. | Method 30B at Appendix A-8 to Part 60 of this chapter; perform a 30 operating day test, with a maximum of 10 operating days per run (i.e., per pair of sorbent traps) or sorbent trap monitoring system or Hg CEMS certified per Appendix A of this subpart. |
| | | f. Convert emissions concentrations from the LEE test to lb/TBtu or lb/GWh emissions rates. | Method 19 F-factor methodology at Appendix A-7 to Part 60 of this chapter, or calculate using mass emissions rate and electrical output data (see § 63.10007(e)). |
| | | g. Convert average lb/TBtu or lb/GWh Hg emission rate to lb/year, if you are attempting to meet the 29.0 lb/year threshold. | Potential maximum annual heat input in TBtu or potential maximum electricity generated in GWh. |
| 5. Sulfur dioxide ($SO_2$) | $SO_2$ CEMS | a. Install, certify, operate, and maintain the CEMS. | Part 75 of this chapter and §§ 63.10010 (a) and (f). |
| | | b. Install, operate, and maintain the | Part 75 of this chapter and §§ 63.10010 (a), (b), (c), and (d). |

■ 25. Revise Table 6 to subpart UUUUU of part 63 to read as follows:

| | | | |
|---|---|---|---|
| | | diluent gas, flow rate, and/or moisture monitoring systems. | |
| | | c. Convert hourly emissions concentrations to 30 boiler operating day rolling average lb/MMBtu or lb/MWh emissions rates. | Method 19 F-factor methodology at Appendix A-7 to Part 60 of this chapter, or calculate using mass emissions rate and electrical output data (see § 63.10007(e)). |

[1] Regarding emissions data collected during periods of startup or shutdown, see §§ 63.10020(b) and (c) and 63.10021(h).

[2] See Tables 1 and 2 to this subpart for required sample volumes and/or sampling run times.

[3] Incorporated by reference, see § 63.14.

TABLE 6 TO SUBPART UUUUU OF PART 63—ESTABLISHING PM CPMS OPERATING LIMITS

[As stated in § 63.10007, you must comply with the following requirements for establishing operating limits:]

| If you have an applicable emission limit for . . . | And you choose to establish PM CPMS operating limits, you must . . . | And . . . | Using . . . | According to the following procedures . . . |
|---|---|---|---|---|
| Filterable Particulate matter (PM), total non-mercury HAP metals, individual non-mercury HAP metals, total HAP metals, or individual HAP metals for an EGU. | Install, certify, maintain, and operate a PM CPMS for monitoring emissions discharged to the atmosphere according to § 63.10010(h)(1). | Establish a site-specific operating limit in units of PM CPMS output signal (*e.g.,* milliamps, mg/acm, or other raw signal). | Data from the PM CPMS and the PM or HAP metals performance tests. | 1. Collect PM CPMS output data during the entire period of the performance tests.<br>2. Record the average hourly PM CPMS output for each test run in the performance test.<br>3. Determine the PM CPMS operating limit in accordance with the requirements of § 63.10023(b)(2) from data obtained during the performance test demonstrating compliance with the filterable PM or HAP metals emissions limitations. |

■ 26. Revise Table 8 to subpart UUUUU of part 63 to read as follows:

TABLE 8 TO SUBPART UUUUU OF PART 63—REPORTING REQUIREMENTS

[As stated in § 63.10031, you must comply with the following requirements for reports:]

| You must submit a | The report must contain . . . | You must submit the report . . . |
|---|---|---|
| 1. Compliance report. | a. Information required in § 63.10031(c)(1) through (6); and<br>b. If there are no deviations from any emission limitation (emission limit and operating limit) that applies to you and there are no deviations from the requirements for work practice standards in Table 3 to this subpart that apply to you, a statement that there were no deviations from the emission limitations and work practice standards during the reporting period. If there were no periods during which the CMSs, including continuous emissions monitoring system, and operating parameter monitoring systems, were out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CMSs were out-of-control during the reporting period; and<br>c. If you have a deviation from any emission limitation (emission limit and operating limit) or work practice standard during the reporting period, the report must contain the information in § 63.10031(d). If there were periods during which the CMSs, including continuous emissions monitoring systems and continuous parameter monitoring systems, were out-of-control, as specified in § 63.8(c)(7), the report must contain the information in § 63.10031(e). | Semiannually according to the requirements in § 63.10031(b). |

■ 27. 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. |

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

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

| Citation | Subject | Applies to subpart UUUUU |
|---|---|---|
| § 63.6(a), (b)(1) through (5), (b)(7), (c), (f)(2) and (3), (h)(2) through (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, except for the 60-day notification prior to conducting a performance test in § 63.9(d); instead use a 30-day notification period per § 63.10030(d). |
| § 63.10(a), (b)(1), (c), (d)(1) and—(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) through—(ix) | Other CMS requirements | Yes. |
| § 63.10(b)(3),and (d)(3) through—(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 through—63.16 | Addresses, Incorporation by Reference, Availability of Information, Performance Track Provisions. | Yes. |
| §§ 63.1(a)(5),(a)(7) through—(9), (b)(2), (c)(3) and—(4), (d), 63.6(b)(6), (c)(3) and ), (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) through—(4), (c)(9). | Reserved | No. |

■ 28. Appendix A to subpart UUUUU of part 63 is amended by:

■ a. Revising paragraph 3.2.1.2.1;

■ b. Revising paragraphs 4.1.1.1, 4.1.1.3, 4.1.1.5, and 4.1.1.5.2;

■ c. Revising Tables A–1 and A–2;

■ d. Revising paragraphs 5.1.2.1, 5.1.2.3, and 5.2.1; and

■ e. Adding paragraph 6.2.2.3 and 7.1.2.6.

The revisions and additions to read as follows:

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

* * * * *

**3. Mercury Emissions Measurement Methods**

* * * * *

3.2.1.2.1 *NIST Traceability.* Only NIST-certified or NIST-traceable calibration gas standards and reagents (as defined in paragraphs 3.1.4 and 3.1.5 of this appendix), and including, but not limited to, Hg gas generators and Hg gas cylinders, shall be used for the tests and procedures required under this subpart. Calibration gases with known concentrations of $Hg^0$ and $HgCl_2$ are required. Special reagents and equipment may be needed to prepare the $Hg^0$ and $HgCl_2$ gas standards (*e.g.,* NIST-traceable solutions of $HgCl_2$ and gas generators equipped with mass flow controllers).

* * * * *

**4. Certification and Recertification Requirements**

* * * * *

4.1.1.1 *7-Day Calibration Error Test.* Perform the 7-day calibration error test on 7 consecutive source operating days, using a zero-level gas and either a high-level or a mid-level calibration gas standard (as defined in sections 3.1.8, 3.1.10, and 3.1.11 of this appendix). Use a NIST-traceable elemental Hg gas standard (as defined in section 3.1.4 of this appendix) for the test. If moisture and/or chlorine is added to the calibration gas, the dilution effect of the moisture and/or chlorine addition on the calibration gas concentration must be accounted for in an appropriate manner. Operate the Hg CEMS in its normal sampling mode during the test. The calibrations should be approximately 24 hours apart, unless the 7-day test is performed over non-consecutive calendar days. On each day of the test, inject the zero-level and upscale gases in sequence and record the analyzer responses. Pass the calibration gas through all filters, scrubbers, conditioners, and other monitor components used during normal sampling, and through as much of the sampling probe as is practical. Do not make any manual adjustments to the monitor (*i.e.,* resetting the calibration) until after taking measurements at both the zero and upscale concentration levels. If automatic adjustments are made following both injections, conduct the calibration error test such that the magnitude of the adjustments can be determined, and use only the unadjusted analyzer responses in the calculations. Calculate the calibration error (CE) on each day of the test, as described in Table A–1 of this appendix. The CE on each day of the test must either meet the main performance specification or the alternative specification in Table A–1 of this appendix.

* * * * *

4.1.1.3 *Three-Level System Integrity Check.* Perform the 3-level system integrity check using low, mid, and high-level calibration gas concentrations generated by a NIST-traceable source of oxidized Hg. Follow the same basic procedure as for the linearity check. If moisture and/or chlorine is added to the calibration gas, the dilution effect of the moisture and/or chlorine addition on the calibration gas concentration must be accounted for in an appropriate manner. Calculate the system integrity error (SIE), as described in Table A–1 of this appendix. The SIE must either meet the main performance specification or the alternative specification in Table A–1 of this appendix.

* * * * *

4.1.1.5 *Relative Accuracy Test Audit (RATA).* Perform the RATA of the Hg CEMS at normal load. Acceptable Hg reference methods for the RATA include ASTM D6784–02 (Reapproved 2008), ''Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method)'' (incorporated by reference, see § 63.14) and Methods 29, 30A, and 30B in appendix A–8 to part 60 of this chapter. When Method 29 or ASTM D6784–02 is used, paired sampling trains are required and the filterable portion of the sample need not be included when making comparisons to the Hg CEMS results for purposes of a RATA. To validate a Method 29 or ASTM D6784–02 test run, calculate the relative deviation (RD) using Equation A–1 of this section, and assess the results as follows to validate the run. The RD must not exceed 10 percent, when the average Hg concentration is greater than 1.0 µg/dscm. If the RD specification is met, the results of the two samples shall be averaged arithmetically.

$$RD = \frac{|C_a + C_b|}{C_a + C_b} \times 100 \quad (Eq.\ A-1)$$

Where:

RD = Relative Deviation between the Hg concentrations of samples ''a'' and ''b'' (percent),

$C_a$ = Hg concentration of Hg sample ''a'' (µg/dscm), and

$C_b$ = Hg concentration of Hg sample ''b'' (µg/dscm).

* * * * *

4.1.1.5.2 *Calculation of RATA Results.* Calculate the relative accuracy (RA) of the monitoring system, on a µg/scm basis, as described in section 12 of Performance Specification (PS) 2 in Appendix B to part 60 of this chapter (see Equations 2–3 through 2–6 of PS2) including the option to substitute the emission limit value (in this case the equivalent concentration) in the denominator of Equation 2–6 in place of the average RM value when the average emissions for the test are less than 50 percent of the applicable emissions limit. For purposes of calculating the relative accuracy, ensure that the reference method and monitoring system data are on a consistent basis, either wet or dry. The CEMS must either meet the main performance specification or the alternative specification in Table A–1 of this appendix.

* * * * *

TABLE A–1—REQUIRED CERTIFICATION TESTS AND PERFORMANCE SPECIFICATIONS FOR Hg CEMS

| For this required certification test . . . | The main performance specification [1] is . . . | The alternate performance specification [1] is . . . | And the conditions of the alternate specification are . . . |
|---|---|---|---|
| 7-day calibration error test [2] | \|R − A\| ≤5.0% of span value, for both the zero and upscale gases, on each of the 7 days. | \|R − A\| ≤1.0 µg/scm | The alternate specification may be used on any day of the test. |
| Linearity check [3] | \|R − $A_{avg}$ \| ≤10.0% of the reference gas concentration at each calibration gas level (low, mid, or high). | \|R − $A_{avg}$ \| ≤0.8 µg/scm | The alternate specification may be used at any gas level. |
| 3-level system integrity check [4] | \|R − $A_{avg}$ \| ≤10.0% of the reference gas concentration at each calibration gas level. | \|R − $A_{avg}$ \| ≤0.8 µg/scm | The alternate specification may be used at any gas level. |
| RATA | 20.0% RA | ≤10% RA when concentration equivalent of applicable emissions limit is used in place of $RM_{avg}$ in Equation 2–6 of PS2 (see Section 4.1.1.5.2 of this appendix). | $RM_{avg}$ <50% of applicable emissions limit. |

TABLE A–1—REQUIRED CERTIFICATION TESTS AND PERFORMANCE SPECIFICATIONS FOR Hg CEMS—Continued

| For this required certification test . . . | The main performance specification [1] is . . . | The alternate performance specification [1] is . . . | And the conditions of the alternate specification are . . . |
|---|---|---|---|
| Cycle time test [2] | 15 minutes where the stability criteria are readings change by <2.0% of span *or* by ≤0.5 μg/scm, for 2 minutes. | | |

[1] Note that |R − A| is the absolute value of the difference between the reference gas value and the analyzer reading. |R − $A_{avg}$| is the absolute value of the difference between the reference gas concentration and the average of the analyzer responses, at a particular gas level.
[2] Use elemental Hg standards; a mid-level or high-level upscale gas may be used. The cycle time test is not required for Hg CEMS that use integrated batch sampling; however, those monitors must be capable of recording at least one Hg concentration reading every 15 minutes.
[3] Use elemental Hg standards.
[4] Use oxidized Hg standards.

* * * * *

**5. Ongoing Quality Assurance (QA) and Data Validation**

* * * * *

TABLE A–2—ON-GOING QA TEST REQUIREMENTS FOR Hg CEMS

| Perform this type of QA test . . . | At this frequency . . . | With these qualifications and exceptions . . . | Acceptance criteria . . . |
|---|---|---|---|
| Calibration error test | Daily | • Use either a mid- or high-level gas.<br>• Use elemental Hg<br>• Calibrations are not required when the unit is not in operation. | \|R − A\| ≤5.0% of span value<br>*or*<br>\|R − A\| ≤1.0 μg/scm. |
| Single-level system integrity check | Weekly [1] | • Use oxidized Hg—either mid- or high-level. | \|Rn − $A_{avg}$\| ≤10.0% of the reference gas value<br>*or*<br>\|R − $A_{avg}$\| ≤0.8 μg/scm. |
| Linearity check *or* 3-level system integrity check. | Quarterly [3] | • Required in each "QA operating quarter" [2] and no less than once every 4 calendar quarters.<br>• 168 operating hour grace period available.<br>• Use elemental Hg for linearity check.<br>• Use oxidized Hg for system integrity check. | \|R − $A_{avg}$ \| ≤10.0% of the reference gas value, at each calibration gas level *or* \|R − $A_{avg}$\| ≤0.8 μg/scm. |
| RATA | Annual [4] | • Test deadline may be extended for "non-QA operating quarters," up to a maximum of 8 quarters from the quarter of the previous test.<br>• 720 operating hour grace period available. | ≤20.0% RA when $C_{avg}$ ≥50% of the emissions limit<br>*or*<br>≤10.0% RA when $C_{avg}$ <50% of the emissions limit and the concentration equivalent of the applicable emission limit is used in the denominator of Equation 2–6 of PS2 (see Section 4.1.1.5.1 of this appendix). |

[1] "Weekly" means once every 7 operating days.
[2] A "QA operating quarter" is a calendar quarter with at least 168 unit or stack operating hours.
[3] "Quarterly" means once every QA operating quarter.
[4] "Annual" means once every four QA operating quarters.

* * * * *

5.1.2.1 Calibration error tests of the Hg CEMS are required daily, except during unit outages. Use a NIST-traceable elemental Hg gas standard for these calibrations. Both a zero-level gas and either a mid-level or high-level gas are required for these calibrations.

* * * * *

5.1.2.3 Perform a single-level system integrity check weekly, *i.e.,* once every 7 operating days (see the third column in Table A–2 of this appendix).

* * * * *

5.2.1 Each sorbent trap monitoring system shall be continuously operated and maintained in accordance with Performance Specification (PS) 12B in appendix B to part 60 of this chapter. The QA/QC criteria for routine operation of the system are summarized in Table 12B–1 of PS 12B. Each pair of sorbent traps may be used to sample the stack gas for up to 15 operating days.

* * * * *

**6. Data Reductions and Calculations**

* * * * *

6.2.2.3 The applicable gross output-based Hg emission rate limit in Table 1 or 2 to this subpart must be met on a 30- (or 90-) boiler operating day rolling average basis, except as otherwise provided in § 63.10009(a)(2). Use Equation A–5 of this appendix to calculate the Hg emission rate for each averaging period.

$$\bar{E}_o = \frac{\sum_{h=1}^{n} E_{ho}}{n} \quad (Eq.\ A-5)$$

Where:

$E_o$ = Hg emission rate for the averaging period (lb/GWh),

$E_{ho}$ = Gross output-based hourly Hg emission rate for unit or stack sampling hour ''h'' in the averaging period, from Equation A–4 of this appendix (lb/GWh), and

n = Number of unit or stack operating hours in the averaging period in which valid data were obtained for all parameters.

(*Note:* Do *not* include non-operating hours with zero emission rates in the average).

* * * * *

**7. Recordkeeping and Reporting**

* * * * *

7.1.2.6 The EGUs that constitute an emissions averaging group.

* * * * *

■ 29. Appendix B to subpart **UUUUU** of part 63 is amended by:

■ a. Revising paragraph 2.1 and 2.3;

■ b. Adding paragraphs 2.3.1 and 2.3.2;

■ c. Revising paragraphs 3.1 and 3.2 and adding paragraph 3.3;

■ d. Adding introductory text to section 5. On-Going Quality Assurance Requirements;

■ e. Revising paragraphs 5.1, 5.2, and 5.3;

■ f. Adding paragraphs 5.4, 5.4.1, 5.4.2, 5.4.2.1, 5.4.2.2, 5.4.2.2.1, 5.4.2.2.2, 5.4.2.3, 5.4.2.3.1, 5.4.2.3.2, 5.4.2.3.3, and 5.4.3;

■ g. Revising section 8. introductory text;

■ h. Revising paragraphs 10.1.8, 10.1.8.1, 10.1.8.1.1, and 10.1.8.1.2, adding paragraph 10.1.8.1.2.1, and adding and reserving paragraph 10.1.8.1.2.2;

■ i. Revising paragraph 10.1.8.1.3;

■ j. Revising paragraphs 11.4 and 11.4.2 and removing and reserving paragraphs 11.4.2.1 through 11.4.2.13;

■ k. Revising paragraphs 11.4.3 and 11.4.3.1 through 11.4.3.13;

■ l. Revising paragraph 11.4.4 and adding and reserving paragraph 11.4.4.1;

■ m. Adding paragraph 11.4.5 and adding and reserving paragraph 11.4.5.1;

■ n. Adding paragraph 11.4.6 and adding and reserving paragraph 11.4.6.1;

■ o. Adding paragraphs 11.4.7, 11.4.7.1 through 11.4.7.13;

■ p. Revising paragraph 11.4.8 and

■ q. Revising paragraph 11.5.3.4.

■ The revisions and additions read as follows:

## Appendix B to Subpart UUUUU of Part 63—$HC_L$ and HF Monitoring Provisions

* * * * *

**2. Monitoring of $HC_L$ and/or HF Emissions**

* * * * *

2.1 *Monitoring System Installation Requirements.* Install HCl and/or HF CEMS and any additional monitoring systems needed to convert pollutant concentrations to units of the applicable emissions limit in accordance with Performance Specification 15 (PS 15) of appendix B to part 60 of this chapter for extractive Fourier Transform Infrared Spectroscopy (FTIR) continuous emissions monitoring systems and § 63.10010(a) or Performance Specification 18 (PS 18) of appendix B to part 60 of this chapter for HCl CEMS and § 63.10010(a).

* * * * *

2.3 *FTIR Monitoring System Equipment, Supplies, Definitions, and General Operation.* The following provisions apply:

2.3.1 PS 15, Sections 2.0, 3.0, 4.0, 5.0, 6.0, and 10.0 of appendix B to part 60 of this chapter, or

2.3.2 PS 18, Sections 3.0, 6.0, and 11.0 of appendix B to part 60 of this chapter.

**3. Initial Certification Procedures**

* * * * *

3.1 If you choose to follow Performance Specification 15 (PS 15) of appendix B to part 60 of this chapter, then your HCl and/or HF CEMS must be certified according to PS 15 using the procedures for gas auditing and comparison to a reference method (RM) as specified in sections 3.1.1 and 3.1.2 below.

* * * * *

3.2 If you choose to follow Performance Specification 18 (PS 18) of appendix B to part 60 of this chapter, then your HCl and/or HF CEMS must be certified according to PS 18, sections 7.0, 8.0, 11.0, 12.0, and 13.0.

3.3 Any additional stack gas flow rate, diluent gas, and moisture monitoring system(s) needed to express pollutant concentrations in units of the applicable emissions limit must be certified according to part 75 of this chapter.

* * * * *

**5. On-Going Quality Assurance Requirements**

On-going QA test requirements for HCl and HF CEMS must be implemented as follows:

5.1 If you choose to follow Performance Specification 15 (PS 15) of appendix B to part 60 of this chapter, then the quality assurance/quality control procedures of PS 15 shall apply as set forth in sections 5.1.1 through 5.1.3 and 5.3.2 of this appendix.

* * * * *

5.2 If you choose to follow Performance Specification PS 18 of appendix B to part 60 of this chapter, then the quality assurance/quality control procedures of Procedure 6 of 40 CFR part 60, appendix F shall apply.

5.3 Stack gas flow rate, diluent gas, and moisture monitoring systems must meet the applicable on-going QA test requirements of part 75 of this chapter.

* * * * *

5.4 *Data Validation.*

5.4.1 *Out-of-Control Periods.* An HCl or HF CEMS that is used to provide data under this appendix is considered to be out-of-control, and data from the CEMS may not be reported as quality-assured, when any acceptance criteria for a required QA test is not met. The HCl or HF CEMS is also considered to be out-of-control when a required QA test is not performed on schedule or within an allotted grace period. To end an out-of-control period, the QA test that was either failed or not done on time must be performed and passed. Out-of-control periods are counted as hours of monitoring system downtime.

5.4.2 *Grace Periods.* For the purposes of this appendix, a ''grace period'' is defined as a specified number of unit or stack operating hours after the deadline for a required quality-assurance test of a continuous monitor has passed, in which the test may be performed and passed without loss of data.

5.4.2.1 For the flow rate, diluent gas, and moisture monitoring systems described in section 5.3 of this appendix, a 168 unit or stack operating hour grace period is available for quarterly linearity checks, and a 720 unit or stack operating hour grace period is available for RATAs, as provided, respectively, in sections 2.2.4 and 2.3.3 of appendix B to part 75 of this chapter.

5.4.2.2 For the purposes of this appendix, if the deadline for a required gas audit/data accuracy assessment or RATA of an HCl or HF CEMS cannot be met due to circumstances beyond the control of the owner or operator:

5.4.2.2.1 A 168 unit or stack operating hour grace period is available in which to perform the gas audit/data accuracy assessment; or

5.4.2.2.2 A 720 unit or stack operating hour grace period is available in which to perform the RATA.

5.4.2.3 If a required QA test is performed during a grace period, the deadline for the next test shall be determined as follows:

5.4.2.3.1 For a gas audit or RATA of the monitoring systems required under in section 5.3 of this appendix, determine the deadline for the next gas audit or RATA (as applicable) in accordance with section 2.2.4(b) or 2.3.3(d) of appendix B to part 75 of this chapter; treat a gas audit in the same manner as a linearity check.

