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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 63

[MD Docket No. 20–64; FCC 20–16; FRS 16561]

Closure of FCC Lockbox 979093 Used to File Fees for Services Provided by the International Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) adopts an Order that closes Lockbox 979093 and modifies the relevant rule provisions to require electronic filing and fee payments.

DATES: Effective April 27, 2020.

FOR FURTHER INFORMATION CONTACT: Warren Firschein, Office of Managing Director at (202) 418–2653 or Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 20–16, MD Docket No. 20–64, adopted on February 26, 2020 and released on March 4, 2020. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554, or by downloading the text from the Commission's website at *https://www.fcc.gov/document/closure-lockbox-used-services-provided-international-bureau.*

I. Procedural Matters

A. Final Regulatory Flexibility Analysis

1. Section 603 of the Regulatory Flexibility Act, as amended, requires a regulatory flexibility analysis in notice and comment rulemaking proceedings. See 5 U.S.C. 603(a). As we are adopting these rules without notice and comment, no regulatory flexibility analysis is required.

B. Final Paperwork Reduction Act of 1995 Analysis

2. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Pub. Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. Law 107–198, see 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

3. The Commission will not send a copy of the Order pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of agency organization, procedure, or practice that do not ''substantially affect the rights or obligations of non-agency parties. See 5 U.S.C. 804(3)(C).

II. Introduction

4. In the Order, we reduce expenditures by the Commission and modernize procedures by amending § 1.1107 of our rules, 47 CFR 1.1107, which sets forth the application fees for services administered by the FCC's International Bureau (IB). The rule amendment reflects the closure of the lockbox (P.O. Box) [1] used for such manual payment of filing fees for thirteen types of IB services: (1) International Fixed Public Radio; (2) Section 214 Applications; (3) Fixed Satellite Transmit/Receive Earth Stations; (4) Fixed Satellite Transmit/Receive Earth