5.4.2.3.2 For the gas audit/data accuracy assessment of an HCl or HF CEMS, the grace period test only satisfies the audit requirement for the calendar quarter in which the test was originally due. If the calendar quarter in which the grace period audit is performed is a QA operating quarter, an additional gas audit/data accuracy assessment is required for that quarter.

5.4.2.3.3 For the RATA of an HCl or HF CEMS, the next RATA is due within three QA operating quarters after the calendar quarter in which the grace period test is performed.

5.4.3 *Conditional Data Validation.* For recertification and diagnostic testing of the monitoring systems that are used to provide data under this appendix, and for the required QA tests when non-redundant backup monitoring systems or temporary like-kind replacement analyzers are brought into service, the conditional data validation provisions in § 75.20(b)(3)(ii) through (ix) of this chapter may be used to avoid or minimize data loss. The allotted window of time to complete calibration tests and RATAs shall be as specified in § 75.20(b)(3)(iv) of this chapter; the allotted window of time to complete a gas audit or data accuracy assessment shall be the same as for a linearity check (*i.e.,* 168 unit or stack operating hours).

* * * * *

**8. QA/QC Program Requirements**

The owner or operator shall develop and implement a quality assurance/quality control (QA/QC) program for the HCl and/or HF CEMS that are used to provide data under this subpart. At a minimum, the program shall include a written plan that describes in detail (or that refers to separate documents containing) complete, step-by-step procedures and operations for the most important QA/QC activities. Electronic storage of the QA/QC plan is permissible, provided that the information can be made available in hard copy to auditors and inspectors. The QA/QC program requirements for the other monitoring systems described in paragraph 5.3 of this appendix are specified in section 1 of appendix B to part 75 of this chapter.

* * * * *

**10. Recordkeeping Requirements**

* * * * *

10.1.8 *Certification and Quality Assurance Test Records.* For the HCl and/or HF CEMS used to provide data under this subpart at each affected unit (or group of units monitored at a common stack), record the following information for all required certification, recertification, diagnostic, and quality-assurance tests:

10.1.8.1 *HCl and HF CEMS.*

10.1.8.1.1 For all required daily calibrations and checks (including calibration transfer standard tests) of the HCl or HF CEMS, record the test dates and times, reference values and their certification information, action levels for integrated path HCl CEMS, HCl or HF monitor responses, and calculated calibration error values;

10.1.8.1.2 For quarterly gas audits of HCl or HF CEMS certified under PS 15 of appendix B to part 60 of this chapter follow paragraph 10.1.8.1.2.1 of this appendix and for quarterly data accuracy assessments under PS 18 of appendix B to part 60 of this chapter follow paragraph 10.1.8.1.2.2 of this appendix.

10.1.8.1.2.1 Record the date and time of each spiked and unspiked sample, the audit gas reference values and uncertainties. Keep records of all calculations and data analyses required under sections 9.1 and 12.1 of P S 15 of appendix B to part 60 of this chapter, and the results of those calculations and analyses.

10.1.8.1.2.2 [Reserved]

10.1.8.1.3 For each RATA or RAA of a HCl or HF CEMS, record the date and time of each test run, the reference method(s) used, and the reference method and HCl or HF CEMS values. Keep records of the data analyses and calculations used to determine the relative accuracy.

* * * * *

**11. Reporting Requirements**

* * * * *

11.4 *Certification, Recertification, and Quality-Assurance Test Reporting Requirements.* Except for daily QA tests (*e.g.,* calibrations and flow monitor interference checks), which are included in each electronic quarterly emissions report, use the ECMPS Client Tool to submit the results of all required certification, recertification, quality-assurance, and diagnostic tests of the monitoring systems required under this appendix electronically, either prior to or concurrent with the relevant quarterly electronic emissions report.

* * * * *

11.4.2 For daily beam intensity checks for integrated path HCl CEMS as specified by PS 18 of appendix B to part 60 of this chapter, report:

11.4.2.1 through 11.4.2.13 [Reserved]

11.4.3 For each quarterly gas audit of an HCl or HF CEMS under Performance Specification 15, report:

11.4.3.1 Facility ID information;

11.4.3.2 Monitoring system ID number;

11.4.3.3 Type of test (*e.g.,* quarterly gas audit);

11.4.3.4 Reason for test;

11.4.3.5 Certified audit (spike) gas concentration value (ppm);

11.4.3.6 Measured value of audit (spike) gas, including date and time of injection;

11.4.3.7 Calculated dilution ratio for audit (spike) gas;

11.4.3.8 Date and time of each spiked flue gas sample;

11.4.3.9 Date and time of each unspiked flue gas sample;

11.4.3.10 The measured values for each spiked gas and unspiked flue gas sample (ppm);

11.4.3.11 The mean values of the spiked and unspiked sample concentrations and the expected value of the spiked concentration as specified in section 12.1 of PS 15 of appendix B to part 60 of this chapter (ppm);

11.4.3.12 Bias at the spike level as calculated using equation 3 in section 12.1 of PS 15 of appendix B to part 60 of this chapter; and

11.4.3.13 The correction factor (CF), calculated using equation 6 in section 12.1 of PS 15 of appendix B to part 60 of this chapter.

11.4.4 For each quarterly parameter verification check for an integrated path HCl CEMS under PS 18 of appendix B to part 60 of this chapter, report:

11.4.4.1 [Reserved]

11.4.5 For each quarterly gas audit under P S 18 of appendix B to part 60 of this chapter, report:

11.4.5.1 [Reserved]

11.4.6 For each quarterly dynamic spiking audit as allowed by P S 18 of appendix B to part 60 of this chapter, report:

11.4.6.1 [Reserved]

11.4.7 For each RATA or RAA of an HCl or HF CEMS, report:

11.4.7.1 Facility ID information;

11.4.7.2 Monitoring system ID number;

11.4.7.3 Type of test (*i.e.,* initial or annual RATA or RAA);

11.4.7.4 Reason for test;

11.4.7.5 The reference method used;

11.4.7.6 Starting and ending date and time for each test run;

11.4.7.7 Units of measure;

11.4.7.8 The measured reference method and CEMS values for each test run, on a consistent moisture basis, in appropriate units of measure;

11.4.7.9 Flags to indicate which test runs were used in the calculations;

11.4.7.10 Arithmetic mean of the CEMS values, of the reference method values, and of their differences;

11.4.7.11 Standard deviation, as specified in Equation 2–4 of PS 2 or PS 18, as applicable in appendix B to part 60 of this chapter;

11.4.7.12 Confidence coefficient, as specified in Equation 2–5 of PS 2 or PS 18, as applicable in appendix B to part 60 of this chapter; and

11.4.7.13 Relative accuracy calculated using Equation 2–6 of PS 2 or PS 18, as applicable in appendix B to part 60 of this chapter or, if applicable, according to the alternative procedure for low emitters described in paragraph 3.1.2.2 of this appendix. If applicable use a flag to indicate that the alternative RA specification for low emitters has been applied.

* * * * *

11.4.8 *Reporting Requirements for Diluent Gas, Flow Rate, and Moisture Monitoring Systems.* For the certification, recertification, diagnostic, and QA tests of stack gas flow rate, moisture, and diluent gas monitoring systems that are certified and quality-assured according to part 75 of this chapter, report the information in section 10.1.8.2 of this appendix.

* * * * *

11.5.3.4 The results of all daily calibrations (including calibration transfer standard tests and beam intensity checks of integrated path CEMS) of the HCl or HF monitor as described in paragraph 10.1.8.1.1 of this appendix; and

* * * * *

[FR Doc. 2015–01699 Filed 2–13–15; 8:45 am]

**BILLING CODE 6560–50–P**

# FEDERAL REGISTER

Vol. 80 Tuesday,
No. 31 February 17, 2015

Part IV

## Securities and Exchange Commission

17 CFR Parts 229 and 240
Disclosure of Hedging by Employees, Officers and Directors; Proposed Rule

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 229 and 240

**[Release No. 33–9723; 34–74232; IC–31450; File No. S7–01–15]**

**RIN 3235–AL49**

## Disclosure of Hedging by Employees, Officers and Directors

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing amendments to our rules to implement Section 955 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires annual meeting proxy statement disclosure of whether employees or members of the board of directors are permitted to engage in transactions to hedge or offset any decrease in the market value of equity securities granted to the employee or board member as compensation, or held directly or indirectly by the employee or board member. The proposed disclosure would be required in a proxy statement or information statement relating to an election of directors, whether by vote of security holders at a meeting or an action authorized by written consent.

**DATES:** Comments should be received on or before April 20, 2015.

**ADDRESSES:** Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*);
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–01–15 on the subject line; or
- Use the Federal Rulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, U. S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–01–15. This file number should be included on the subject line if email is used. To help us 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/proposed.shtml*). Comments are also 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

Studies, memoranda or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the SEC's Web site. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Sherman, Special Counsel, or Anne Krauskopf, Senior Special Counsel, at (202) 551–3500, in the Office of Chief Counsel, Division of Corporation Finance, and Nicholas Panos, Senior Special Counsel, at (202) 551–3440, in the Office of Mergers and Acquisitions, Division of Corporation Finance; or, with respect to investment companies, Michael Pawluk, Branch Chief, at (202) 551–6792, Division of Investment Management, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** We propose to amend Item 402 [1] of Regulation S–K [2] by revising paragraph (b) to add Instruction 6; to amend Item 407 [3] of Regulation S–K to add new paragraph (i); and to amend Schedule 14A [4] to revise Items 7 and 22.

### Table of Contents

I. Introduction
II. Background
III. Discussion of the Proposed Amendments
A. Transactions Subject to the Disclosure Requirement
B. Specifying the Term ''Equity Securities''
C. Employees and Directors Subject to the Proposed Disclosure Requirement
D. Implementation
1. Manner and Location of Disclosure
2. Disclosure on Schedule 14C
3. Relationship to Existing CD&A Obligations
4. Issuers Subject to the Proposed Amendments
a. Registered Investment Companies
b. Emerging Growth Companies and Smaller Reporting Companies
c. Foreign Private Issuers
IV. Economic Analysis
A. Background
B. Baseline
C. Discussion of Benefits and Costs, and Anticipated Effects on Efficiency, Competition and Capital Formation
1. Introduction
2. New Disclosure Requirements Across Covered Companies
3. Benefits and Costs
4. Anticipated Effects on Efficiency, Competition and Capital Formation
D. Alternatives
1. Changing the Scope of Disclosure Obligations
2. Issuers Subject to the Proposed Amendments
E. Request for Comments
V. Paperwork Reduction Act
A. Background
B. Summary of the Proposed Amendments
C. Burden and Cost Estimates Related to the Proposed Amendments
D. Request for Comment
VI. Small Business Regulatory Enforcement Fairness Act
VII. Initial Regulatory Flexibility Act Analysis
A. Reasons for, and Objectives of, the Proposed Action
B. Legal Basis
C. Small Entities Subject to the Proposed Amendments
D. Reporting, Recordkeeping and other Compliance Requirements
E. Duplicative, Overlapping or Conflicting Federal Rules
F. Significant Alternatives
G. Solicitation of Comments
VIII. Statutory Authority and Text of the Proposed Amendments

## I. Introduction

We are proposing rule amendments to implement Section 955 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Act''),[5] which adds new Section 14(j) to the Securities Exchange Act of 1934 (the ''Exchange Act'').[6] Section 14(j) directs the Commission to require, by rule, each issuer to disclose in any proxy or consent solicitation material for an annual meeting of the shareholders of the issuer whether any employee or member of the board of directors of the issuer, or any designee of such employee or director, is permitted to purchase financial instruments (including prepaid variable forward contracts, equity swaps, collars, and exchange funds) that are designed to hedge or offset any decrease in the market value of equity securities either (1) granted to the employee or director by the issuer as part of the compensation of the employee or director; or (2) held, directly or indirectly, by the employee or director.

A report issued by the Senate Committee on Banking, Housing, and

[1] 17 CFR 229.402.

[2] 17 CFR 229.10 *et seq.*

[3] 17 CFR 229.407.

[4] 17 CFR 14a–101.

[5] Public Law 111–203, 124 Stat. 1900 (July 21, 2010).

[6] 15 U.S.C. 78a *et seq.*

Urban Affairs stated that Section 14(j) is intended to ''allow shareholders to know if executives are allowed to purchase financial instruments to effectively avoid compensation restrictions that they hold stock long-term, so that they will receive their compensation even in the case that their firm does not perform.'' [7] In this regard, we infer that the statutory purpose of Section 14(j) is to provide transparency to shareholders, if action is to be taken with respect to the election of directors, about whether employees or directors are permitted to engage in transactions that mitigate or avoid the incentive alignment associated with equity ownership.

We propose to implement Section 14(j) as described in detail below. Neither Section 14(j) nor the proposed amendments would require a company to prohibit hedging transactions or to otherwise adopt practices or a policy addressing hedging by any category of individuals.

## II. Background

The current disclosure obligations relating to company hedging policies are provided by Item 402(b) of Regulation S–K, which sets forth the disclosure required in the company's Compensation Discussion and Analysis (''CD&A''). CD&A requires disclosure of material information necessary to an understanding of a company's compensation policies and decisions regarding the named executive officers.[8] Item 402(b)(2)(xiii) includes, as an example of the kind of information that should be provided, if material, the company's equity or other security ownership requirements or guidelines (specifying applicable amounts and forms of ownership) and any company policies regarding hedging the economic risk of such ownership. This CD&A disclosure item requirement, which does not apply to smaller reporting companies,[9] emerging growth companies,[10] registered investment companies [11] or foreign private issuers,[12] by its terms addresses only hedging by the named executive officers. In providing their CD&A disclosure, however, some companies describe policies that address hedging by employees and directors, as well as the named executive officers.

In addition, disclosures pursuant to other requirements may reveal when company equity securities have been hedged:

- For companies with a class of equity securities registered pursuant to Section 12 of the Exchange Act,[13] hedging transactions by officers and directors in transactions involving one or more derivative securities—such as options, warrants, convertible securities, security futures products, equity swaps, stock appreciation rights and other securities that have an exercise or conversion price related to a company equity security or derive their value from a company equity security—are subject to reporting within two business days on Form 4, pursuant to Exchange Act Section 16(a).[14]
- Some hedging transactions, such as prepaid variable forward contracts,[15] may involve pledges of the underlying company equity securities as collateral. Item 403(b) of Regulation S–K requires disclosure of the amount of company equity securities beneficially owned by directors, director nominees and named executive officers,[16] including the amount of shares that are pledged as security.[17]

## III. Discussion of the Proposed Amendments

We propose to implement Section 14(j) by adding new paragraph (i) to Item 407 of Regulation S–K to require companies to disclose whether they permit employees and directors to hedge their company's securities. We believe that the disclosure called for by Section 14(j) is primarily corporate governance-related because it requires a company to provide in its proxy statement information giving shareholders insight into whether the company has policies affecting how the equity holdings and equity compensation of all of a company's employees and directors may or may not align with shareholders' interests. Because Section 14(j) calls for disclosure about employees and directors, we believe that this information raises broader issues with respect to the alignment of shareholders' interests with those of employees' and directors', and is more closely related to the Item 407 corporate governance disclosure requirements than to Item 402 of Regulation S–K, which focuses only on the compensation of named

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[7] *See* Report of the Senate Committee on Banking, Housing, and Urban Affairs, S. 3217, Report No. 111–176 (Apr. 30, 2010) (''Senate Report 111–176'').

[8] As defined in Item 402(a)(3) of Regulation S–K, ''named executive officers'' are all individuals serving as the company's principal executive officer during the last completed fiscal year, all individuals serving as the company's principal financial officer during that fiscal year, the company's three other most highly compensated executive officers who were serving as executive officers at the end of that year, and up to two additional individuals who would have been among the three most highly compensated but for not serving as executive officers at the end of that year.

[9] As defined in Exchange Act Rule 12b–2 [17 CFR 240.12b–2].

[10] Section 101 of the Jumpstart Our Business Start-Ups Act (the ''JOBS Act'') [Pub. L. 112–106, 126 Stat. 306 (2012)] codified the definition of ''emerging growth company'' in Section 3(a)(80) of the Exchange Act and Section 2(a)(19) of the Securities Act.

[11] Registered investment companies are investment companies registered under Section 8 of the Investment Company Act of 1940 (''Investment Company Act''). 15 U.S.C. 80a *et seq.*

[12] As defined in Rule 3b–4 [17 CFR 240.3b–4].

[13] 15 U.S.C. 78*l.*

[14] 15 U.S.C. 78p(a). For Section 16 purposes, the term ''derivative securities'' is defined in Exchange Act Rule 16a–1(c), which excludes rights with an exercise or conversion privilege at a price that is not fixed. Exchange Act Rule 16a–1(d) defines ''equity security of the issuer'' as any equity security or derivative security relating to the issuer, whether or not issued by that issuer. See also Exchange Act Rule 16a–4, which provides that for Section 16 purposes, both derivative securities and the underlying securities to which they relate shall be deemed to be the same class of equity securities.

The Commission has clarified that Section 16 applies to equity swap and similar transactions that a Section 16 insider may use to hedge, and has addressed how these derivative securities transactions should be reported, including specifically identifying them through the use of transaction code K. *See Ownership Reports and Trading by Officers, Directors and Principal Security Holders,* Release No. 34–34514 (Aug. 10, 1994) [59 FR 42449] at Section III.G; and *Ownership Reports and Trading by Officers, Directors and Principal Security Holders,* Release No. 34–37260 (May 31, 1996) [61 FR 30376] at Sections III.H and III.I. The Commission also has clarified how transactions in securities futures should be reported. *Commission Guidance on the Application of Certain Provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and Rules thereunder to Trading in Security Futures Products,* Release No. 33–8107 (June 21, 2002) [67 FR 43234] at Q. 13.

[15] A prepaid variable forward contract obligates the seller to sell, and the counterparty to purchase, a variable number of shares at a specified future maturity date. The number of shares deliverable will depend on the per share market price of the shares close to the maturity date. The contract specifies maximum and minimum numbers of shares subject to delivery, and at the time the contract is entered into, the seller will pledge to the counterparty the maximum number of shares. The Commission has indicated that forward sales contracts are derivative securities transactions subject to Section 16(a) reporting. *Mandated Electronic Filing and Web site Posting for Forms 3, 4 and 5,* Release No. 33–8230 (May 7, 2003) [68 FR 25788], text at n. 42.

[16] Item 403(b) of Regulation S–K [17 CFR 229.403(b)]. Disclosure is required on an individual basis as to each director, nominee, and named executive officer, and on an aggregate basis as to executive officers of the issuer as a group and must be provided in proxy statements, annual reports on Form 10–K [referenced in 17 CFR 240.310], and registration statements under the Securities Act and under the Exchange Act on Form 10.

[17] The Commission's rationale for requiring the disclosure of the amount of shares pledged as security was as follows: ''To the extent that shares owned by named executive officers, directors and director nominees are used as collateral, these shares may be subject to material risk or contingencies that do not apply to other shares beneficially owned by these persons.'' *Executive Compensation and Related Person Disclosure,* Release No. 33–8732A (Aug. 29, 2006) [71 FR 53158] (the ''2006 Executive Compensation Disclosure Release'') at Section IV.

executive officers and directors. We propose to amend Item 407 in this manner to keep disclosure requirements relating to corporate governance matters together in a single item in Regulation S–K.[18]

The proposed amendments implement Section 14(j) in the following ways:

- Include within the scope of the proposed disclosure requirement other transactions with economic consequences comparable to the financial instruments specified in Section 14(j);
- specify that the equity securities for which disclosure is required are only equity securities of the company, any parent of the company, any subsidiary of the company or any subsidiary of any parent of the company that are registered under Section 12 of the Exchange Act; [19]
- require the disclosure in any proxy statement on Schedule 14A or information statement on Schedule 14C [20] with respect to the election of directors because the information seems most relevant for shareholders voting or receiving information about the election of directors; and
- clarify that the term ''employee'' includes officers of the company.

*A. Transactions Subject to the Disclosure Requirement*

Section 14(j) requires disclosure of whether any employee or director of the issuer, or any designee of such employee or director, is permitted to purchase financial instruments (including prepaid variable forward contracts, equity swaps, collars, and exchange funds [21]) that are designed to hedge or offset any decrease in the market value of equity securities. Our proposal would implement this requirement and would also require disclosure of transactions with economic consequences comparable to the purchase of the specified financial instruments.

As noted above, a Senate report indicated that Section 14(j) was added so that shareholders would know whether executive officers are able ''to effectively avoid compensation restrictions that they hold stock long-term, so that they will receive their compensation even in the case that their firm does not perform.'' [22] Although Section 14(j) expressly refers only to the purchase of financial instruments designed to hedge or offset any decrease in the market value of equity securities, there are other transactions that could have the same economic effects, the disclosure of which would be consistent with the purpose of Section 14(j).[23] For example, a short sale can hedge the economic risk of ownership. Similarly, selling a security future establishes a position that increases in value as the value of the underlying equity security decreases, thereby establishing the downside price protection that is the essence of the transactions contemplated by Section 14(j).

We are concerned that if the proposed disclosure requirement is not sufficiently principles-based, the result would be incomplete disclosure as to the scope of hedging transactions that an issuer permits. If, for example, a company discloses that it prohibits the purchase of the types of financial instruments specifically listed in the statute, and does not otherwise disclose whether it permits other types of hedging transactions that may have the same economic effects as the purchase of the listed financial instruments, a shareholder might assume that the company does not permit any hedging transactions at all, even though that may not be the case. Similarly, failing to cover transactions with the same economic effects as purchase of the listed financial instruments might cause employees and directors to use those transactions that are not covered by the disclosure requirement. In order for the disclosure to be complete and to avoid discouraging or promoting the use of particular hedging transactions, our proposed amendment would require disclosure of whether an issuer permits other types of transactions that have the same hedging effect as the purchase of those instruments specifically identified in Section 14(j). Proposed Item 407(i) would require disclosure of whether an employee, officer or director, or any of their designees, is permitted to purchase financial instruments (including prepaid variable forward contracts, equity swaps, collars, and exchange funds) or otherwise engage in transactions that are designed to or have the effect of hedging or offsetting any decrease in the market value of equity securities. The proposed amendment would therefore cover all transactions that establish downside price protection—whether by purchasing or selling a security or derivative security or otherwise,[24] consistent with the statutory purpose and providing more complete disclosure. Like the existing CD&A disclosure item, which applies to company policies regarding hedging the economic risk of named executive officers' ownership of the company's securities,[25] the scope of the proposed amendment is not limited to any particular types of hedging transactions.

A proposed instruction would clarify that the company must disclose which categories of transactions it permits and which categories of transactions it prohibits.[26] Disclosure of both the categories prohibited and those permitted conveys a complete understanding of the scope of hedging at the company. However, we recognize that where, for example, a company only prohibits specified hedging transactions, potentially limitless disclosure of each specific category otherwise permitted may not be meaningful. Accordingly, if a company specifically prohibits certain hedging transactions, it would disclose the categories of transactions it specifically prohibits, and could, if true, disclose that it permits all other hedging transactions in lieu of listing all of the specific categories that are permitted. For example, a company could disclose that it prohibits prepaid variable forward contracts, but permits all other hedging transactions. Conversely, where a company specifies only the hedging transactions that it permits, in addition to disclosing the particular categories of transactions permitted, it may, if true, disclose that it prohibits all other

[18] As a result, the proposed disclosure would not be subject to shareholder advisory votes to approve the compensation of named executive officers, as disclosed pursuant to Item 402, that are required pursuant to Section 14A(a)(1) of the Exchange Act and Rule 14a–21(a) [17 CFR 240.14a–21(a)]. We recognize, however, that there is an executive compensation component of the proposed disclosure as it relates to existing CD&A obligations. See Section III.D.3, below.

[19] 15 U.S.C. 78*l*.

[20] 17 CFR 240.14c–101.

[21] By covering ''exchange funds,'' we believe that Section 14(j) can be interpreted to cover transactions involving dispositions or sales of securities. This is because an employee or director can acquire an interest in an exchange fund only in exchange for a disposition to the exchange fund of equity securities held by the employee or director. Whether the disposition to the exchange fund is a hedging transaction will depend on the terms of the fund.

[22] *See* Senate Report 111–176.

[23] Section 14(j) refers to financial instruments that are designed to hedge or offset any decrease in market value. The proposed amendments do not define the term ''hedge,'' as we believe the meaning of hedge is generally understood and should be applied as a broad principle.

[24] A pledge or loan of equity securities that does not involve a prepaid variable forward or similar transaction, would not be considered a hedging transaction covered by the proposed disclosure rule even though such a pledge or loan may be viewed as an ''offer or sale'' of a security under Securities Act Section 17(a) [15 U.S.C. 77q(a)]. *See Rubin* v. *United States,* 449 U.S. 424 (1981). This is because such stand-alone pledges and loans generally contemplate the return of the pledged or borrowed securities to the employee, with no consequent change in the employee's economic risk in ownership of the securities.

[25] Item 402(b)(2)(xiii) of Regulation S–K, discussed in Section II.D, below.

[26] Proposed Instruction 3 to Item 407(i).

hedging transactions in lieu of listing all of the specific categories that are prohibited. For example, a company could disclose that it permits exchange fund transactions, but prohibits all other hedging transactions. If a company does not permit any hedging transactions, or permits all hedging transactions, it should so state and would not need to describe them by category. An additional instruction would require a company that permits hedging transactions to disclose sufficient detail to explain the scope of such permitted transactions.[27] For example, a company that permits hedging of equity securities that have been held for a specified period of time would need to disclose the period of time the securities must have been held.

If a company permits some, but not all, of the categories of persons covered by the proposed amendment to engage in hedging transactions, the company would disclose both the categories of persons who are permitted to hedge and those who are not.[28] For example, a company might disclose that it prohibits all hedging transactions by executive officers and directors, but does not restrict hedging transactions by other employees. Disclosing both categories of transactions and persons would provide investors a more complete understanding of the persons permitted to engage in hedging transactions, if any, and the types of hedging transactions permitted by the company.

*B. Specifying the Term ''Equity Securities''*

We are proposing an instruction to specify that the term ''equity securities,'' as used in proposed Item 407(i), would mean any equity securities (as defined in Exchange Act Section 3(a)(11)[29] and Exchange Act Rule 3a11–1)[30] issued by the company, any parent of the company, any subsidiary of the company or any subsidiary of any parent of the company that are registered under Section 12 of the Exchange Act.[31] As proposed, the disclosure requirement would apply to the equity securities issued by the company and its parents, subsidiaries or subsidiaries of the company's parents that are registered on a national securities exchange[32] or registered under Exchange Act Section 12(g).[33] We believe that the equity securities registered under Exchange Act Section 12 encompass the securities that are more likely to be readily traded, and more easily hedged. Because the Exchange Act and Exchanges Act Rules definitions of ''equity security'' do not specify the issuer, and Section 14(j) does not itself do so, without an instruction that narrows the scope, the term ''equity securities'' could be interpreted to include the equity securities of any company that are held directly or indirectly by an employee or director.

The proposed instruction would specify the scope of covered equity securities for both paragraphs (1) (compensatory equity securities grants) and (2) (other equity securities holdings) of proposed Item 407(i). Disclosure of whether a director or employee is permitted to hedge equity securities granted as compensation or otherwise held from whatever source acquired will more fully inform shareholders whether employees and directors are able to engage in transactions that reduce the alignment of their interests with the economic interests of other shareholders of the company and any affiliated company in which the employees or directors might have an interest. Shareholders would receive the Item 407(i) disclosure because they hold equity securities of the company and action is to be taken with respect to the election of directors for that company. The disclosure would provide additional information on whether the company has policies affecting the alignment of incentives for employees and directors of the company whose securities they hold. We therefore believe that disclosure about whether employees and directors are permitted to hedge equity securities issued by the company, its parents, subsidiaries or subsidiaries of the company's parents that are registered under Exchange Act Section 12 would be most relevant when providing information about the election of directors. We believe that, in certain instances,[34] companies may grant equity securities of affiliated companies to their employees or directors that are intended to achieve similar incentive alignment as grants in the company's equity securities. In these instances, we believe it would be relevant for shareholders to know whether such persons are permitted to mitigate or avoid the risks associated with long-term ownership of these securities.

*C. Employees and Directors Subject to the Proposed Disclosure Requirement*

Section 14(j) covers hedging transactions conducted by any employee or member of the board of directors or any of their designees. Consistent with that mandate, we believe the term ''employee'' should be interpreted to include everyone employed by an issuer, including its officers. We believe it is just as relevant for shareholders to know if officers are allowed to effectively avoid restrictions on long-term compensation as it is for directors and other employees of the company.[35] Accordingly, we propose to implement Section 14(j) by adding the parenthetical ''(including officers)'' after the term ''employees'' in the language of the proposed disclosure requirement.[36] In sum, the proposed amendment uses the language ''any employees (including officers) or directors of the registrant, or any of their designees'' in describing the persons covered by the disclosure requirement.[37]

Request for Comment

1. Should the disclosure required by Section 14(j) be implemented by amending the corporate governance disclosures required by Item 407, as proposed? Alternatively, should it be implemented by amending the Item 402

[27] Proposed Instruction 4 to Item 407(i).

[28] Proposed Instruction 2 to Item 407(i).

[29] 15 U.S.C. 78c(a)(11). Exchange Act Section 3(a)(11) defines ''equity security'' as any stock or similar security; or any security future on any such security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the Commission shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as it may prescribe in the public interest or for the protection of investors, to treat as an equity security.

[30] 17 CFR 240.3a11–1. Exchange Act Rule 3a11–1 defines ''equity security'' to include any stock or similar security, certificate of interest or participation in any profit sharing agreement, preorganization certificate or subscription, transferable share, voting trust certificate or certificate of deposit for an equity security, limited partnership interest, interest in a joint venture, or certificate of interest in a business trust; any security future on any such security; or any security convertible, with or without consideration into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any put, call, straddle, or other option or privilege of buying such a security from or selling such a security to another without being bound to do so.

[31] 15 U.S.C. 78*l;* Proposed Instruction 1 to Item 407(i).

[32] 15 U.S.C. 78*l(b).*

[33] 15 U.S.C. 78*l(g).*

[34] Examples may include, but are not limited to, where a company reorganizes to create a publicly-traded subsidiary.

[35] *See Senate Report 111–176.*

[36] The parenthetical ''(including officers)'' in proposed Item 407(i) is intended to include officers employed by an issuer and avoid possible confusion with Exchange Act Rule 12b–2 [17 CFR 240.12b–2], which states that the term ''employee'' does not include a director, trustee, or officer.

[37] Section 14(j) refers to ''designee[s]'' of employees and directors. Under the proposed disclosure requirement, whether someone is a ''designee'' would be determined by a company based on the particular facts and circumstances.

executive compensation disclosure requirements? Are there advantages or disadvantages to requiring these disclosures under Item 402? If so, please explain why.

2. Should the scope of the proposed Item 407(i) disclosure requirement cover transactions that are not expressly listed in Exchange Act Section 14(j) but have economic consequences comparable to the purchase of the financial instruments specifically identified in Section 14(j), as proposed? If not, why not?

3. Should the scope of transactions covered by proposed Item 407(i) be clarified? We are of the view that there is a meaningful distinction between an index that includes a broad range of equity securities, one component of which is company equity securities, and a financial instrument, even one nominally based on a broad index, designed to or having the effect of hedging the economic exposure to company equity securities. Should we clarify the application of Item 407(i) to account for this situation? If so, how? For example, if an issuer prohibited hedging generally, but permitted the purchase of broad-based indices, should we specify that the issuer could nonetheless disclose that it prohibits all hedging transactions? Should the rule explicitly distinguish between instruments that provide exposure to a broad range of issuers or securities and those that are designed to hedge particular securities or have that effect? Would a principles-based or numerical threshold approach be most helpful in this regard? If not, what other clarification should be provided?

4. If a company prohibits some, but not all, of the categories of transactions described in the proposed amendment, in order to fully describe what hedging transactions are permitted and by whom, is it necessary to require disclosure, as proposed, of both the categories of transactions that are permitted and the categories of transactions that are prohibited? If not, please explain why not. Does proposed Instruction 3 to Item 407(i) provide a way for companies that permit or prohibit only certain covered transactions to disclose this information in a clear and effective manner? Alternatively, should the company simply be required to describe its policy, if any, without further elaboration?

5. A company that permits hedging transactions would be required to disclose sufficient detail to explain the scope of such permitted transactions. For example, a company may permit hedging transactions only if pre-approved, or only after the company's stock ownership guidelines have been met. Should proposed Instruction 4 be more specific about the types of details, such as a pre-approval requirement, that the company must disclose?

6. Does our proposal to define the term ''equity securities'' as equity securities of the company or any of its parents, subsidiaries or subsidiaries of its parents that are registered under Exchange Act Section 12 appropriately capture the disclosure that shareholders would find useful? Should the Commission limit the term ''equity securities'' to only equity securities of the company? If so, please explain why and the costs and benefits that would result. How often are directors and employees compensated through equity securities of an affiliated company that are not registered under Section 12(b) of the Exchange Act? If the definition of equity securities includes only equity securities registered under Section 12(b) of the Exchange Act, would that affect either compensation structure or corporate structure? Do companies typically have policies addressing hedging of equity securities of their parents, subsidiaries or subsidiaries of their parents? What would be the costs and benefits of disclosing whether hedging the equity securities of these affiliates is permitted or prohibited? Would any on-going compliance efforts be different? If so, please explain why and the costs and benefits that would result.

7. Should the proposed definition be broadened to include equity securities that are not registered under Exchange Act Section 12 or narrowed to only include equity securities registered under Section 12(b) of the Exchange Act? If so, explain why and the costs and benefits that would result. Alternatively, should the proposed definition be revised to exclude equity securities that do not trade in an established public market? If so, how would ''established public market'' be defined? To the extent the amendment applies to equity securities that do not trade on an established public market, should we provide guidance about how to interpret ''market value'' for purposes of the proposed amendment? In either case, please explain why, and what costs and benefits would result from the recommended change.

8. Should we define ''parent'' and ''subsidiary'' specifically for purposes of this disclosure requirement? The definition of ''parent'' of a person in the Exchange Act Rules is an affiliate controlling such person directly, or indirectly through one or more intermediaries.[38] Similarly, the Exchange Act Rules definition of ''subsidiary'' of a person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries.[39] Will these definitions, in the context of hedging disclosure, present any implementation challenges in determining what needs to be disclosed? Should we consider an alternative term, or alternative definition of ''parent'' for this disclosure requirement, such as an affiliate that owns a majority of the voting securities in the company? Similarly, with respect to subsidiaries, should we consider an alternative term, or alternative definition of ''subsidiary'' for this disclosure requirement, such as a majority-owned subsidiary, wholly-owned subsidiary, consolidated subsidiary or significant subsidiary? In each case, please explain why, and what costs and benefits would result from the recommended change.

9. Section 14(j) does not define the circumstances in which equity securities are ''held, directly or indirectly'' by an employee or director. Is the concept of ''held, directly or indirectly'' unclear, such that we should provide more certainty about what is meant by the phrase? If so, how should we clarify it? Section 14(j) also does not define who is a ''designee,'' nor is this term otherwise defined in the rules under the Securities Act or the Exchange Act. One commenter has recommended that the Commission define the term ''designee.''[40] Should the proposed amendment include an instruction clarifying who is a ''designee''? If so, please explain how this term should be defined, and the costs and benefits that would result.

10. Section 14(j) is directed to ''any employee'' and we interpret that to mean anyone employed by the issuer. Should we limit the definition of ''employee'' to the subset of employees that participate in making or shaping key operating or strategic decisions that influence the company's stock price?[41] Why or why not? If so, how would that distinction be defined for practical purposes? Alternatively, should we add an express materiality condition to the definition, as is the case under CD&A,

[38] Exchange Act Rule 12b-2 [17 CFR 240.12b–2].

[39] Exchange Act Rule 12b-2 [17 CFR 240.12b–2].

[40] See Letter from Compensia, Inc. (Oct. 4, 2010). To facilitate public input on the Act, the Commission has provided a series of email links, organized by topic, on its Web site at *http://www.sec.gov/spotlight/regreformcomments.shtml.* The public comments we have received on Section 955 of the Act are available on our Web site at *http://www.sec.gov/comments/df-title-ix/executive-compensation/executive-compensation.shtml.*

[41] *See Section IV.C.1.*

to permit each issuer to determine whether disclosure about all its employees would be material information for its investors? Why or why not?

11. Should the amendment define ''hedge''? If so, what concepts other than the statutory reference to ''offset[ting] any decrease in the market value of equity securities'' would be necessary to define this term?

12. One commenter has recommended that the Commission ''should not only require disclosure of whether hedging is permitted, but should also require disclosure of any hedging that has occurred—both in promptly filed Form 4 filings and in the annual proxy statement.'' [42] Should the Commission require such disclosure in the final rule for those already subject to Form 4 reporting requirements?

*D. Implementation*

1. Manner and Location of Disclosure

Section 14(j) calls for disclosure in any proxy or consent solicitation material for an annual meeting of the shareholders. Shareholder annual meetings are typically the venue in which directors are elected.[43] Although the language of Section 14(j) refers to disclosure in any proxy or consent solicitation material for an annual meeting of the shareholders, this language, construed strictly, would result in the disclosure appearing in different instances than we currently require other corporate governance related disclosure. In particular, under our current rules, if a company solicits proxies [44] with respect to the election of directors, its proxy statement must include specified corporate governance information required by Item 407 of Regulation S–K, whether or not the election takes place at an annual meeting.[45] We believe that Item 407(i) disclosure would be relevant information for shareholders evaluating the governance practices of the company and the election of directors. By providing the disclosure in a proxy statement if action is to be taken with respect to the election of directors, shareholders will be able to consider the proposed disclosure at the same time as they are considering the company's other corporate governance disclosures and voting for the election of directors, without regard to whether at an annual or special meeting of shareholders or in connection with an action authorized by written consent.[46] We therefore propose to implement Section 14(j) by amending Items 7 and 22 of Schedule 14A to call for new Item 407(i) information to be provided if action is to be taken with respect to the election of directors. In addition to including the new disclosure requirement, the proposal would amend Item 7 of Schedule 14A to streamline its current provisions by more succinctly cross-referencing disclosure Items.[47]

The information required under proposed Item 407(i) would need to be included in proxy or consent solicitation materials and information statements with respect to the election of directors. Section 14(j) specifically calls for the disclosure to be made in the proxy solicitation materials, and we believe the information would be most relevant to shareholders if action is to be taken with respect to the election of directors. We therefore do not propose to require Item 407(i) disclosure in Securities Act or Exchange Act registration statements or in the Form 10–K Part III Item 407 disclosure,[48] even if that disclosure is incorporated by reference from the company's definitive proxy statement or information statement filed with the Commission not later than 120 days after the end of the fiscal year covered by the Form 10–K.[49]

2. Disclosure on Schedule 14C

The statutory language of Section 14(j) expressly calls for proxy or consent solicitation materials for an annual meeting of the shareholders of the issuer to include the disclosure contemplated by the proposed amendments. These solicitation materials are required by our proxy rules to be filed under cover of Schedule 14A.[50] As provided in Item 1 of Schedule 14C, however, an information statement filed on Schedule 14C must include the information called for by all of the items of Schedule 14A to the extent each item would be applicable to any matter to be acted upon at a meeting if proxies were to be solicited, with only limited exceptions.[51] An information statement

[42] *See* letter from Brian Foley & Company, Inc. (Sept. 22, 2010).

[43] The Commission has previously recognized that directors ordinarily are elected at annual meetings. See, *e.g.,* Rule 14a–6(a) [17 CFR 240.14a–6(a)], which acknowledges that registrants soliciting proxies in the context of an election of directors at an annual meeting may be eligible to rely on the exclusion from the requirement to file a proxy statement in preliminary form. Rule 14a–3(b) [17 CFR 240.14a–3(b)] requires proxy statements used in connection with the election of directors at an annual meeting to be preceded or accompanied by an annual report containing audited financial statements. The requirement for registrants to hold an annual meeting at which directors are to be elected, however, is imposed by a source of legal authority other than the federal securities laws. In Delaware, for example, where more than 50% of the publicly traded issuers are incorporated according to the State of Delaware's official Web site, Delaware General Corporation Law, Section 211(b) is viewed as requiring an annual meeting for the election of directors. See Delaware Law of Corporations & Business Organizations, Third Edition by R. Franklin Balotti, Jesse A. Finkelstein at § 7.1, Folk on the Delaware General Corporate Law, 2013 Edition by Edward P. Welch, Andrew J. Turezyn, and Robert S. Saunders at § 211.2, and the text of DGCL Section 211(b), which reads in relevant part, ''unless directors are elected by written consent in lieu of an annual meeting as permitted by this subsection, an annual meeting of stockholders shall be held for the election of directors on a date and at a time designated by or in the manner provided in the bylaws.'' See also Corporations and Other Business Associations, Seventh Edition by Charles R.T. O'Kelley and Robert B. Thompson at page 167 (explaining that the ''paramount shareholder function is the election of directors'' and that ''[m]ost corporation codes protect this right by specifying immutably that directors shall be elected at an annually held meeting of shareholders.''), California Corporations Code, Section 600(b), and 1984 Model Business Corporation Act (as amended through 2006), Section 7.01(a) (each requiring an annual meeting of shareholders for the election of directors).

[44] Rule 14a–1(f) [17 CFR 240.14a–1(f)] defines the term ''proxy'' to include every proxy, consent or authorization within the meaning of Section 14(a) of the Exchange Act. A solicitation of consents therefore constitutes a solicitation of proxies subject to Section 14(a) and Regulation 14A.

[45] *See* Items 7(b)–(d) and 8(a) of Schedule 14A.

[46] We note that an annual meeting, the meeting at which companies generally provide for the election of directors, could theoretically not include an election of directors. For reasons explained above, an annual meeting ordinarily involves an election of directors. In the unlikely event that a company is not conducting a solicitation for the election of directors but is otherwise soliciting proxies at an annual meeting, the proposed amendment would not require the proposed disclosure in the proxy statement.

[47] Proposed amended Item 7(b) and Instruction to Item 7 of Schedule 14A.

[48] This approach is consistent with the disclosure requirements for registration statements under the Securities Act and for annual reports on Form 10–K, which include only selected provisions of Item 407. See Item 11(l) and 11(o) on Form S–1 and Items 10, 11 and 13 of Form 10–K.

[49] As permitted by General Instruction G to Form 10–K. Proposed Instruction 5 to Item 407(i) would provide that information disclosed pursuant to Item 407(i) would not be deemed incorporated by reference into any filing under the Securities Act, the Exchange Act or the Investment Company Act. As proposed, the disclosure also would not be subject to forward incorporation by reference under Item 12(b) of Securities Act Form S–3 [17 CFR 239.13].

[50] As stated above, Exchange Act Rule 14a–1(f) [17 CFR 240.14a–1(f)] defines the term ''proxy'' to include every proxy, consent or authorization within the meaning of section 14(a) of the [Exchange] Act. Exchange Act Rule 14a–3(a) [17 CFR 240.14a–3(a)] prohibits any proxy solicitation unless each person solicited is currently or has been previously furnished with a publicly-filed preliminary or definitive proxy statement containing the information specified in Schedule 14A [17 CFR 240.14a–101], and Exchange Act Rule 14a–6(m) [17 CFR 240.14a–6(m) requires proxy materials to be filed under cover of Schedule 14A.

[51] Specifically, Item 1 of Schedule 14C permits the exclusion of information called for by Schedule 14A Items 1(c) (Rule 14a–5(e) information re shareholder proposals), 2 (revocability of proxy), 4 (persons making the solicitation), and 5 (interest of certain persons in matters to be acted upon). Other Items of Schedule 14C prescribe the information to

Continued

filed on Schedule 14C in connection with an election of directors therefore already is required to include the information required by Item 7 of Schedule 14A. Absent an amendment to Schedule 14C to exclude proposed Item 407(i) from the requirements for the information statement, the disclosure contemplated by the amendments would be required in Schedule 14C pursuant to existing Item 1 of Schedule 14C.

We are not proposing to exclude Item 407(i) disclosure from Schedule 14C.[52] Applying the proposed disclosure obligation to Schedule 14C filings would have the effect of expanding the requirement to comply with Item 407(i) to companies that do not solicit proxies from any or all security holders but are otherwise authorized by security holders to take an action with respect to the election of directors.

We believe that doing so would retain consistency in the corporate governance disclosure provided in proxy statements and information statements with respect to the election of directors. Exchange Act Section 14(c) was enacted to apply to companies not soliciting proxies or consents from some or all holders of a class of securities registered under Section 12 of the Exchange Act entitled to vote at a meeting or authorize a corporate action by execution of a written consent.[53] It creates disclosure obligations for a company that chooses not to, or otherwise does not, solicit proxies, consents, or other authorizations from some or all of its security holders entitled to vote. An example of when such a situation could occur is in the case of a controlled company [54] not listed on the New York Stock Exchange, NYSE Market or NASDAQ. In instances where management and/or a shareholder affiliate may control sufficient shares to assure a quorum and a favorable voting outcome, as in the case of a majority-owned subsidiary, or where a solicitation of proxies, consents or authorization is made of only certain security holders in connection with an election of directors, Section 14(c) would operate to ensure that security holders not solicited would receive disclosure substantially equivalent to that which would have been included in a proxy statement had a solicitation of all security holders been made.[55] In light of this purpose, we believe requiring Item 407(i) disclosure in information statements filed pursuant to Section 14(c) furthers the regulatory objective of Section 14(j) of the Exchange Act and would mitigate the regulatory disparity that otherwise might result.[56]

3. Relationship to Existing CD&A Obligations

One of the non-exclusive examples currently listed in the Item 402(b) requirement for CD&A calls, in part, for disclosure of any registrant policies regarding hedging the economic risk of company securities ownership,[57] to the extent material. CD&A applies only to named executive officers and is part of the Item 402 executive compensation disclosure that is required in Securities Act and Exchange Act registration statements, and Exchange Act annual reports on Form 10–K, as well as proxy and information statements relating to the election of directors.[58] Smaller reporting companies, emerging growth companies, registered investment companies and foreign private issuers, however, are not required to provide CD&A disclosure.

By requiring proxy statement disclosure of whether employees generally are permitted to hedge equity securities that they receive as compensation or otherwise hold, the disclosure mandated by Section 14(j) includes within its scope hedging policies applicable to named executive officers.[59] To reduce potentially duplicative disclosure in proxy and information statements, we propose to amend Item 402(b) of Regulation S–K to add an instruction providing that a company may satisfy its CD&A obligation to disclose material policies on hedging by named executive officers by cross referencing the information disclosed pursuant to proposed Item 407(i) to the extent that the information disclosed there satisfies this CD&A disclosure requirement.[60] This instruction, like the Item 407(i) disclosure requirement, would apply to a company's proxy statement or information statement with respect to the election of directors. We believe that

be provided with regard to such of these topics that are relevant to information statements. Specifically, Item 3 addresses the interest of certain persons in or opposition to matters to be acted upon, and Item 4 addresses proposals by security holders. In addition, Notes A, C, D and E to Schedule 14A are applicable to Schedule 14C [17 CFR 240.14c–101].

[52] Because our proposal would not add a new exclusion for information called for by the proposed amendment to Item 7 of Schedule 14A, the effect of the proposal will be to require Item 407(i) disclosure in Schedule 14C.

[53] Section 14(c) of the Exchange Act was enacted to ''reinforce [ ] fundamental disclosure principles [for companies] subject to the proxy rules which did not solicit proxies . . .'' By enacting Section 14(c), Congress was advised that these companies ''would be required to furnish shareholders with information equivalent to that contained in a proxy statement . . . [and that such legislation was needed] [b]ecause evasion of the disclosures required by the proxy rules is made possible by the simple device of not soliciting proxies . . .'' Statement of William L. Cary, Chairman, Securities and Exchange Commission, Part I. K. Other Amendments Proposed by S. 1642, Hearings before a Subcommittee of the Committee on Banking and Currency for the U.S. Senate, Eighty-Eighth Congress, First Session on S. 1642, June 18–21 and 24–25, 1963.

[54] A controlled company is generally understood to be a company in which more than 50% of the voting power is held by an individual, a group or another issuer. *See e.g.,* Exchange Act Section 10C(g)(2) [15 U.S.C. 78jC(g)(2)].

[55] At the time Section 14(c) was being considered by Congress as an amendment to the Exchange Act, the Securities and Exchange Commission provided an official statement that reported findings associated with a study that examined the proxy solicitation practices of 556 industrial and other companies. ''Twenty-nine percent of these companies did not solicit proxies and 24 percent did not even send shareholders a notice of meeting.'' Statement of the Securities and Exchange Commission with respect to Proposed Amendments to Sections 12, 13, 14, 15, 16, 20(c), and 32(b) of the Securities Exchange Act of 1934 and Section 4(1) of the Securities Act of 1933, at 2. Existing Disclosures by Over-the-Counter Companies, Hearings before a Subcommittee of the Committee on Banking and Currency for the U.S. Senate, Eighty-Eighth Congress, First Session on S. 1642, June 18–21 and 24–25, 1963. Simply extending the coverage of the proxy rules to reach over-the-counter issuers was not viewed as a solution, and was believed to have been a decision that would have accentuated the problem of non-solicitation ''because of management's relatively larger holdings.'' Statement of William L. Cary, Chairman, U.S. Securities and Exchange Commission, cited in n. [51] above.

[56] Of the approximately 6845 operating companies with at least one class of securities registered under Section 12 of the Exchange Act, 4018 have a class of securities listed on an exchange. Based on our review of and experience with NASDAQ, the New York Stock Exchange or NYSE Market, collectively referred to here as primary market exchanges, companies with a class of common or voting preferred stock (or their equivalents) listed on these exchanges are generally required to solicit proxies from shareholders for all meetings of shareholders, including those to elect directors. See, *e.g.,* NYSE Listed Company Manual Section 402.04, and NASDAQ Rule IM–5620—Meetings of Shareholders or Partners. Operating companies with a class of voting stock listed on a primary exchange that comply with the listing exchange's requirements, therefore, will be providing the proposed disclosure in proposed amended Item 7 of Schedule 14A and proposed Item 407(i) of Regulation S–K for each election of directors. By contrast, the approximately 2827 non-exchange listed companies with a class of securities registered under Section 12 may not be subject to compulsory requirements analogous to the primary market exchange rules that impose an affirmative obligation to solicit shareholders. Consequently, these non-exchange listed companies, if not subject to a compulsory requirement to solicit proxies, could avoid the proposed disclosures if the new requirement were limited to only companies soliciting proxies or consents pursuant to Section 14(a), especially given that companies with a class of securities registered only under Exchange Act Section 12(g) may be able to effectuate a corporate action (as referenced in Exchange Act Rule 14c–2) without soliciting security holder approval and thus would need only comply with Section 14(c) and Regulation 14C.

[57] Item 402(b)(2)(xiii) of Regulation S–K.

[58] As required by Item 8 of Schedule 14A.

[59] See Section III, above.

[60] Proposed Instruction 6 to Item 402(b).

amending Item 402(b) to add this instruction will, in certain circumstances, make it easier for companies that are subject to both Item 407(i) and Item 402(b) to prepare their proxy and information statements by avoiding the potential for duplicative disclosure.[61] In addition, we believe that locating all the responsive disclosure in one place in the proxy or information statement will make it easier for investors to find.

4. Issuers Subject to the Proposed Amendments

In proposing amendments to implement Section 14(j), we have considered whether certain categories of issuers should be exempted from the proposed Item 407(i) disclosure requirements, or, alternatively, whether they should be subject to a delayed implementation schedule.[62] In making these determinations, we have been guided by what we understand to be the statutory purpose behind Section 14(j), namely, to provide transparency to shareholders, if action is to be taken with respect to the election of directors, about whether employees or directors are permitted to engage in transactions that mitigate or avoid the incentive alignment associated with equity ownership.

a. Registered Investment Companies

We are proposing to require closed-end investment companies that have shares that are listed and registered on a national securities exchange (''listed closed-end funds'') to provide the proposed disclosure. Investment companies registered under the Investment Company Act of 1940 (''funds'' or ''registered investment companies'') that are not listed closed-end funds would be excluded from these requirements, as discussed in more detail below.[63]

Funds generally have a management structure and regulatory regime that differs in various respects from issuers that are operating companies, which we believe makes the proposed disclosure less useful for investors in funds that are not listed closed-end funds. Nearly all funds, unlike other issuers, are externally managed and have few, if any, employees who are compensated by the fund.[64] Rather, personnel who operate the fund and manage its portfolio generally are employed and compensated by the fund's investment adviser.[65] Although fund directors may hold shares of the funds they serve,[66] fund compensation practices can be distinguished from those of operating companies. We believe that the granting of shares as a component of incentive-based compensation is uncommon (and in some cases is prohibited) [67] for funds. Concerns about avoiding restrictions on long-term compensation, which we understand to be one of the reasons Congress mandated this disclosure, may therefore be less likely to be raised with respect to funds.

In addition, most funds, other than listed closed-end funds as discussed below, also are generally not required to hold annual meetings of shareholders.[68] Exchange-traded funds (''ETFs''), although traded on an exchange, also do not generally hold annual meetings of shareholders, and some ETFs do not have boards of directors.[69]

Open-end funds differ from operating companies in the way that their shares are purchased and sold. For example, mutual funds sell shares that are redeemable, meaning generally that shareholders are able to present the shares to the fund at the shareholder's discretion and receive the net asset value (''NAV'') per share determined at the end of each day.[70] For funds like mutual funds whose shares do not trade on an exchange, it may be less efficient or not possible to engage in certain hedging transactions with respect to the fund's shares. And although ETF shares

[61] Exchange Act Rule 14a–21(a) [17 CFR 240.14a–21(a)] provides that shareholder advisory say-on-pay votes apply to executive compensation disclosure pursuant to Item 402 of Regulation S–K, which includes CD&A. Because Item 407(i) disclosure will not be subject to these votes except to the extent made part of CD&A pursuant to the proposed cross-reference instruction, the proposal will not effect any change in the scope of disclosure currently subject to say-on-pay votes. We also note that the cross-reference is optional and issuers may, if they prefer, avoid making the Item 407(i) disclosure part of CD&A by not cross-referencing the disclosure.

[62] Section 36(a) of the Exchange Act permits the Commission, by rule, regulation, or order, to conditionally or unconditionally exempt any person security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

[63] Business development companies are a category of closed-end investment company that are not registered under the Investment Company Act [15 U.S.C. 80a–2(a)(48) and 80a–53–64]. As proposed, business development companies would be treated in the same manner as all issuers (other than certain funds as discussed in this section) and therefore would be subject to the requirements of proposed Item 407(i). We believe that this would be consistent with the Commission's treatment of business development companies regarding other disclosure requirements. *See* the 2006 Executive Compensation Disclosure Release, at Section II.D.3.

[64] Some funds do have employees, who might also hold fund shares. *See also* footnote 36 and accompanying text (explaining that the parenthetical ''(including officers)'' in proposed Item 407(i) is intended to include officers employed by an issuer).

[65] Funds also typically will contract with other service providers in addition to the investment adviser.

[66] *See* Saitz, Greg, ''Here Are Two Choices: Buy Fund Shares or Buy Fund Shares,'' July 30, 2013, *available at http://www.boardiq.com/c/556021/60971/here_choices_fund_shares_fund_shares.*

[67] Registered open-end and closed-end investment companies are generally prohibited from issuing their securities for services. *See* Sections 22(g) (open-end funds) and 23(a) (closed-end funds) of the Investment Company Act. Recognizing that ''effective fund governance can be enhanced when funds align the interests of their directors with the interests of their shareholders,'' our staff has provided guidance concerning the circumstances under which funds may compensate fund directors with fund shares consistent with sections 22(g) and 23(a). *See* Interpretive Matters Concerning Independent Directors of Investment Companies, Investment Company Act Release No. 24083 (Oct. 14, 1999). With respect to registered closed-end funds, some of which would be subject to the proposed amendments, our staff stated that ''[c]losed-end funds also may wish to institute policies that encourage or require their directors to use the compensation that they receive from the funds to purchase fund shares in the secondary market on the same basis as other fund shareholders.'' *See id.* at n.73. The staff also stated that it ''would not recommend enforcement action to the Commission under Section 23(a) if closed-end funds directly compensate their directors with fund shares, provided that the directors' services are assigned a fixed dollar value prior to the time that the compensation is payable,'' while noting that ''any closed-end fund that compensates its directors by issuing fund shares would generally be required to issue those shares at net asset value, even if the shares are trading at a discount to their net asset value.'' *See id.* at n.74.

[68] The requirement to hold an annual meeting of shareholders at which directors are to be elected generally is imposed by a source of authority other than the federal securities laws. *See* footnote 43 above. Funds are typically organized under state law as a form of trust or corporation that is not required to hold an annual meeting. See Robert A. Robertson, Fund Governance: Legal Duties of Investment Company Directors § 2.–6[5]. Funds may, however, hold shareholder meetings from time to time under certain circumstances, including where less than a majority of the directors of the fund were elected by the holders of the fund's outstanding voting securities. *See* Section 16(a) of the Investment Company Act. *See also* footnote 73 and accompanying text.

[69] ETFs are organized either as open-end funds or unit investment trusts (''UITs''). A UIT does not have a board of directors, corporate officers, or an investment adviser to render advice during the life of the trust, and does not actively trade its investment portfolio. *See* Section 4(2) of the Investment Company Act (''Unit investment trust'' means an investment company which (A) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (B) does not have a board of directors, and (C) issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities, but does not include a voting trust.'').

[70] The term ''redeemable,'' as used with respect to fund shares, refers to shares that are redeemable at the discretion of the investor holding the shares. *See* Section 2(a)(32) of the Investment Company Act (defining the term ''redeemable security''). Closed-end fund shares, in contrast, generally are not redeemable, and these shares trade at negotiated market prices, including on national securities exchanges.

trade on exchanges, they often trade on the secondary market at prices close to the NAV of the shares, rather than at discounts or premiums to NAV.

Based on these considerations, the proposed amendments would not require funds, other than listed closed-end funds, to provide the proposed disclosure.

We are, however, proposing to require listed closed-end funds to provide Item 407(i) disclosure. Although listed closed-end funds are similar to other funds in certain respects, including with respect to their management structure and regulatory regime, there are several features of listed closed-end funds that may make requiring the Item 407(i) disclosure appropriate. Shares of listed closed-end funds, unlike mutual fund shares, trade at negotiated market prices on a national securities exchange and are not redeemable from the funds. The shares thus may, and often do, trade at a ''discount,'' or a price below the NAV per share.[71] Requiring listed closed-end funds to provide the proposed disclosure would allow shareholders to know if a listed closed-end fund permits its directors and employees (if any) to hedge the value of the fund's securities held by these persons and thus whether they, like the fund's other shareholders, would receive that discounted price upon a sale of the shares without an offset from any hedging transactions. This information may be important to the voting decision of an investor when evaluating the extent to which a fund director or employee's interest is aligned with that of the fund's other shareholders, including in considering whether the director or employee may be more or less incentivized as a result of holding shares in the fund to seek to decrease the discount. It also may be more efficient to engage in certain hedging transactions with respect to shares of a listed closed-end fund as compared to certain other types of funds. Market participants can and do sell these types of fund shares short, for example.[72] Hedging transactions might thus be more likely with respect to shares of listed closed-end funds, and thus potentially of greater interest to those funds' shareholders.

Finally, unlike other types of funds as discussed above, listed closed-end funds generally are required to hold annual meetings of shareholders.[73] Listed closed-end funds thus more closely resemble operating companies that would be subject to the proposed disclosure requirements in this respect.[74] We also note that officers and directors of listed closed-end funds, like officers and directors of emerging growth companies and smaller reporting companies which would be subject to the proposed disclosure requirements as discussed below, are subject to the requirement in Section 16(a) of the Exchange Act to report hedging transactions.[75]

For all of these reasons and those discussed in Section IV below, we propose to require listed closed-end funds to provide Item 407(i) disclosure and to exclude all other registered investment companies from these requirements. We request comment below on this proposed approach and, more generally, on the application of the proposed disclosure requirements to funds, including whether these requirements should apply to additional specific types of funds, such as ETFs. We seek input and data on the prevalence of hedging by employees and directors for all registered investment companies.

b. Emerging Growth Companies and Smaller Reporting Companies

We do not propose to exempt smaller reporting companies or emerging growth companies from Item 407(i) disclosure. We are not aware of any reason why information about whether a company has policies affecting the alignment of shareholder interests with those of employees and directors would be less relevant to shareholders of an emerging growth company or a smaller reporting company than to shareholders of any other company. In this regard, we believe it is consistent with the statutory purpose of Section 14(j) to require these companies to provide disclosure about their hedging policies. Moreover, given its narrow focus, the proposed disclosure is not expected to impose a significant compliance burden on companies. For these reasons, the proposed disclosure would apply to smaller reporting companies and emerging growth companies to the same extent as other companies subject to the federal proxy rules.

We acknowledge that the JOBS Act excludes emerging growth companies from some, but not all, of the provisions of Title IX of the Act, of which Section 955 is a part,[76] and that emerging growth companies and smaller reporting companies are in many instances subject to scaled disclosure requirements, including with respect to executive compensation.[77] We believe that it would be more consistent with our historical approach to corporate governance related disclosures,[78] as well as the statutory objectives of Section 14(j), not to exempt these companies from the proposed disclosure requirement. We recognize that, since emerging growth companies and smaller reporting companies are not required to provide CD&A disclosure required by Item 402(b) and therefore may not have had the occasion to consider a hedging policy, these companies may have a greater initial cost than companies that already have a policy or already disclose one. Further, these companies would also have on-going costs implementing and administering their policies. On balance, however, we believe the proposed rule would not constitute a substantial, incremental burden for smaller reporting companies or emerging growth companies.

[71] Based on staff review of information available from Morningstar Direct and filings with the Commission.

[72] Based on staff review of market data available from the Bloomberg Professional service.

[73] *See, e.g.,* Section 302.00 of the New York Stock Exchange's Corporate Governance Standards (''Listed companies are required to hold an annual shareholders' meeting during each fiscal year.'').

[74] Listed closed-end funds also are similar to operating company issuers in other respects. For example, listed closed-end funds, like operating companies, do not issue redeemable securities (*i.e.,* at the option of the holder); rather, they issue securities in traditional underwritings, which are subsequently listed on an exchange or traded in the over-the-counter markets. In addition, listed closed-end funds and operating companies each may be able to issue preferred shares and are not restricted in the amount of illiquid assets they may hold, although the assets of an operating company are generally more illiquid than the securities held by a listed closed-end fund.

[75] *See* Section 30(h) of the Investment Company Act (''Every person who is . . . an officer, director, member of an advisory board, investment adviser, or affiliated person of an investment adviser of [a registered closed-end fund] shall in respect of his transactions in any securities of such company (other than short-term paper) be subject to the same duties and liabilities as those imposed by section 16 of the Securities Exchange Act of 1934 upon certain beneficial owners, directors, and officers in respect of their transactions in certain equity securities.'').

[76] Section 102 of the JOBS Act exempts emerging growth companies from: the say-on-pay, say-on-frequency, and say-on-golden parachutes advisory votes required by Exchange Act Sections 14A(a) and (b), enacted in Section 951 of the Act; the ''pay versus performance'' proxy disclosure requirements of Exchange Act Section 14(i), enacted in Section 953(a) of the Act; and the pay ratio disclosure requirements of Section 953(b) of the Act.

[77] *See* Section 102(c) of the JOBS Act and Item 402(*l*) of Regulation S–K.

[78] *See* Item 407(a), (b), (c), (d), (e)(1)–(3), (f) and (h) of Regulation S–K; *but see* Item 407(g) of Regulation S–K that provides a phase-in period for smaller reporting companies from the disclosure required by Item 407(d)(5) of Regulation S–K and does not require smaller reporting companies to provide the disclosures required by Item 407(e)(4) and (5) of Regulation S–K. In addition, as noted above, officers and directors at smaller reporting companies and emerging growth companies are subject to the obligation under Exchange Act Section 16(a) to report transactions involving derivative securities.

In light of what we believe to be the minimal burden imposed by proposed Item 407(i) in terms of additional disclosure and the time necessary to prepare it, we are not proposing a delayed implementation schedule for smaller reporting companies and emerging growth companies. We are requesting comment, however, on the need for either an exemption for smaller reporting companies or emerging growth companies or a delayed implementation schedule for these companies.

c. Foreign Private Issuers

As noted above, Section 14(j) calls for disclosure in any proxy or consent solicitation material for an annual meeting of the shareholders of the issuer. Because securities registered by a foreign private issuer are not subject to the proxy statement requirements of Exchange Act Section 14,[79] foreign private issuers would not be required to provide Item 407(i) disclosure.

Request for Comment

13. Should Item 407(i) disclosure be required whenever action is taken with respect to the election of directors, as proposed? Instead, should we require disclosure in any proxy or information statement relating to an annual meeting of shareholders, irrespective of whether directors are to be elected at that meeting? Should the disclosure be limited only to annual meetings, and not special meetings, even if directors are to be elected at a special meeting?

14. Should proposed Item 407(i) disclosure also be required in Securities Act and Exchange Act registration statements? Should it be required in Exchange Act annual reports on Form 10–K? Would such information be material to investors in any of those contexts?

15. To retain consistency in the corporate governance disclosure provided in proxy statements and information statements with respect to the election of directors, Item 407(i) disclosure as proposed would apply to Schedule 14C as well as Schedule 14A. Is there any reason that the proposed Item 407(i) disclosure should be limited to issuers that are soliciting proxies? Why or why not?

16. In addition to including the new disclosure requirement, the proposed amendment to Item 7 of Schedule 14A would amend this Item to more succinctly organize its current provisions without changing the substance. As so revised, would the requirements of Item 7 be easier to understand? Alternatively, should we retain the current structure of Item 7, with the addition of the Item 407(i) disclosure?

17. We propose to amend the CD&A requirement of Item 402(b) of Regulation S–K to add an instruction providing that the obligation under that item requirement to disclose material policies on hedging by named executive officers in a proxy or information statement with respect to the election of directors may be satisfied by a cross reference to the Item 407(i) disclosure in that document to the extent that the information disclosed there satisfies this CD&A disclosure requirement. Is there an alternative way to avoid possibly duplicative hedging disclosure in these proxy and information statements?

18. Is there a better way to align the requirements of Item 402(b) of Regulation S–K and proposed Item 407(i) of Regulation S–K? Are there circumstances in which the current CD&A requirement in Item 402(b) of Regulation S–K would result in more complete disclosure about the company's hedging policies than what would be required under proposed Item 407(i)? For example, although Section 14(j) addresses only hedging of equity securities, would disclosure of employees' and directors' ability to hedge other securities further the statutory purpose? In this regard, should we expand the proposed disclosure in Item 407(i) to include debt securities?

19. We request comment on all aspects of the proposed disclosure requirements as applied to funds, including whether all funds or additional types of funds other than listed closed-end funds should be required to provide the proposed disclosure. Should we require all funds, including mutual funds and ETFs, to provide the proposed disclosure? Should we, instead, require different specific types of funds to provide the proposed disclosure? For example, should we require ETFs to provide the proposed disclosure? Would shareholders in mutual funds, ETFs, or other types of funds benefit from the information provided by the proposed disclosure?

20. If we were to require additional types of funds to provide the proposed disclosure, why and how, if at all, should we modify the disclosure requirements for such funds? As noted above, some ETFs are organized as UITs, which do not have boards of directors, and ETFs generally do not hold annual meetings of shareholders. How should any disclosure under Section 14(j) accommodate these or other characteristics of ETFs if we were to require ETFs to provide the proposed disclosure?

21. Are there additional characteristics of funds that we should consider in determining which funds should be required to provide the proposed disclosure or whether the disclosure requirements should be modified for funds or particular types of funds? If we were to require some or all funds to provide the proposed disclosure, including listed closed-end funds as proposed, what are the benefits and costs expected to result?

22. Should we modify the Item 407(i) disclosure requirements for listed closed-end funds? Would this information be material to an investor in contexts other than those relating to voting decisions, such as an investment decision? Should we also require the disclosure in listed closed-end funds' other disclosure documents, such as an annual report or shareholder report next following a meeting of shareholders, for example? If we were to require all funds or a broader group of funds to provide Item 407(i) disclosure, should we also require the disclosure in other disclosure documents, such as the funds' Statements of Additional Information?

23. As proposed, listed closed-end funds would be required to provide proposed Item 407(i) disclosure. Should we not require listed closed-end funds to provide this disclosure? If so, please explain why, and the benefits and costs that would result.

24. Do funds generally have policies concerning their employees and directors engaging in hedging transactions of securities issued by their respective funds, or policies that prohibit such hedging transactions? To what extent do employees or directors of listed closed-end funds receive shares of such funds as a form of compensation? Do employees or directors of listed closed-end funds currently effect hedging transactions with respect to the shares of those funds and, if so, what kinds of transactions do they effect?

25. How could employees or directors effect hedging transactions with respect to shares of funds other than listed-closed end funds, in particular mutual funds? How prevalent are these hedging transactions?

26. As proposed, listed closed-end funds, like the other issuers covered by the proposed amendments, would be required to provide disclosure concerning hedging of the equity securities issued by the fund or any of the fund's parents, subsidiaries or subsidiaries of the fund's parents that

[79] Exchange Act Rule 3a12–3(b) [17 CFR 240.3a12–3(b)] specifically exempts securities registered by a foreign private issuer from Exchange Act Sections 14(a) and 14(c).

are registered under Section 12 of the Exchange Act.[80] Should we instead require listed closed-end funds to provide disclosure only about hedging transactions concerning the funds' shares? Would investors in listed closed-end funds benefit from receiving information about the funds' directors' and employees' holdings of the funds' parents, subsidiaries or subsidiaries of the fund's parents?

27. As proposed, business development companies would be required to provide proposed Item 407(i) disclosure. Should we modify the disclosure requirements for business development companies? Should we not require business development companies to provide this disclosure? If so, please explain why, and the benefits and costs that would result. Should we only require a business development company to provide the proposed disclosure if the business development company's shares are listed on a national securities exchange?

28. Should smaller reporting companies or emerging growth companies be exempted from proposed Item 407(i) or subject to a delayed implementation schedule? If so, please explain why and the benefits and costs that would result. As discussed below, a component of the disclosure costs (especially initial costs) may be fixed, which may have a greater impact on smaller reporting companies and emerging growth companies. Do the proposed disclosure requirements also impose other potential costs on smaller reporting companies or emerging growth companies that are different in kind or degree from those imposed on other companies?) Would the proposed disclosure requirements be as meaningful for investors in smaller reporting companies and emerging growth companies as for those in other companies? Do investors in smaller reporting companies and emerging growth companies place more, less, or the same value on corporate governance disclosures of the type proposed here than do investors in larger, more established companies, either alone or in relation to other disclosures?

29. Should foreign private issuers be required to provide the disclosure? If so, please explain why and specify the filing(s) in which the disclosure should be required?

30. Are there any other categories of issuers that should be exempt from the requirement to provide Item 407(i) disclosure? If so, please explain why, and the benefits and costs that would result.

General Request for Comment

We request and encourage any interested person to submit comments on any aspect of our proposals, other matters that might have an impact on the proposed amendments, and any suggestion for additional changes. With respect to any comments, we note that they are of greatest assistance to our rulemaking initiative if accompanied by supporting data and analysis of the issues addressed in those comments and by alternatives to our proposals where appropriate.

## IV. Economic Analysis

### *A. Background*

Section 955 of the Act added Section 14(j) to the Exchange Act, which directs the Commission to adopt rules requiring an issuer to disclose in any proxy or consent solicitation material for an annual meeting of its shareholders whether any employee or director of the issuer, or any designee of an employee or director, is permitted to engage in transactions to hedge or offset any decrease in the market value of equity securities granted to the employee or director as compensation, or held directly or indirectly by the employee or director.

To implement the mandate of Section 14(j), we are proposing new paragraph (i) of Item 407 of Regulation S–K and amendments to Schedule 14A under the Exchange Act. Further, to reduce potentially duplicative disclosure, we propose to allow a company to satisfy its obligation to disclose material policies on hedging by named executive officers in the CD&A by cross reference to the information disclosed under proposed Item 407(i) to the extent that the information disclosed there satisfies this CD&A disclosure requirement.

We are mindful that our proposed amendments can both impose costs and confer benefits. Exchange Act Section 3(f) requires us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation. Exchange Act Section 23(a)(2) requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition and not to adopt any rule that would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The discussion below addresses the economic effects of the proposed amendments, including likely benefits and costs, as well as the likely effect of the proposal on efficiency, competition and capital formation. We request comment throughout this release on alternative means of meeting the statutory mandate of Section 14(j) and on all aspects of the costs and benefits of our proposals and possible alternatives. We also request comment on any effect the proposed disclosure requirements may have on efficiency, competition and capital formation. We appreciate comments on costs and benefits that are attributed to the statute itself and, to the extent that they are separable, the costs and benefits that are a result of policy choices made by the Commission in implementing the statutory requirements, as well as any data or analysis that helps quantify the potential costs and the benefits identified.

### *B. Baseline*

The proposed amendments affect all issuers registered under Section 12 of the Exchange Act, including smaller reporting companies (''SRCs''), emerging growth companies (''EGCs''), and listed closed-end funds, but excluding foreign private issuers (''FPIs''), and other types of registered investment companies, including non-listed closed-end funds, open-end funds, and unit investment trusts. We estimate that approximately 7,447 companies would be subject to the proposed amendments, including 4,620 listed Exchange Act Section 12(b) registrants and 2,827 non-listed Exchange Act Section 12(g) registrants. Among the Section 12(b) registrants subject to the proposed amendments, we estimate that 602 are listed closed-end funds, 916 are SRCs or EGCs, and the remaining 3,102 are other operating companies. Among the Section 12(g) registrants subject to the proposed amendments, 2,220 are SRCs or EGCs, and the remaining 607 are operating companies that are not SRCs or EGCs.[81]

[80] Item 22 of Schedule 14A defines terms used in that Item, including the terms parent and subsidiary. Item 22(a)(1)(ix) defines the term ''parent'' to mean ''the affiliated person of a specified person who controls the specified person directly or indirectly through one or more intermediaries.'' Item 22(a)(1)(xii) defines the term ''subsidiary'' to mean ''an affiliated person of a specified person who is controlled by the specified person directly, or indirectly through one or more intermediaries.''

[81] We estimate the number of operating companies subject to the proposed amendments by analyzing companies that filed annual reports on Form 10–K in calendar year 2012 with the Commission. This set excludes ABS issuers (SIC 6189), registered investment companies, issuers that have filed registration statements but have yet to file Forms 10–K with the Commission, and foreign issuers filing on Forms 20–F and 40–F. We identify

Other affected parties include these issuers' employees (including officers) and directors who hold equity securities of these issuers, and investors in general. Because almost all listed closed-end funds are externally managed by investment advisers and only a small number of listed closed-end funds are internally managed where the portfolio managers are employees of the closed-end funds, the proposed amendments will generally affect the funds' employees and directors; employees of the funds' investment advisers (*e.g.,* portfolio managers) will not be affected by the amendments.[82] Equity securities covered by the proposed amendments include equity securities issued by the company, any parent of the company, any subsidiary of the company or any subsidiary of any parent of the company that are registered under Section 12 of the Exchange Act.[83]

To assess the economic impact of the proposed amendments, we use as our baseline the state of the market as it exists at the time of this release. For Section 12 registrants (other than SRCs, EGCs, and listed closed-end funds) that are subject to the proposed amendments, the regulatory baseline is the current CD&A disclosure requirement in Item 402(b)(2)(xiii) of Regulation S–K. Item 402(b)(2)(xiii) calls for disclosure of ''any registrant policies regarding hedging the economic risk'' of security ownership by named executive officers as one of the ''non-exclusive'' examples of information includable in CD&A, if material. To the extent that a registrant does not have a policy regarding hedging by named executive officers, there is no obligation to disclose. For SRCs, EGCs, and listed closed-end funds, CD&A disclosure pursuant to Item 402(b)(2)(xiii) is not currently required.

Additionally, officers and directors of companies with a class of equity securities registered under Section 12, including SRCs and EGCs, are currently required to report their hedging transactions involving the company's equity securities pursuant to Exchange Act Section 16(a). Further, Section 30(h) of Investment Company Act specifies that officers and directors of closed-end funds are subject to the same duties and liabilities as those imposed by Section 16 of the Exchange Act.

Table 1 below draws a comparison between the current requirements for CD&A disclosure and Section 16 reporting, where applicable, and the proposed disclosure requirement for the registrants that would be affected by the proposed amendments.

TABLE 1—COMPARISON OF DISCLOSURE REQUIREMENTS

| Covered company | Covered persons | Current company reporting requirement | Current officer & director reporting requirement | Company reporting requirement under the proposed amendments |
|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) |
| 12(b) companies other than SRCs, EGCs, and listed closed-end funds [Number = 3,102]. | NEOs | Item 402(b) | Section 16(a). | |
| | Other employees | None | Section 16(a), if an officer. | |
| | Directors | None | Section 16(a). | |
| 12(g) companies other than SRCs and EGCs [Number = 607]. | NEOs | Item 402(b) | Section 16(a). | |
| | Other employees | None | Section 16(a), if an officer | Item 407(i).[84] |
| | Directors | None | Section 16(a). | |
| SRCs & EGCs under 12(b) [Number = 916]. | Employees (including NEOs) & Directors. | None | Section 16(a), if an officer or director. | |
| SRCs & EGCs under 12(g) [Number = 2,220]. | Employees (including NEOs) & Directors. | None | Section 16(a), if an officer or director. | |
| Listed closed-end funds [Number = 602]. | Employees & Directors | None | Section 30(h) of the Investment Company Act. | |

the companies that have securities registered under Section 12(b) or Section 12(g) from Form 10–K. We also determine from Form 10–K whether a company is a SRC. We determine whether a company is an EGC by reviewing both its Form 10–K and any registration statement. We estimate the number of listed closed-end funds based upon data from the 2014 Investment Company Fact Book, page 170 (available at *http://www.ici.org/pdf/2014_factbook.pdf*).

[82] Among the approximately 602 listed closed-end funds in 2012, Commission staff has identified only 4 internally-managed closed-end funds from a review of filings with the Commission.

[83] In some instances, equity of a company's subsidiary may be granted as compensation for that company's officers (He *et al.* 2009). Stock holdings in a company's subsidiary provide officers with an incentive to make decisions to improve the subsidiary's performance, which in turn may positively affect the economic prospects of the parent company. As discussed later, it is important for shareholders (of both the company and its subsidiary) to better understand whether incentives can be reduced by hedging. See He W., M. K. Tarun, and P. Wei, 2009, ''Agency Problems in Tracking Stock and Minority Carve-out Decisions: Explaining the Discrepancy in Short- and Long-term Performances'' Journal of Economics and Finance 33(1): 27–42.

[84] As proposed, companies would be required to make disclosure under proposed Item 407(i) when they file proxy or information statements with respect to the election of directors. Proxy statement disclosure obligations only arise under Section 14(a), however, when an issuer with a class of securities registered under Section 12 chooses to solicit proxies (including consents). Since the federal securities laws do not require the solicitation of proxies, the application of Section 14(a) is not automatic. Whether or not an issuer has to solicit therefore depends upon any requirement under its charter and/or bylaws, or otherwise imposed by law in the state of incorporation and/or by the relevant stock exchange (if listed). For example, NYSE, NYSE Market, and NASDAQ generally require solicitation of proxies for all meetings of shareholders. If a listed company then chooses to hold a meeting at which directors are to be elected and solicit proxies, Section 14(a) would then apply and compel the disclosure identified in Item 407(i). Section 12(g)-registered companies also can make the decision to solicit proxies and thus similarly will have to comply with Section 14(a), to the same extent Section 12(b)-registered companies. When Section 12 registrants that do not solicit proxies from any or all security holders are nevertheless authorized by security holders to take an action with respect to the election of directors, disclosure obligations also arise under proposed Item 407(i) due to the requirement to file and disseminate an information statement under Section 14(c).

As illustrated in Table 1, disclosure requirements will increase for all companies subject to the proposed amendments, although the extent of the increase may vary for different categories of registrants.

To establish the baseline practices for Section 12 companies subject to Item 402(b)(2)(xiii), we reviewed the disclosures of ''policies regarding hedging'' by named executive officers from two samples of exchange-listed companies. The first sample included all S&P 500 companies that filed proxy statements during the calendar year 2012, totaling 484 companies.[85] Our analysis revealed that disclosures are not uniform across companies. Out of the 484 proxy statements, 158 companies (33%) did not disclose hedging policies for named executive officers, six companies (1%) disclosed that the company did not have a policy regarding hedging by named executive officers, 284 companies (59%) disclosed that named executive officers were prohibited from hedging, and 36 companies (7%) disclosed that they permitted hedging by named executive officers under certain circumstances.

The second sample included 100 randomly selected companies from the 494 S&P Smallcap 600 index companies that filed proxy statements during the calendar year 2012. These companies are significantly smaller and less widely followed than S&P 500 companies, and, as a result, may have significantly different disclosure practices. These companies are all exchange-listed, and none are SRCs or EGCs. We found that 71 companies (71%) did not disclose hedging policies for named executive officers, four companies (4%) disclosed that the company did not have a policy regarding hedging by named executive officers, 23 companies (23%) disclosed that named executive officers were prohibited from hedging, and two companies (2%) disclosed that they permitted hedging by named executive officers under certain circumstances.

Our analysis of the two samples revealed that a significant percentage (34%) of S&P 500 companies, and an even larger percentage of the subset of S&P Smallcap 600 companies (75%) either did not make a disclosure or reported that they did not have a policy for named executive officers. This baseline analysis suggests that smaller companies will likely have a greater initial disclosure burden under the proposed amendments than larger companies.

As mentioned above, SRCs, EGCs, and listed closed-end funds are not required to make Item 402(b) disclosure and, consequently, are not currently required to disclose any policies regarding hedging by named executive officers. However, officers and directors at SRCs and EGCs with a class of equity securities registered under Section 12 are currently required to report their hedging transactions involving the companies' equity securities pursuant to Section 16(a), and officers and directors of registered closed-end funds are required to make similar reports by Section 30(h) of the Investment Company Act. Notwithstanding these reports, investors' ability to use reported insider hedging transactions, if any, to infer these companies' policies regarding hedging by officers and directors is imperfect at best. First, an investor must track all the accumulated insider trades reported to assess whether there is hedging. Disclosures of particular hedging transactions by officers and directors could indicate that the company permits that particular type of transaction, that the company has no hedging policy, or that a company policy was violated but the transaction was reported in accordance with current rules. The absence of reported hedging transactions could indicate that the company prohibits hedging, that the company permits hedging but the officers and directors do not engage in hedging transactions, or that officers and directors engage in hedging transactions but are not complying with Section 16(a) reporting requirements.

### *C. Discussion of Benefits and Costs, and Anticipated Effects on Efficiency, Competition and Capital Formation*

#### 1. Introduction

From an economic theory perspective, an executive officer's ownership in the employer company ties his or her financial wealth to shareholder wealth, and hence can provide the executive officer with an incentive to improve the company's performance, as measured by stock price.[86] Permitting executive officers to hedge can be perceived by shareholders as a problematic practice[87] because hedging can have the economic effect of taking a short position on the employer's stock, which is counter to the interests of other shareholders.

Alternatively, permitting executive officers to hedge, under certain circumstances, could align officers' and shareholders' preferences more closely and thereby promote more efficient corporate investment. Compared with well-diversified shareholders, executive officers are likely to be disproportionately invested in their company and thus inherently undiversified.[88] The concentrated financial exposure, together with executive officers' concerns about job security in the event of a stock price decline, could lead them to take on fewer risky projects (*i.e.,* projects with uncertain future cash flows) that are potentially value enhancing than would be in the interest of well-diversified shareholders, resulting in underinvestment.[89] This

[85] To be included in the S&P 500 index, the companies must be publicly listed on either the NYSE (NYSE Arca or NYSE MKT) or NASDAQ (NASDAQ Global Select Market, NASDAQ Select Market or the NASDAQ Capital Market). Because this index includes foreign companies, there were fewer than 500 proxy statements filed.

[86] The literature in economics and finance typically refers to a principal-agent model to describe the employment relationship between shareholders and executive officers (managers) at a company. The principal (shareholders) hires an agent (manager) to operate the company. However, because shareholders cannot perfectly observe managerial actions, this information asymmetry gives rise to a moral hazard problem: managers may act in their own self-interest and not always in the interest of shareholders. This potential misalignment of incentives is ameliorated when managers are also owners of the company, and thus must internalize the cost of any actions that harm shareholders or do not otherwise maximize the value of the company. See, *e.g.,* Jensen, M. C. and W. H. Meckling, 1976. ''Theory of The Firm: Managerial Behavior, Agency Costs and Ownership Structure'' Journal of Financial Economics 3: 305–360; Holmstrom, B., 1979. ''Moral Hazard and Observability'' Bell Journal of Economics 10: 324–340; Holmstrom, B. and Ricart I Costa, J., 1986 ''Managerial Incentives and Capital Management'', Quarterly Journal of Economics 101, 835–860.

[87] See, *e.g.,* Institutional Shareholder Services Inc., ''2013 Corporate Governance Policy Updates and Process: Executive Summary'', Nov. 16, 2012 at *http://www.issgovernance.com/file/files/2013ExecutiveSummary.pdf.*

[88] Meulbroek (2005) points out that employees may be even more undiversified than their equity holdings suggest: ''their continued employment and its relation to the fortunes of the firm, outstanding deferred compensation owed to the employee, and any firm specific human capital exacerbate employees' firm-specific risk exposure.'' See Meulbroek, L. 2005, ''Company Stock in Pension Plans: How Costly Is It?'' Journal of Law and Economics, vol. XLVIII: 443–474; Hall, B., and K. Murphy. 2002. ''Stock options for undiversified executives'' Journal of Accounting and Economics 33: 3–42. Moral hazard and adverse selection issues cause boards of directors to compel executive officers to maintain large personal investment in their companies. Executive officers may not be able to diversify this exposure because of explicit stock ownership guidelines for executives and directors, contractual restrictions on trading equity grants within the vesting periods, and retention plans that prohibit the sale of unrestricted stock for some time after vesting.

[89] This underinvestment concern has been studied in a long strand of academic literature. See *e.g.,* Rappaport, A. 1978, ''Executive Incentives vs. Corporate Growth'' Harvard Business Review 57: 81–88; Smith, C., and R. Stulz. 1985. ''The Determinants of Firms' Hedging Policies'', Journal of Financial and Quantitative Analysis 20: 391–405; Kaplan, R., 1982, ''Advanced Management Accounting'' Englewood Cliffs, N. J.: Prentice-Hall; and Lambert, R., 1986, ''Executive Effort and the

underinvestment concern can be addressed by providing downside price protection to executive officers' equity holdings, in case high-risk projects—that are in the interest of shareholders at the time of the investment decision—do not turn out to be successful and thereby cause a decline in the stock price.[90] One way to do so is to permit executive officers to seek downside price protection by hedging their equity holdings. However, the value of hedging to address potential underinvestment depends on the availability and cost-effectiveness of other solutions to the underinvestment concern.[91]

The theories of equity incentives described above for executive officers may also apply to critical employees (*e.g.,* key research scientists), because these individuals' actions and decisions can also impact company stock price. These theories can also apply to directors, who typically receive equity-based compensation to align their interests with those of the shareholders they represent. However, directors may have less incentive to hedge because their financial wealth is typically better diversified than executive officers', and is therefore less sensitive to company stock price. Nevertheless, directors' compensation, particularly in the form of equity compensation, grew significantly during the 2000s, contributing to a significant increase in directors' equity incentives.[92] The increased level of directors' equity incentives suggests that equity incentives could be playing an increasingly important role in influencing directors' actions on corporate decisions.

These theories of equity incentives may not apply to employees who do not participate in making and shaping key operating or strategic decisions that influence stock price. While some of these employees may also receive equity grants as part of the companies' broad-based equity plans, their equity ownership on average is much lower than that of executive officers. Equity ownership for these employees mainly serves the purpose of recruitment and job retention, and on an individual employee basis, is unlikely to have a notable impact on the company's equity market value.[93] In other words, for employees below the executive level who typically do not make decisions that influence stock price, information about their equity incentives and hedging of their equity holdings may be less relevant for investors.

Like operating companies, listed closed-end funds also confront a principal-agent relationship between shareholders and the fund's directors and employees, if any. The connection between managerial incentives and firm performance is, however, less direct in listed closed-end funds than it is in operating companies because almost all of these funds are externally managed by investment advisers.

Fund directors oversee the many service providers that will typically serve a listed closed-end fund, including the investment adviser. Holding equity shares in the fund can align directors' interests with those of the shareholders.[94] Some listed closed-end funds do require or encourage directors to hold fund shares.[95] The proposed disclosure thus would allow the shareholders of a listed closed-end fund whose shares, for example, are trading at a discount to know if the listed closed-end fund permits its directors to hedge the value of the fund's equity securities. The proposed disclosure would thereby show whether the fund's directors, like the fund's other shareholders, would receive that discounted price upon a sale of the shares without an offset from any hedging transactions.

In an operating company, shareholdings also affect the incentives of employees, including managers who are making the company's decisions. In contrast, almost all listed closed-end funds have few (if any) employees. Fund portfolios are almost always managed by portfolio managers who are employed by external investment advisers. Because listed closed-end fund shares are not redeemable and often trade at a discount to NAV, shareholders of those funds may place importance on the degree of incentive alignment between funds' key decision makers and shareholders when making voting decisions.[96]

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Selection of Risky Projects'' Rand Journal of Economics 17, 77–88.

[90] See Hemmer, T., O., Kim, and R. Verrecchia, 1999, ''Introducing Convexity into Optimal Compensation Contracts'' Journal of Accounting and Economics 28: 307–327.

[91] For example, requiring executive officers to hold stock options can also provide them with incentives to take on risky but value-enhancing investment projects. Such risk-taking incentives depend on option moneyness: the incentives are the strongest when options are near the money, but quickly diminish when options go deep in the money. If a company experiences a sharp stock price increase, which causes executive officers' option holdings to become deep in-the-money, such holdings likely would not provide effective risk-taking incentives. In this situation, permitting executives to hedge may be a better solution to the underinvestment concern than for the company to grant new at-the-money options, because the latter may cause the company to overpay the executives. Hedging of corporate operations, as opposed to personal hedging by executive officers, could also increase the executives' incentives to take higher risk but value-enhancing corporate projects, but corporate hedging can be costly. *See* Smith C. and R. Stulz, 1985, ''The Determinants of Firms' Hedging Policies'' Journal of Financial and Quantitative Analysis 20(4): 392–405).

[92] For S&P 1500 companies, median total compensation per outside director rose from $57,514 in 1998 to $112,745 in 2004 (a 51% increase), far greater than the rate of increase of 24% in CEO compensation over the same period. The proportion of director pay provided by equity increased from around 45% in 1998 to over 60% in 2004. Yermack (2004) show that, in Fortune 500 companies, some directors near the top of the distribution receive very significant equity awards that can provide ex-post performance rewards exceeding those of some CEOs. Altogether, equity holdings, turnover, and opportunities to obtain new board seats provide outside directors serving in their fifth year with wealth increases of approximately 11 cents per $1,000 rise in firm value. Although typically smaller than incentives for CEOs, director incentives can be significant given that many directors serve on multiple boards. See Yermack, D. 2004, ''Remuneration, Retention, and Reputation Incentives for Outside Directors'', The Journal of Finance LIX: 2281–2308; Farrell K., G. Friesen, and P. Hersch, 2008, ''How Do Firms Adjust Director Compensation?'', Journal of Corporate Finance 14: 153–162; J. Linck, J. Netter, and T. Yang, 2009, ''The Effects and Unintended Consequences of the Sarbanes-Oxley Act on the Supply and Demand for Directors'', The Review of Financial Studies 22: 3287–3328; and Fedaseyeu V., J. Linck, and H. Wagner, 2014, ''The Determinants of Director Compensation'' Bocconi University and Southern Methodist University working paper (available at *http://papers.ssrn.com/sol3/papers.cfm?abstract_id*= 2335584). Note that these studies used samples prior to 2011; however, we have no reason to believe that director incentives and compensation have declined significantly in more recent years.

[93] See Oyer, P. 2002, ''Stock Options—It's Not Just About Motivation'', Stanford Institute for Economic Policy Research (available at *http://web.stanford.edu/group/siepr/cgi-bin/siepr/?q=system/files/shared/pubs/papers/briefs/policybrief_oct02.pdf*); Oyer, P. and S. Schaefer, 2005, ''Why Do Some Firms Give Stock Options to All Employees?: An Empirical Examination of Alternative Theories'', Journal of Financial Economics 76 (1): 99–133.

[94] We have previously published the Commission staff's view that ''[f]und directors who own shares in the funds that they oversee have a clear economic incentive to protect the interests of fund shareholders,'' and that fund policies that encourage or require independent directors to invest the compensation that they receive from the funds in shares of the funds ''gives the independent directors a direct and tangible stake in the financial performance of the funds that they oversee, and can help more closely align the interests of independent directors and fund shareholders.'' *See* Interpretive Matters Concerning Independent Directors of Investment Companies, Investment Company Act Release No. 24083 (Oct. 14, 1999).

[95] Zhao (2007) studies 316 closed-end funds in 2002. She finds that 200, or 62.3%, report positive director ownership. The average (median) director ownership is at $105,493 ($30,001). See Zhao, L., 2007, ''Director Ownership and Fund Value: Evidence from Open-End and Closed-End Funds'', Columbia University working paper (available at *http://papers.ssrn.com/sol3/papers.cfm?abstract_id=963047*).

[96] See Wu, Y., R. Wermers, and J. Zechner, 2013, ''Managerial Rents vs. Shareholder Value in Delegated Portfolio Management: The Case of Closed-End Funds'' working paper. Available at *http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2179125&download=yes.*

The proposed amendments apply only to employees and directors of the fund itself, however. As a result, these amendments would not directly affect outside portfolio managers' asset choices. However, fund directors may influence the investment adviser's management of the fund's portfolio indirectly, through the directors' oversight of the investment adviser, which is responsible for managing the fund's portfolio consistent with the fund's disclosed strategy and investment objectives.

In summary, information on the company's policies regarding hedging by employees and directors may help investors better understand the employees' and directors' incentives in creating shareholder wealth. For example, in operating companies, because executive officers' and directors' reported equity holdings in proxy statements may not reflect their actual economic exposure to the company's performance, there may in certain cases exist an information asymmetry between insiders and other investors regarding the executive officers' and directors' equity incentives. The mandated disclosures can help mitigate this information asymmetry.

2. New Disclosure Requirements Across Covered Companies

Before considering the economic effects from proposed Item 407(i), we first discuss the new disclosures that would be required for different covered companies, and the new information from these disclosures. The potential economic effects would likely vary across companies depending on the nature and amount of new information from the disclosures, the degree of investment opportunities available to the company, and the likelihood that employees and directors engage in hedging transactions (discussed in detail later).

Section 12 registrants, with the exception of SRCs, EGCs, and registered investment companies (which include listed closed-end funds), are currently required under Item 402(b) to disclose their hedging policies for named executive officers, if material. Companies are not otherwise currently required to provide information about whether they have a policy on hedging. They may not be providing such disclosures, possibly because their hedging policies are not material, or because they do not have a policy. Table 2 divides covered companies, which includes both operating companies and listed closed-end funds, into four categories. The first three categories include operating companies. The last category includes listed closed-end funds.

TABLE 2—FOUR CATEGORIES OF COVERED COMPANIES

| Section 12 Companies Subject to the Proposed Amendments |
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| (1) Companies that are subject to Item 402(b) and make disclosures for named executive officers. |
| (2) Companies that are subject to Item 402(b) but make no disclosures. |
| (3) SRCs and EGCs that are not currently required to make Item 402(b) disclosures but must disclose under Item 407(i). |
| (4) Listed closed-end funds that are not currently required to make Item 402(b) disclosures but must disclose under Item 407(i). |

Category 1 refers to the subset of companies subject to Item 402(b) that currently provide disclosure about hedging policies for named executive officers. These companies may be unlikely to change such policies as a result of the proposed amendments. For these companies, the new disclosures required under proposed Item 407(i) are whether employees (other than named executive officers) and directors are permitted to hedge.

Category 2 refers to companies subject to Item 402(b) that do not currently disclose information about whether hedging by their named executive officers is permitted.[97] New disclosures under the proposed amendments would confirm for shareholders whether hedging is permitted. Given that shareholders are likely to view a policy prohibiting hedging by named executive officers as shareholder friendly,[98] the requirement to disclose may prompt some of these companies to adopt new policies or change their current policies or practices. In light of the required say-on-pay vote on executive compensation, we believe that companies prohibiting hedging by named executive officers would already have an incentive to disclose such a policy. Some shareholders may believe it is reasonable to infer that a company that is subject to Item 402(b) but does not disclose a hedging policy in effect may permit named executive officers to hedge. As a result, because shareholders either know through affirmative disclosure under Item 402(b)(2)(xiii) or may believe it is reasonable to infer from the absence of disclosure that named executive officers are permitted to hedge, the proposed amendments may not have much effect in reducing uncertainty as it relates to named executive officers. For Section 12 registrants other than SRCs, EGCs and listed closed-end funds, the new information provided by disclosures under the proposed amendments relates primarily to whether employees (other than named executive officers) and directors are permitted to hedge.

Category 3 refers to SRCs and EGCs, which are currently exempt from Item 402(b). The new information available to investors under proposed Item 407(i) would require disclosure, for the first time, about whether employees (including named executive officers) and directors are permitted to hedge.

Category 4 refers to listed closed-end funds. Since these funds are not currently subject to Item 402(b), the new information that would be available to shareholders is comparable in type to that of SRCs and EGCs. However, the new information about listed closed-end funds may in fact be less substantial than that of SRCs and EGCs for most funds because almost all listed closed-end funds are externally managed, as discussed above. Only a small number of internally-managed listed closed-end funds have employees, which include funds' portfolio managers.

[97] For example, as discussed above, we collected data on the baseline practice of some Section 12(b) registrants other than SRCs and EGCs. The proxy statements filed during calendar year 2012 indicated that most of the S&P 500 companies disclosed their hedging policies for named executive officers: 59% of companies prohibited hedging, while 7% permitted hedging. The rest either made no disclosure of hedging policy (33% of companies) or disclosed that they did not have a policy regarding hedging by named executive officers (1% of companies); we include such companies in category 2. The incidence of no disclosure tended to be higher among smaller companies.

[98] See, *e.g.,* Institutional Shareholder Services Inc., ''2013 Corporate Governance Policy Updates and Process: Executive Summary'', Nov. 16, 2012 at *http://www.issgovernance.com/file/files/2013ExecutiveSummary.pdf* (''Stock-based compensation or open market purchases of company stock are intended to align executives' or directors' interests with those of shareholders. Therefore, hedging of company stock through covered call, collar, or other derivative transactions severs the ultimate alignment with shareholders' interests. Any amount hedged will be considered a problematic practice warranting a negative voting recommendation on the election of directors.'').

3. Benefits and Costs

Investors can benefit from the disclosures under the proposed amendments in the following ways.[99] First, as discussed above, officers', directors', and non-officer critical employees' equity incentives tend to align their interests with those of the shareholders. Under the proposed amendments, investors would benefit from new disclosures that provide more clarity and transparency about these incentives, thereby reducing the information asymmetry between corporate insiders and shareholders regarding such incentives. Better information about equity incentives could be useful for investors' evaluation of companies, enabling investors to make more informed investment and voting decisions, thereby encouraging more efficient capital allocation decisions.

Second, the proposed amendments may reduce the costs for investors in researching and analyzing equity-based incentives. Knowledge that employees and directors are not permitted to hedge could confirm for investors that the reported equity holdings of officers and directors in proxy statements and annual reports on Form 10–K represent their actual incentives.[100] While Section 16(a) reports provide transaction-level information on officer and director hedging activity, Forms 3, 4, and 5 may be costly to search; investors also may incur costs in analyzing whether a reported transaction is indeed a hedge. Moreover, hedging activity disclosed on a Form 3, 4, or 5 does not indicate whether a transaction was conducted in accordance with the company's hedging policy, and therefore may lead to improper inferences about the company's hedging policy.

Third, the proposed amendments could also benefit investors if the public nature of the required disclosures results in changes in hedging policies that improve incentive alignment between shareholders and executive officers or directors.[101] Companies that currently already disclose whether named executive officers are permitted to hedge may be unlikely to substantially change their policies as a result of the proposed amendments. However, this could be different for companies that do not currently make disclosures on hedging policies for all employees or directors.[102] Without disclosed hedging policies, these companies may in fact implicitly permit hedging. However, permitting hedging may not necessarily promote efficient investment decisions. Employees and directors often demand a premium for receiving equity compensation in lieu of cash. However, through hedging they may be able to convert the value of that premium into cash. This causes the company to overpay relative to its opportunity cost.[103] If, in light of the disclosure requirement under Item 407(i), the company later chooses to prohibit hedging, this change could increase shareholder wealth to the extent that the change better aligns incentives and hence induces officers and directors to make corporate decisions that are more beneficial to all shareholders. However, to the extent that changes in hedging policies reduce incentive alignment between shareholders and officers or directors, and results in underinvesting in potentially value-enhancing projects, the opposite effect could result.

The benefits discussed above are relevant for investors of all companies affected by proposed Item 407(i), including listed closed-end funds.[104] Among operating companies (the first three categories in Table 2), the new information elicited from the required disclosures increases, so we expect the benefits from the new disclosures also to increase similarly. Further, we expect the potential benefits to be higher for EGCs and SRCs (category 3) than for non-EGCs and non-SRCs (categories 1 and 2), because EGCs and SRCs potentially face greater risk of a stock price decline than non-EGCs and non-SRCs. EGCs are typically younger firms with high growth options but fewer financial resources and are more likely to face financial distress since firm age is among the most important determinants of probability of failure.[105] Because employees and directors of EGCs and SRCs potentially face greater downside price risk than those of non-EGCs and non-SRCs, the former have likely stronger incentives to hedge, thus making information about permissible hedging activities more relevant for shareholders of these companies.[106]

The benefits to investors also depend on the likelihood that officers and directors engage in hedging transactions. Officers and directors can hedge by, for example, entering into exchange-traded or over-the-counter derivative contracts. In either case, however, when the underlying stock is illiquid, the price of the derivatives contracts likely reflects the higher risk and cost that would be required to dynamically replicate the exposure of the derivatives contracts by trading in the underlying stock. As a result, it is likely more costly to hedge the risk of more illiquid stock. Though undiversified officers and directors have strong incentives to diversify (*e.g.,* through hedging), they may not engage in hedging transactions if the cost is too high. In companies whose officers and directors are less likely to hedge due to high hedging cost, the potential benefits to investors from the required disclosures under the proposed amendments might be more limited. In the first three categories of companies, each category includes both exchange-listed and non-exchange-listed

[99] Our discussion focuses on officers and non-officer critical employees, not on employees who do not participate in making and shaping key operating or strategic decisions that influence stock price. As discussed earlier, information about these other employees' equity incentives and hedging of their equity holdings is less relevant for investors.

[100] Between 1996 and 2006, in firms where insiders hedged their equity ownership, insiders on average used collars, forwards or swaps to cover about 30% of their ownership and placed about 9% of their ownership into the exchange funds. See Bettis, C., J. Bizjak, and S. Kalpathy, 2013, ''Why Do Insiders Hedge Their Ownership? An Empirical Examination'' working paper (available at *http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1364810*). There is limited research on hedging transactions by corporate insiders. Hedging transactions studied in this paper included those by 10% owners. In addition, the sample period was 1996–2006, and thus the findings may not reflect the current situation.

[101] Alternatively, as discussed later, if the change in hedging policies reduces incentive alignment, such change can reduce shareholder wealth.

[102] Such companies include any company that currently does not disclose a hedging policy for any category of employees (including named executive officers) and directors, so could fall under any of the last three categories of companies in Table 2.

[103] See Larcker D. and B. Tayan, 2010,''Pledge (and Hedge) Allegiance to the Company'', Stanford Closer Look Series, available at *http://ssrn.com/abstract=1690746.*

[104] Because listed closed-end funds exhibit salient differences in organizational structure, and hence incentive compensation mechanisms, from operating companies, we do not compare the economic effects of the proposed amendments between listed closed-end funds and operating companies.

[105] See Lane, S., Schary, M.,1991,''Understanding the Business Failure Rate'', Contemporary Economic Policy 9: 93–105; Kapadia, N. 2011. ''Tracking Down Distress Risk,'' Journal of Financial Economics 102: 167–182

[106] Though no study to our knowledge directly examines whether insiders of smaller firms tend to hedge more, indirect evidence suggests that this is likely the case. For example, Bettis et al. (2001) find a total of 87 zero-cost collar transactions by searching Forms 3, 4 and 5 filed between January 1996 and December 1998. Firms in this sample have total assets with a mean (median) value of $3.4 billion ($401 million). These firms are much smaller than S&P 500 companies over the same time period, whose total assets have mean (median) of $16.15 billion ($3.84 billion) based on our calculation. This comparison indicates that hedging by zero-cost collars is disproportionally more frequent in smaller firms. See Bettis, J., J. Bizjak, and M. Lemmon. 2001. ''Managerial Ownership, Incentive Contracting, and the Use of Zero-cost Collars and Equity Swaps by Corporate Insiders'' Journal of Financial and Quantitative Analysis 36 (3): 345–370.

companies. Since stocks of exchange-listed companies are typically more liquid than stocks of non-exchange-listed companies, the potential benefits of the new disclosure to investors of non-exchange-listed companies may be lower than for exchange-listed ones. It is possible that stocks of smaller companies are less liquid, and hence these companies may be subject to the same effect.

The expected potential benefits from proposed Item 407(i) would not be achieved without costs. All covered companies would incur costs to comply with the proposed amendments. Such costs include both disclosure costs, which stem directly from complying with the proposed amendments, and potential costs incurred to implement, administer, or revise a hedging policy.

We first focus on disclosure costs, which should increase with the amount of new disclosures required under proposed Item 407(i). As discussed above, for operating companies (*i.e.,* the three first categories in Table 2), the new required disclosures are higher in categories 2 and 3 than in category 1, so disclosure costs should also be higher in categories 2 and 3. Specifically, category 1 companies would incur costs to determine whether employees (other than named executive officers) and directors are permitted to engage in hedging transactions, and incur costs to provide the required disclosure.

Category 2 companies are subject to Item 402(b) but do not currently disclose any information about whether hedging by their named executive officers is permitted. To the extent that these companies permit hedging and that required disclosures under the proposed amendments do not change this practice, this category of companies would incur small additional costs to disclose their hedging policies for named executive officers. If these companies instead decide to prohibit hedging by named executive officers, they would incur a small additional cost to disclose the revised hedging policies, but they could incur other costs that could be more significant, which we discuss separately below. Similar to category 1, these companies would also incur costs to determine and disclose whether directors and employees other than named executive officers are permitted to hedge.

Category 3 companies, *i.e.,* SRCs and EGCs, are not currently subject to Item 402(b). They may be less likely than companies subject to Item 402(b) to have policies, or to have articulated their practices, on whether hedging is permitted for employees (including named executive officers) and directors. Some SRCs and EGCs may incur costs in formulating policies for the first time, which will likely involve obtaining the advice of legal counsel and may also involve retaining compensation consultants. These companies would also incur costs in presenting the required disclosures in proxy or information statements.

In Category 4, listed closed-end funds, similar to SRCs and EGCs, would incur costs to disclose, and possibly to formulate, policies regarding hedging by employees and directors. As noted above, the vast majority of listed closed-end funds is externally-managed and thus would incur costs to disclose whether hedging by employees (if any) and directors is permitted. The limited number of listed closed-end funds that are internally managed also would incur costs to disclose if employees and directors are permitted to hedge with the difference, relative to externally-managed listed closed-end funds, that these funds will have portfolio managers and others as employees.

We expect the above disclosure costs to be minimal for these four categories of companies. A component of these costs (especially initial costs) may be fixed, which may have a greater impact on the smaller companies in category 3. While we cannot quantify these disclosure costs with precision, many of the costs reflect the burden associated with collection and reporting of information that we estimate for purposes of the Paperwork Reduction Act (''PRA''). For purposes of the PRA, we estimate the total annual increase in paperwork burden for all covered companies to be approximately 19,283 hours of in-house personnel time and approximately $2,571,200 for the services of outside professionals.[107]

These disclosure costs, however, do not include costs incurred to implement, administer, or revise a hedging policy. For example, under the proposed amendments, a company that prohibits hedging by directors may incur additional costs to implement this policy, *e.g.,* by analyzing whether transactions by a director have the effect of hedging.[108] If a company revises its hedging policy as a result of the proposed amendments, additional costs may also arise. Such costs could involve obtaining the advice of compensation consultants and legal counsel.

Perhaps most importantly, disclosing whether employees and directors are permitted to hedge might lead to changes in hedging policies that reduce incentive alignment between shareholders and officers or directors, if the current compensation arrangement is already in shareholders' interest. Specifically, a company may currently permit hedging by executive officers to promote efficient investments in risky projects. As discussed above, companies in category 1 currently disclose hedging policy for named executive officers, and may be unlikely to substantially change their policies under proposed Item 407(i). However, companies in categories 2 and 3, which do not disclose their hedging policies for named executive officers, may currently permit hedging by named executive officers but could switch to prohibiting hedging as a result of public disclosure under proposed Item 407(i). Such a change in policy, in certain instances, could limit executives' ability to arrive at optimal levels of economic exposure to the company—*i.e.,* one that leads executives to undertake the optimal level of risk in corporate investment decisions for the company's shareholders.[109] To the extent that compensation incentives materially affect a firm's value, such changes could result in a reduction in shareholder wealth.

We expect this cost from distorted investment incentives to be greater for companies in categories 2 and 3 than those in 1, as the latter may be unlikely to substantially change their hedging policies. However, between categories 2 and 3, it is not clear whether category 3 (EGCs and SRCs) would incur a higher cost than category 2. On one hand, EGCs and SRCs likely have higher growth options than non-EGCs and non-SRCs. Since the use of equity incentives to induce officers and directors to make proper corporate investment decisions is more important for companies with higher growth options, the cost from distorting investment incentives could be higher for EGCs and SRCs. On the other hand, as discussed above, such cost is limited by the availability of other cost-effective solutions to the underinvestment concern, *e.g.,* requiring an officer to hold stock options. Without adequate data, it is difficult to determine whether and when hedging would be more prevalent than stock options in providing incentives for officers at EGCs and SRCs as compared to non-EGCs and non-SRCs. Evidence

[107] See Section V of the release.

[108] Such costs are only incremental to the extent that the company does not already have procedures in place to administer and make such determination for named executive officers.

[109] As discussed above, hedging by officers and directors is one of the solutions to the underinvestment concern, and the significance of such a problem depends on the availability and cost-effectiveness of other solutions.

from academic studies shows that reported hedging transactions by officers and directors are infrequent; however, officers' option holdings are much more prevalent, and the magnitude of CEO options holdings is greater in higher-growth firms to provide risk-taking incentives.[110] Taken together, it is not clear whether costs to EGCs and SRCs are higher than to companies in category 2.

The extent of the cost resulting from distorted investment incentives not only depends on a company' growth opportunities, but also depends on the likelihood that officers and directors engage in hedging transactions. As discussed above, we expect officers and directors are less likely to hedge when the equity security is more illiquid, because hedging cost is higher. As a result, in these companies, hedging by officers and directors is less likely to be used as a way to address the underinvestment concern in the first place. Thus, the cost to these companies from prohibiting hedging when it would otherwise be economically beneficial would also likely to be more limited. In company categories 1, 2, and 3, each category includes both exchange-listed and non-exchange-listed companies; we expect such cost to be lower for non-exchange-listed companies than exchange-listed companies, because equity securities of the former typically are more liquid than equity securities of non-exchange-listed companies. Finally, to the extent that equity securities of smaller companies are less liquid, these companies may be subject to the same effect.

The effects resulting from distorted incentives are likely to be different between externally-managed listed closed-end funds and internally-managed listed closed-end funds. As discussed above, portfolio managers for these externally managed funds are employees of the funds' investment advisers and thus are not covered by proposed Item 407(i). Policies on whether portfolio managers are permitted to hedge, if any, therefore are unlikely to change as a result of listed closed-end funds complying with proposed Item 407(i). Since these portfolio managers directly make investment decisions, their incentives to make portfolio selections are unlikely to be changed by the proposed amendments. Directors of listed closed-end funds are covered by proposed 407(i), however, and so directors' equity incentives could be affected. To the extent that directors do not influence portfolio managers' investment decisions, we do not expect listed closed-end funds to incur any cost from possible distortion of director incentives by the required disclosure under Item 407(i). However, directors oversee the fund's investment adviser (and other service providers), which employs the portfolio managers for the funds. If directors exert some influence over portfolio managers' investment decisions through their oversight of the investment adviser, closed-end funds may incur cost from distorted director incentives. Out of all listed closed-end funds, we estimate only 4 are internally managed, so their portfolio managers are covered by proposed 407(i). These four closed-end funds may incur cost resulting from distortion to both portfolio managers' and directors' incentives by the required disclosure under Item 407(i).

A revision in hedging policy also could impose costs on employees and directors. For example, if the company currently allows hedging for named executive officers but decides to prohibit all hedging transactions as a result of the new proposed disclosure requirements, named executive officers may incur costs stemming from the loss of their ability to hedge their current and future equity compensation awards or holdings.[111]

These costs incurred to implement a hedging policy or to revise a hedging policy are difficult to quantify. For example, in the absence of data on a company's investment opportunities, the magnitude of the inefficiency in choosing investment projects as a result of a change in hedging policy is difficult to estimate.

The proposed amendments would also require Item 407(i) disclosure in Schedule 14C, in addition to Schedule 14A. This would extend the disclosure requirements and potential benefits described above to the Section 12(g) companies that do not file proxy statements with respect to the election of directors, thereby facilitating better understanding of companies' corporate governance policies and practices, without regard to whether proxies or consents are solicited or otherwise obtained for such an action. At the same time, requiring the disclosure specified in proposed Item 407(i) to be included in information statements on Schedule 14C would impose costs on companies that file Schedule 14C. However, consistency of the disclosure requirements applicable to both Schedules 14A and 14C in the context of an action with respect to the election of directors would facilitate better understanding of how companies address hedging, without regard to whether proxies or consents are solicited or otherwise obtained in connection with such action.

The proposed amendment to Item 402(b) would add an instruction providing that a company may satisfy its CD&A obligation to disclose any material policies on hedging by named executive officers under that requirement by cross referencing to the information disclosed pursuant to proposed Item 407(i) to the extent that the information disclosed there would satisfy this CD&A disclosure requirement. This approach would reduce potentially duplicative disclosure in complying with the existing CD&A requirements under Item 402(b) and the proposed requirements of Item 407(i), thereby reducing issuers' cost of compliance. Locating all the responsive disclosure in one place also would make it easier for investors to find it.

4. Anticipated Effects on Efficiency, Competition, and Capital Formation

As discussed above, the proposed amendments may improve capital

[110] See Guay, W., 1999, ''The Sensitivity of CEO Wealth to Equity Risk: An Analysis of the Magnitude and Determinants'', Journal of Financial Economics 53, 43–71.

[111] Such loss does not necessarily need to be compensated through other forms of compensation. Consider the following three alternative scenarios. First, under efficient contracting where hedging by officers promotes efficient investment decisions, officers are paid their opportunity wage to the extent that their labor market is competitive. If hedging is later prohibited as a result of public disclosure under the proposed amendments, these companies would resort to other, possibly more costly, compensation mechanisms to promote efficient investment decisions. While this change represents a cost to the company, officers still would receive their opportunity wage, so they are not better or worse off than before. Note that the dollar amount of the compensation may vary due to a potential change in riskiness of compensation. Prohibiting hedging may affect the riskiness of officers' compensation, but the riskiness also depends on the use of new types of compensation mechanism to promote efficient investments decisions, so the direction of the net change is not clear. The change in the dollar amount of compensation, if any, reflects the change in the riskiness of the compensation, and is not a compensation for a loss in hedging opportunity. Second, if the labor market is not competitive, officers may be paid above their opportunity wage. If hedging is used to promote efficient investment decisions, prohibiting it as a result of public disclosure under the proposed amendments may shift the balance of power between the board and officers. While the loss of hedging opportunity is a cost to the officers, they may not be compensated for it as long as their compensation is still above their opportunity wage. Third, if hedging by officers is not in shareholders' interests, a change from permitting to prohibiting hedging better aligns incentives. Officers may incur a cost from the loss of ability to hedge, but such cost merely represents the loss in the rents extracted by officers, and the officers should not be compensated for it.

allocation efficiency by enabling investors to make more informed voting decisions. The disclosure costs incurred by Section 12 registrants to comply with the proposed amendments would be minimal, and hence unlikely to put any company at a competitive disadvantage. However, as discussed above, additional costs could arise if companies revise their hedging policies from permitting hedging to prohibiting hedging by officers and directors. Such a change could aggravate the underinvestment concern and result in shareholder wealth reduction. However, such costs would be limited by the availability and cost-effectiveness of other means to promote investments in high risk but value-enhancing projects.[112] The proposed amendments are unlikely to have a notable impact on the competition either among U.S. companies or between U.S. companies and FPIs. We also do not expect the proposed amendments to affect the attractiveness of employment opportunities at the company to employees and directors, and hence impact the competitiveness of the labor market of employees and directors. The proposed amendments would impose new costs on companies seeking to become public, but such costs, taken alone, are unlikely to be a significant hurdle to companies seeking to become public.

*D. Alternatives*

1. Changing the Scope of Disclosure Obligations

The proposed amendments would extend reporting requirements to information statements on Schedule 14C. This extension primarily affects those Section 12(g) registrants that do not file proxy statements given that Section 12(b) registrants are generally required to solicit proxies. We have considered alternatives to this extension. One alternative would be to require proposed Item 407(i) disclosure in proxy statements only, *i.e.,* not in information statements. This would reduce the disclosure burden on companies that do not solicit proxies from any or all security holders but are otherwise authorized by security holders to take an action with respect to the election of directors. However, providing Item 407(i) disclosure in information statements provides consistency in disclosures in proxy statements and information statements, so that the disclosure could be made to all shareholders when a company does not solicit proxies from any or all security holders but are otherwise authorized by security holders to take a corporate action with respect to the election of directors. Excluding the Item 407(i) disclosure from information statements, as under this alternative, would reduce such benefits.

We also considered extending the proposed disclosure requirement to Form 10–K filings of Section 12 companies in order to impose consistent disclosure obligations upon all registrants with a class of securities registered under Section 12. This extension would have increased the proposed disclosure obligations especially for Section 12(g) companies that did not solicit proxies as they then would be required to provide the required disclosure in annual Form 10–K filings. Moreover, extending the disclosure requirement to all Section 12(g) companies may provide limited benefits to shareholders, as non-exchange listed companies can have infrequently traded stock, making it more costly and thus less likely that employees and directors would pursue hedging opportunities.

2. Issuers Subject to the Proposed Amendments

The proposed amendments apply to all Section 12 registrants, including EGCs, SRCs, and listed closed-end funds. We have considered the following alternatives about the scope of the proposed amendments.

The first alternative would be to either exempt or delay the application of the proposed amendments to EGCs and SRCs. Doing so would reduce costs for these entities, but the potential benefits would be eliminated or delayed as well. As discussed above, we expect the potential benefits from the required disclosures under proposed Item 407(i) to be higher for shareholders of EGCs and SRCs (*i.e.,* category 3 in Table 2) than for shareholders of other operating companies (*i.e.,* categories 1 and 2). While EGCs and SRCs likely also incur a higher cost from distorted incentives than companies in category 1, it is not clear whether such cost is higher than that for companies in category 2.

Not exempting EGCs and SRCs from the proposed amendment is also consistent with officers and directors at these companies not being exempt from the obligation under Exchange Act Section 16(a) to disclose hedging transactions involving derivative securities.

The second alternative is to include all funds, including mutual funds and ETFs, or a broader group of funds than listed closed-end funds, as proposed. Requiring all funds to provide the proposed disclosure would impose costs on the funds. The disclosure also could provide benefits, however, although the benefits to investors in funds other than listed closed-end funds may not be as significant where fund shares do not trade on an exchange. As discussed above, exchange-listed fund shares likely are more liquid than non-exchange-listed fund shares. Due to increased cost to hedge less liquid shares, directors and employees of non-exchange-listed funds may be less likely to engage in hedging transactions than those at exchange-listed funds.[113]

Further, the benefits that would result from applying the proposed amendments to ETFs are likely lower than the benefits from applying the proposed amendments to listed closed-end funds as proposed. Employees (if any) and directors of ETFs may not have as strong an incentive to hedge their personal fund shareholdings as those at listed closed-end funds. First, listed closed-end funds likely are more volatile than ETFs. While the shares of many ETFs often trade on the secondary market at prices close to NAV of the shares, one study finds that closed-end funds' monthly return on average is 64% more volatile than that of the underlying NAV.[114] The difference in volatility between ETF and closed-end fund returns is not driven by the difference in NAV between the two types of funds, and the listed closed-end funds' ''excess'' volatility is largely idiosyncratic, and cannot be explained by market risk or risks that affect other closed-end funds.[115] Employees and directors of listed closed-end funds may therefore have more incentive to hedge their fund shareholdings due to the ''excess'' volatility. Second, the non-redeemability of listed closed-end fund shares allows the funds to take more illiquid positions, or positions that may not be possible to sell quickly and at short notice without incurring a substantial loss in value. Due to the potentially heightened liquidity risk in the funds' portfolios, fund directors and employees may prefer not to expose their personal portfolios to the volatility resulting from liquidity risk and thus may hedge their personal fund share holdings. To the extent that listed

[112] See footnote 91.

[113] The scope for hedging may be even more limited for mutual funds, as investors purchase mutual fund shares from or sell them to the fund daily at NAV.

[114] See Pontiff, J., 1997, ''Excess Volatility and Closed-End Funds'' American Economic Review 87 (1): 155–169. Day et al. (2011) find similar evidence in a much more recent sample. See Day T., G. Li, and Y. Xu, 2011, ''Dividend Distributions and Closed-end Fund Discounts'' Journal of Financial Economics 100: 579–593.

[115] Id.

closed-end funds have greater ability than ETFs to invest in illiquid assets, it is possible that employees and directors of listed closed-end funds would have more incentives to hedge their personal holdings.

Another alternative is not to require any funds to provide the proposed disclosure. Doing so would not impose costs related to the proposed rule on the funds. However, fund investors, including investors in listed closed-end funds, also would not derive any benefits, including a better understanding of policies that may affect incentives provided by fund shareholdings of employees and directors.

*E. Request for Comments*

1. We request information including data that would help quantify the costs and the value of the benefits of the proposed amendments described above. We seek estimates of these costs and benefits, as well as any costs and benefits not already defined, that may result from the adoption of the proposed amendment. We also request qualitative feedback on the nature of the benefits and costs described above and any benefits and costs we may have overlooked.

2. We are interested in any studies or analysis on the number and characteristics of companies that have made disclosures of their ''policies regarding hedging'' under the existing requirement of Item 402(b)(2)(xiii) or otherwise. In particular, among the companies subject to the reporting requirement of Item 402(b)(2)(xiii), how many have hedging policies that they do not disclose because they do not deem them material? Among companies that disclose hedging policies, what are the types of the ''policies'' disclosed?

3. Among companies currently subject to Item 402(b), some make no disclosure of a hedging policy for named executive officers. We believe that it may be reasonable to construe the absence of a disclosure of hedging policy to mean that the company does not prevent named executive officers from hedging. Is there evidence to the contrary? Are we correct in thinking that investors may draw the same inference?

4. To our knowledge, hedging transactions typically involve derivative contracts, and fixed price derivative contracts are subject to reporting under Section 16(a). Are there any types of hedging transactions that are not currently subject to reporting by officers and directors under Section 16(a)? If yes, please provide details.

5. Would the proposed disclosure increase the transparency to investors about the incentives provided by employees' and directors' equity holdings? Are there alternative ways to make the disclosures that would be more useful to investors in evaluating employees' and directors' incentive alignment with shareholders while still satisfying the mandate of Section 14(j)?

6. What impact would the proposed amendments have on the incentives of employees and directors? Would the proposed amendments likely change the behavior of issuers, investors, or other market participants?

7. Would the proposed disclosure requirements be likely to cause companies to change their policies on whether hedging is permitted for employees and directors? Why and how? If so, what costs would be incurred? What effect, if any, may the proxy voting policies of institutional investors and proxy advisory firms have on a company's decision to change its policy? Have institutional investors and proxy advisory firms already established hedging policy positions that have been guiding voting decisions and vote recommendations? Have institutional investors and proxy advisory firm recommendations regarding such policies encouraged companies to provide transparency into hedging transactions that are permitted at the companies? How would the transparency into hedging transactions as a result of this disclosure impact investor communication with companies about such policies? What effect will this proposed disclosure requirement have on voting decisions? Would the proposed disclosure requirements be likely to cause companies to change their compensation policies for employees (including officers) or directors? Why or why not, and if so, how?

8. If a company revises its hedging policy, would this revision influence other corporate decisions, for example, by encouraging or discouraging more risky but value-enhancing corporate investments? Please explain and provide data.

9. Relative to other operating companies, would the proposed amendments have differential economic effects on EGCs and SRCs that we do not currently discuss in the release? If so, what are these differential economic effects? Would the impact of the proxy voting policies of institutional investors and proxy advisory firms, if any, be different for EGCs and SRCs than for other operating companies? In the absence of disclosure of hedging policies by EGCs and SRCs, to what extent have hedging policy positions of institutional investors and proxy advisory firms already been guiding voting decisions and vote recommendations for EGCs and SRCs?

10. Are the costs and benefits of disclosing information about whether non-officer employees are permitted or prohibited to hedge different from the costs and benefits of disclosing information about officers and directors? If so, should the rule be modified to take those differences into account?

11. What impact would the proposed amendments have on competition? Would the proposed amendments put registrants subject to the new disclosure requirements, or particular types of registrants subject to the new disclosure requirements, at a competitive advantage or disadvantage?

12. What impact would the proposed amendments have on efficiency? Have we overlooked any positive or negative effects on efficiency?

13. What impact would the proposed amendments have on capital formation? Would there be any positive or negative effects on capital formation that we may have overlooked?

14. Are listed closed-end funds subject to an incentive alignment concern due to shareholders' inability to redeem their shares from the fund (or often to sell them in secondary transactions at or close to the funds' NAV per share) that would relate to hedging considerations? What are the characteristics of listed closed-end funds' incentive structure with respect to employees and directors that would inform this consideration?

15. We note above that shares of listed closed-end funds are not redeemable, and they may trade at a discount to NAV. Will this create heightened incentives for these funds' employees and directors to hedge personal holdings in listed closed-end funds as compared to employees and directors of other types of funds? Are there features of ETFs that would make the disclosures under the proposed amendments particularly useful for their investors even though ETF shares often trade on the secondary market at prices close to NAV of the shares? Are there features of mutual funds or other types of funds that would make the disclosures under the proposed amendments particularly useful for their investors?

16. The potential cost to companies from distorting investment incentives as a result of required disclosures under proposed Item 407(i) is lower for companies with fewer investment choices. How, if at all, does the range of available investment choices for listed closed-end funds differ from that for operating companies?

## V. Paperwork Reduction Act

### *A. Background*

The proposed amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA''). We are submitting the proposed amendments to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[116] The titles for the collection of information are:

(1) ''Regulation 14A and Schedule 14A'' (OMB Control No. 3235–0059);

(2) ''Regulation 14C and Schedule 14C'' (OMB Control No. 3235–0057);

(3) ''Regulation S–K'' (OMB Control No. 3235–0071);[117] and

(4) ''Rule 20a–1 under the Investment Company Act of 1940, Solicitation of Proxies, Consents, and Authorizations'' (OMB Control No. 3235–0158).

Regulation S–K was adopted under the Securities Act and Exchange Act; Regulations 14A and 14C and the related schedules were adopted under the Exchange Act; and Rule 20a–1 was adopted under the Investment Company Act. The regulations and schedule set forth the disclosure requirements for proxy and information statements filed by companies to help investors make informed investment and voting decisions. The hours and costs associated with preparing, filing and sending the schedule constitute reporting and cost burdens imposed by each collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Compliance with the proposed amendment would be mandatory. Responses to the information collection would not be kept confidential, and there would be no mandatory retention period for the information disclosed.

### *B. Summary of the Proposed Amendments*

We are proposing to add new paragraph (i) to Item 407 of Regulation S–K that would implement Section 14(j) of the Exchange Act, as added by Section 955 of the Act. As discussed in more detail above, proposed Item 407(i) would require disclosure of whether employees and directors of the company, or their designees, are permitted to hedge or offset any decrease in the market value of equity securities that are granted to them by the company as part of their compensation, or that are held, directly or indirectly, by them. Pursuant to the proposed amendment to Item 7 of Schedule 14A, and for listed closed-end funds, the proposed amendment to Item 22 of Schedule 14A, this new disclosure would be required in proxy or consent solicitation materials with respect to the election of directors, or an information statement in the case of such corporate action authorized by the written consent of security holders.

In addition, to reduce potentially duplicative disclosure between proposed Item 407(i) and the existing requirement for CD&A under Item 402(b) of Regulation S–K, we propose to amend Item 402(b) to add an instruction providing that a company may satisfy its obligation to disclose material policies on hedging by named executive officers in the CD&A by cross referencing the information disclosed pursuant to proposed Item 407(i) to the extent that the information disclosed there satisfies this CD&A disclosure requirement.[118] This instruction, like the Item 407(i) disclosure requirement, would apply to the company's proxy or information statement with respect to the election of directors.

### *C. Burden and Cost Estimates Related to the Proposed Amendments*

If adopted, proposed Item 407(i) would require additional disclosure in proxy statements filed on Schedule 14A with respect to the election of directors and information statements filed on Schedule 14C where such corporate action is taken by the written consents or authorizations of security holders, and would thus increase the burden hour and cost estimates for each of those forms. For purposes of the PRA, we estimate the total annual increase in the paperwork burden for all affected issuers to comply with our proposed collection of information requirements, averaged over the first three years, to be approximately 19,238 hours of in-house personnel time and approximately $2,565,200 for the services of outside professionals (see Table 3).[119] These estimates include the time and cost of collecting and analyzing the information, preparing and reviewing disclosure, and filing the documents.

In deriving our estimates, we assumed that the information that proposed Item 407(i) would require to be disclosed would be readily available to the management of a company because it only requires disclosure of policies they already have but does not direct them to have a policy or dictate the content of the policy. Nevertheless, we used burden estimates similar to those used in the 2006 Executive Compensation Disclosure Release for updating Schedules 14A and 14C, which we believe were more extensive.[120] Since the first year of compliance with the proposed amendment is likely to be the most burdensome because companies are not likely to have compiled this information in this manner previously, we assumed it would take five total hours per form the first year and two total hours per form in all subsequent years.

Based on our assumptions, we estimated that the proposed amendments would increase the burden hour and cost estimates per company by an average of three total hours per year over the first three years the amendments are in effect for each Schedule 14A or Schedule 14C with respect to the election of directors.

We recognize that the burdens may vary among individual companies based on a number of factors, including the size and complexity of their organizations, and whether or not they prohibit or restrict hedging transactions by employees, directors and their designees and if they do, the specificity and complexity of such restrictions.

The table below shows the three-year average annual compliance burden, in hours and in costs, of the collection of information pursuant to proposed Item 407(i) of Regulation S–K.[121] The burden estimates were calculated by multiplying the estimated number of responses by the estimated average amount of time it would take a company to prepare and review the proposed disclosure requirements. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the company internally is reflected in hours. For purposes of the PRA, we estimate that 75% of the burden of preparation of Schedules 14A and 14C is carried by the company internally and that 25% of the burden of preparation is carried by outside professionals retained by the company at an average cost of $400 per hour. There is no change to the estimated burden of the

[116] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

[117] The paperwork burden from Regulation S–K is imposed through the forms that are subject to the disclosure requirements in Regulation S–K and is reflected in the analysis of these forms. To avoid a Paperwork Reduction Act inventory reflecting duplicative burdens, for administrative convenience we estimate the burden imposed by Regulation S–K to be a total of one hour.

[118] Proposed Instruction 6 to Item 402(b).

[119] Our estimates represent the average burden for all companies, both large and small.

[120] See the 2006 Executive Compensation Disclosure Release.

[121] For convenience, the estimated hour and cost burdens in the table have been rounded to the nearest whole number.

collections of information under Regulation S–K because the burdens that this regulation imposes are reflected in our burden estimates for Schedule 14A and 14C.

TABLE 3—INCREMENTAL PAPERWORK BURDEN UNDER THE PROPOSED AMENDMENTS AFFECTING SCHEDULES 14A AND 14C—THREE-YEAR AVERAGE COSTS

| | Number of responses (A) [122] | Incremental burden hours/ form (B) | Total incremental burden hours (C)=(A)*(B) | Internal company time (D)=(C)*0.75 | External professional time (E)=(C)*0.25 | External professional costs (F)=(E)*$400 |
|---|---|---|---|---|---|---|
| Sch. 14A | 7,300 | 3 | 21,900 | 16,425 | 5,475 | $2,190,000 |
| Sch. 14C | 680 | 3 | 2,040 | 1,530 | 510 | 204,000 |
| Rule 20a–1 | 590 | 3 | 1,770 | 1,328 | 443 | 177,200 |
| Total | 8,570 | | 25,710 | 19,283 | 6,428 | 2,571,200 |

The proposed amendment to the CD&A requirement under Item 402(b) would not be applicable to smaller reporting companies or emerging growth companies because under current CD&A reporting requirements these companies are not required to provide CD&A in their Commission filings. For all other issuers, we do not expect this amendment would materially affect the disclosure burden associated with their Commission filings.

*D. Request for Comment*

Pursuant to 44 U.S.C. 3506(c)(2)(B), we request comment in order to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;
- Evaluate the accuracy of our assumptions and estimates of the burden of the proposed collection of information;
- Determine whether there are ways to enhance the quality, utility and clarity of the information to be collected;
- Evaluate whether there are ways to minimize the burden of the collection of information on those who respond, including through the use of automated collection techniques or other forms of information technology; and
- Evaluate whether the proposed amendments will have any effects on any other collection of information not previously identified in this section.

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing these burdens. Persons submitting comments on the collection of information requirements should direct their comments to the Office of Management and Budget, Attention: Desk Officer for the U.S. Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy to, Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090, with reference to File No. S7–01–15. Requests for materials submitted to OMB by the Commission with regard to the collection of information should be in writing, refer to File No. S7–01–15 and be submitted to the U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington DC 20549–2736. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is best assured of having its full effect if the OMB receives it within 30 days of publication.

## VI. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or ''SBREFA,'' [123] we solicit data to determine whether the rule proposals constitute a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results or is likely to result in:

- An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

Commentators should provide empirical data on: (1) The potential annual effect on the economy; (2) any increase in costs or prices for consumers or individual industries; and (3) any potential effect on competition, investment or innovation.

## VII. Initial Regulatory Flexibility Act Analysis

This Initial Regulatory Flexibility Analysis has been prepared in accordance with the Regulatory Flexibility Act.[124] This analysis involves a proposal to require, in proxy or consent solicitation materials, or in an information statement, with respect to the election of directors disclosure of whether employees (including officers), directors or their designees are permitted to engage in transactions to hedge or offset any decrease in the market value of equity securities granted to them as compensation, or directly or indirectly held by them.

*A. Reasons for, and Objectives of, the Proposed Action*

The proposed amendments are designed to implement Section 14(j), which was added to the Exchange Act by Section 955 of the Act. Specifically, the proposed amendments would require disclosure, in any proxy or information statement with respect to the election of directors, of whether any employee or director of the company or any designee of such employee or director, is permitted to purchase any financial instruments (including but not limited to prepaid variable forward contracts, equity swaps, collars, and

[122] For Schedules 14A and 14C, the number of responses reflected in the table equals the three-year average of the number of schedules filed with the Commission and currently reported by the Commission to OMB. For Rule 20a–1, the number of responses reflected in the table is based on an average of three years of data from 2012–2014 in the 2014 ICI Fact book.

[123] Public Law 104–121, Title II, 110 Stat. 857 (1996).

[124] 5 U.S.C. 603.

exchange funds) or otherwise engage in transactions that are designed to or have the effect of hedging or offsetting any decrease in the market value of equity securities, that are granted to the employee or director by the company as compensation, or held, directly or indirectly, by the employee or director. The covered equity securities would be equity securities issued by the company, any parent of the company, any subsidiary of the company or any subsidiary of any parent of the company that are registered under Exchange Act Section 12.

*B. Legal Basis*

We are proposing the amendments pursuant to Section 955 of the Act, Sections 14, 23(a) and 36(a) of the Exchange Act, as amended, and Sections 6, 20(a) and 38 of the Investment Company Act, as amended.

*C. Small Entities Subject to the Proposed Amendments*

The proposed amendments would affect some companies that are small entities. The Regulatory Flexibility Act defines ''small entity'' to mean ''small business,'' ''small organization,'' or ''small governmental jurisdiction.'' [125] The Commission's rules define ''small business'' and ''small organization'' for purposes of the Regulatory Flexibility Act for each of the types of entities regulated by the Commission. Exchange Act Rule 0–10(a) [126] defines a company, other than an investment company, to be a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year. We estimate that there are approximately 428 issuers that may be considered small entities. The proposed amendments would affect small entities that have a class of securities that are registered under Section 12 of the Exchange Act. An investment company, including a business development company, is considered to be a ''small business'' if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[127] We believe that the proposal would affect some small entities that are investment companies. We estimate that there are approximately 29 investment companies that would be subject to the proposed rule that may be considered small entities.

*D. Reporting, Recordkeeping and Other Compliance Requirements*

The proposed amendments would add to the proxy disclosure requirements of companies, including small entities, that file proxy or information statements with respect to the election of directors, by requiring them to provide the disclosure called for by the proposed amendment. Specifically, proposed Item 407(i) would require disclosure of whether any employee or director of the company or any designee of such employee or director, is permitted to purchase any financial instruments (including but not limited to prepaid variable forward contracts, equity swaps, collars, and exchange funds) or otherwise engage in transactions that are designed to or have the effect of hedging or offsetting any decrease in the market value of equity securities, that are granted to the employee or director by the company as compensation, or held, directly or indirectly, by the employee or director.

*E. Duplicative, Overlapping or Conflicting Federal Rules*

We believe that the proposed amendments would not duplicate, overlap or conflict with other federal rules. The proposal would reduce potentially duplicative disclosure by adding an instruction permitting a company to satisfy any obligation under Item 402(b) of Regulation S–K to disclose in the CD&A material policies on hedging by named executive officers by cross referencing to the new disclosure required by proposed Item 407(i) to the extent that the information disclosed there satisfies this CD&A disclosure requirement.[128] However, as described above, the CD&A disclosure obligation does not apply to small entities that are emerging growth companies, smaller reporting companies or registered investment companies.

*F. Significant Alternatives*

The Regulatory Flexibility Act directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the proposed amendments, we considered the following alternatives:

- Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- clarifying, consolidating, or simplifying compliance and reporting requirements under the rules for small entities;
- use of performance rather than design standards; and
- exempting small entities from all or part of the proposed requirements.

We believe that the proposed amendments would require clear and straightforward disclosure of whether employees or directors are permitted to engage in transactions to hedge or offset any decrease in the market value of equity securities granted to them as compensation, or directly or indirectly held by them. Given the straightforward nature of the proposed disclosure, we do not believe that it is necessary to simplify or consolidate the disclosure requirement for small entities. We have used performance standards in connection with the proposed amendments by proposing to use a principles-based approach to identify transactions that would hedge or offset any decrease in the market value of equity securities. Additionally, the amendments do not specify any specific procedures or arrangements a company must develop to comply with the standards, or require a company to have or develop a policy regarding employee and director hedging activities.

We considered, but have not proposed, different compliance requirements or an exemption for small entities. We believe that mandating uniform and comparable disclosures across all issuers subject to our proxy rules will promote informed shareholder voting. The proposed rule amendments are intended to provide transparency regarding whether employees, directors, or their designees are allowed to engage in hedging transactions that will permit them to receive compensation without regard to company performance, or will permit them to mitigate or avoid the risks associated with long-term equity security ownership.[129] We believe this transparency would be just as beneficial to shareholders of small companies as to shareholders of larger companies. By increasing transparency regarding these matters, the proposed amendments are designed to improve the quality of information available to all shareholders, thereby promoting informed voting decisions. Different compliance requirements or an exemption for small entities may interfere with the goal of enhancing the information provided by all issuers. We also note that the disclosure is expected to result in minimal additional compliance costs for issuers although there could be indirect costs for some small entities, depending on their current hedging policies. Thus, we

[125] 5 U.S.C. 601(6).

[126] 17 CFR 240.0–10(a).

[127] 17 CFR 270.0–10(a).

[128] Proposed Instruction 6 to Item 402(b).

[129] See Senate Report 111–176.

believe that our proposed amendments will promote consistent disclosure among all issuers, without creating a significant new burden for small entities.

Although we preliminarily believe that an exemption for small entities from coverage of the proposed amendments would not be appropriate, we solicit comment on whether we should exempt small entities. At this time, we do not believe that different compliance methods or timetables for small entities would be necessary given the relatively straightforward nature of the disclosure involved. Nevertheless, we solicit comment on whether different compliance requirements or timetables for small entities would be appropriate and consistent with the purposes of Section 14(j).

*G. Solicitation of Comments*

We encourage the submission of comments with respect to any aspect of this Initial Regulatory Flexibility Analysis. In particular, we request comments regarding:

- How the proposed amendments can achieve their objective while lowering the burden on small entities;
- The number of small entities that may be affected by the proposed amendments;
- Whether small entities should be exempt from the proposed amendments;
- The existence or nature of the potential impact of the proposed amendments on small entities discussed in the analysis; and
- How to quantify the impact of the proposed amendments.

Respondents are asked to describe the nature of any impact of the proposed amendments on small entities and provide empirical data supporting the extent of the impact. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves.

## VIII. Statutory Authority and Text of the Proposed Amendments

The amendments contained in this release are being proposed under the authority set forth in Section 955 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Sections 14, 23(a) and 36(a) of the Securities Exchange Act of 1934, as amended, and Sections 6, 20(a) and 38 of the Investment Company Act, as amended.

**List of Subjects in 17 CFR Parts 229 and 240**

Reporting and recordkeeping requirements, Securities.

**Text of the Proposed Amendments**

For the reasons set out in the preamble, the Commission proposes to amend title 17, chapter II, of the Code of Federal Regulations as follows:

## PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 1. The authority citation for part 229 continues to read as follows:

**Authority:** 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78j–3, 78*l,* 78m, 78n, 78n–1, 78o, 78u–5, 78w, 78*ll,* 78mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11, and 7201 *et seq;* and 18 U.S.C. 1350, unless otherwise noted.

■ 2. Amend § 229.402 by adding Instruction 6 to Item 402(b), to read as follows:

**§ 229.402 (Item 402) Executive compensation.**

* * * * *

(b) * * *

*Instructions to Item 402(b).* * * *

6. If the information disclosed pursuant to Item 407(i) would satisfy the registrant hedging policy disclosure requirements of paragraph (b)(2)(xiii) of this Item, a registrant may satisfy this Item in its proxy or information statement by referring to the information disclosed pursuant to Item 407(i).

* * * * *

■ 3. Amend § 229.407 by adding paragraph (i) before the Instructions to Item 407, to read as follows:

**§ 229.407 (Item 407) Corporate governance.**

* * * * *

(i) *Employee, officer and director hedging.* In proxy or information statements with respect to the election of directors, disclose whether the registrant permits any employees (including officers) or directors of the registrant, or any of their designees, to purchase financial instruments (including prepaid variable forward contracts, equity swaps, collars, and exchange funds) or otherwise engage in transactions that are designed to or have the effect of hedging or offsetting any decrease in the market value of equity securities—

(1) Granted to the employee or director by the registrant as part of the compensation of the employee or director; or

(2) Held, directly or indirectly, by the employee or director.

*Instructions to Item 407(i).*

1. For purposes of this Item 407(i), ''equity securities'' (as defined in section 3(a)(11) of the Exchange Act (15 U.S.C. 78c(a)(11)) and § 240.3a11–1 of this chapter) shall mean only those equity securities issued by the registrant or any parent of the registrant, any subsidiary of the registrant or any subsidiary of any parent of the registrant that are registered under Section 12 of the Exchange Act (15 U.S.C. 78*l*).

2. A registrant that permits hedging transactions by some, but not all, of the categories of persons covered by this Item 407(i) shall disclose the categories of persons who are permitted to engage in hedging transactions and those who are not.

3. A registrant shall disclose the categories of hedging transactions it permits and those it prohibits. In disclosing these categories, a registrant may, if true, disclose that it prohibits or permits particular categories and permits or prohibits, respectively, all other hedging transactions. If a registrant does not permit any hedging transactions, or permits all hedging transactions, it shall so state and need not describe them by category.

4. A registrant that permits hedging transactions shall disclose sufficient detail to explain the scope of such permitted transactions.

5. The information required by this Item 407(i) will not be deemed to be incorporated by reference into any filing under the Securities Act, the Exchange Act or the Investment Company Act, except to the extent that the registrant specifically incorporates it by reference.

* * * * *

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 4. The authority citation for Part 240 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m 78n, 78n–1, 78o, 78o–4, 78o–10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7210 *et seq.;* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5521(e)(3); 18 U.S.C. 1350; and Pub. L. 111–203, 939A, 124 Stat. 1376, (2010), unless otherwise noted.

* * * * *

■ 5. Amend § 240.14a–101 by:

■ a. Revising Item 7 paragraph (b);
■ b. Removing Item 7 paragraphs (c) and (d);
■ c. Redesignating Item 7 paragraph (e) as paragraph (c);
■ d. Removing the Instruction to Item 7 paragraph (e);
■ e. Redesignating Item 7 paragraph (f) as paragraph (d);
■ f. Redesignating Instruction to Item 7 paragraph (f) as Instruction to Item 7 and revising the newly redesignated Instruction to Item 7;
■ g. Redesignating Item 7 paragraph (g) as paragraph (e); and
■ h. Adding to Item 22(b) paragraph (20).

The revisions and addition read as follows:

**§ 240.14a–101 Schedule 14A. Information required in proxy statement.**

SCHEDULE 14A INFORMATION

* * * * *

*Item 7. Directors and Executive Officers.* * * *

(b) The information required by Items 401, 404(a) and (b), 405 and 407 of Regulation S–K (§§ 229.401, 229.404(a) and (b), 229.405 and 229.407 of this chapter), other than the information required by:

(i) Paragraph (c)(3) of Item 407 of Regulation S–K (§ 229.407(c)(3) of this chapter); and

(ii) Paragraphs (e)(4) and (e)(5) of Item 407 of Regulation S–K (§§ 229.407(e)(4) and 229.407(e)(5) of this chapter) (which are required by Item 8 of this Schedule 14A).

* * *

*Instruction to Item 7.* The information disclosed pursuant to paragraphs (c) and (d) of this Item 7 will not be deemed incorporated by reference into any filing under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), or the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), except to the extent that the registrant specifically incorporates that information by reference.

* * *

*Item 22. Information required in investment company proxy statement.*

* * * * *

(b) * * *

(20) In the case of a Fund that is a closed-end investment company that is listed and registered on a national securities exchange, provide the information required by Item 407(i) of Regulation S–K (§ 229.407(i) of this chapter).

* * * * *

Dated: February 9, 2015.

By the Commission.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–02948 Filed 2–13–15; 8:45 am]

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**Federal Register**

Vol. 80, No. 31

Tuesday, February 17, 2015

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| **The United States Government Manual** | **741–6000** |
| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6064** |
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| TTY for the deaf-and-hard-of-hearing | **741–6086** |

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## FEDERAL REGISTER PAGES AND DATE, FEBRUARY

5451–5664 ..... 2
5665–5894 ..... 3
5895–6428 ..... 4
6429–6644 ..... 5
6645–6896 ..... 6
6897–7284 ..... 9
7285–7532 ..... 10
7533–7796 ..... 11
7797–7966 ..... 12
7967–8238 ..... 13
8239–8510 ..... 17

## CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 3 CFR

**Proclamations:**
9229 ..... 6419
9230 ..... 6421
9231 ..... 6423
**Executive Orders:**
13690 ..... 6425
**Administrative Orders:**
Order of February 2, 2015 ..... 6645
Notice of February 4, 2015 ..... 6647

### 5 CFR

532 ..... 5451
3101 ..... 7797
**Proposed Rules:**
532 ..... 5487
Ch. XLII ..... 5715

### 7 CFR

205 ..... 6429
3434 ..... 5895
**Proposed Rules:**
318 ..... 6665
319 ..... 6665
1000 ..... 7549
1001 ..... 7549
1005 ..... 7549
1006 ..... 7549
1007 ..... 7549
1030 ..... 7549
1032 ..... 7549
1033 ..... 7549
1124 ..... 7549
1126 ..... 7549
1131 ..... 7549
1206 ..... 7811
1212 ..... 7811

### 9 CFR

78 ..... 5665
97 ..... 5665
201 ..... 6430

### 10 CFR

72 ..... 6430
430 ..... 5896
**Proposed Rules:**
72 ..... 6466
429 ..... 5994
430 ..... 5994, 7082, 7550
431 ..... 6016, 6182
460 ..... 7550

### 12 CFR

217 ..... 5666
**Proposed Rules:**
Ch. I ..... 7980
Ch. II ..... 7980
217 ..... 5694
225 ..... 5694
238 ..... 5694
Ch. III ..... 7980
1005 ..... 6468
1026 ..... 6468, 7770

### 13 CFR

121 ..... 7533
**Proposed Rules:**
121 ..... 6618
124 ..... 6618
125 ..... 6618
126 ..... 6618
127 ..... 6618
134 ..... 6618

### 14 CFR

25 ..... 6435
39 ..... 5452, 5454, 5670, 5900, 5902, 5905, 5906, 5909, 5911, 5915, 6649, 6897, 7285, 7288, 7290, 7298, 7300
71 ..... 8239, 8240
91 ..... 5918, 6899
93 ..... 8242
**Proposed Rules:**
39 ..... 5489, 6017, 7986, 7989, 7992

### 15 CFR

30 ..... 6900
**Proposed Rules:**
922 ..... 5699

### 16 CFR

**Proposed Rules:**
Ch. I ..... 5713
500 ..... 5491
502 ..... 5491
1120 ..... 5701

### 17 CFR

200 ..... 6902
229 ..... 6652
230 ..... 6652
232 ..... 6652
**Proposed Rules:**
229 ..... 8486
240 ..... 8486

### 18 CFR

157 ..... 7302

### 19 CFR

7 ..... 7537
10 ..... 7303
24 ..... 7303
162 ..... 7303
163 ..... 7303, 7537
178 ..... 7303, 7537
**Proposed Rules:**
Ch. II ..... 6649

201.....6649
206.....6649
208.....6649
213.....6649

**20 CFR**

**Proposed Rules:**
Ch. IV.....5715
Ch. V.....5715
Ch. VI.....5715
Ch. VII.....5715
Ch. IX.....5715

**21 CFR**

312.....7318
870.....5674

**Proposed Rules:**
73.....6468
314.....6802
320.....6802

**22 CFR**

96.....7321

**23 CFR**

**Proposed Rules:**
490.....8250

**24 CFR**

203.....8243
982.....8243

**Proposed Rules:**
570.....6469, 6470

**26 CFR**

1.....7323

**27 CFR**

9.....6902

**Proposed Rules:**
4.....6931

**29 CFR**

1952.....6652
2520.....5626
4022.....7967

**Proposed Rules:**
Subtitle A.....5715
Ch. II.....5715
Ch. IV.....5715
Ch. V.....5715
1614.....6669
Ch. XVII.....5715
Ch. XXV.....5715

**30 CFR**

700.....6435
875.....6435
877.....6435
879.....6435
884.....6435
885.....6435

**Proposed Rules:**
Ch. I.....5715
100.....7393
1202.....7994
1206.....7994

**31 CFR**

50.....6656

**33 CFR**

100.....7797
117.....5457, 6657, 6658, 6906, 7801, 7802
151.....5922
154.....7539
155.....5922
156.....5922
157.....5922
165.....6448, 7968

**Proposed Rules:**
100.....7994
140.....6679
143.....6679
146.....6679
165.....7394, 7553, 7994
203.....8014

**34 CFR**

Ch. II.....7224
369.....6452
371.....6452

**Proposed Rules:**
75.....7397

**36 CFR**

**Proposed Rules:**
1192.....7812

**37 CFR**

**Proposed Rules:**
1.....6475

**39 CFR**

20.....5683, 5688
111.....5691

**Proposed Rules:**
111.....6574

**40 CFR**

9.....5457
51.....7336
52.....5471, 6455, 6907, 7336, 7341, 7345, 7347, 7803, 7805
60.....5475
61.....5475
62.....5483
63.....5475, 5938
80.....6658
81.....7347, 7540, 7970
180.....5941, 5946, 5952, 7541, 7971
300.....5957, 6458
721.....5457

**Proposed Rules:**
51.....6481
52.....5497, 6109, 6485, 6491, 6672, 7398, 7399, 7555, 7813, 8018, 8250, 8254
60.....5498, 8023, 8442
61.....5498, 8023
63.....5498, 6035, 6676, 8023, 8392, 8442
81.....6019, 8254, 8274
98.....6495
180.....7559
300.....6036, 6496
1850.....6934

**41 CFR**

101-42.....7352
101-45.....7352
102-40.....7352

**Proposed Rules:**
Ch. 50.....5715
Ch. 60.....5715
Ch. 61.....5715

**42 CFR**

401.....8247
405.....8247
406.....7975
407.....7975
408.....7975
417.....7912
422.....7912
423.....7912

**Proposed Rules:**
11.....8030

**45 CFR**

1305.....7368
1321.....7704
1327.....7704
1611.....5485

**Proposed Rules:**
1355.....7132
1640.....5716

**46 CFR**

**Proposed Rules:**
61.....6679
62.....6679

**47 CFR**

1.....7547
2.....8248
43.....7547
54.....5961
63.....7547
73.....7977

**Proposed Rules:**
1.....7400
20.....6496
25.....8031
27.....7400
73.....7400, 7562, 8031
76.....8031

**48 CFR**

1.....6908
2.....6908
9.....6908
12.....6908
22.....6908
37.....6909
42.....6908
46.....6909
52.....6908, 6909
601.....6909
603.....6909
604.....6909
605.....6909
606.....6909
607.....6909
608.....6909
609.....6909
613.....6909
615.....6909
616.....6909
617.....6909
619.....6909
622.....6909
623.....6909
624.....6909
625.....6909
627.....6909
628.....6909
631.....6909
632.....6909
633.....6909
636.....6909
637.....6909
642.....6909
644.....6909
645.....6909
647.....6909
649.....6909
652.....6909

**Proposed Rules:**
Ch. 29.....5715
511.....6037
523.....8278
536.....6944
552.....6037, 8278

**49 CFR**

**Proposed Rules:**
Ch. III.....7814

**50 CFR**

222.....6925
223.....6925, 7977
224.....7380, 7977
229.....6925
622.....6464
635.....5991, 7547
648.....7808
660.....6662, 7390
665.....6663
679.....5692, 5992, 6663, 7979, 8249

**Proposed Rules:**
17.....5719, 8053
219.....8166
226.....5499
300.....5719
600.....7562
660.....8280
679.....7816
680.....5499, 7817

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List January 15, 2015**

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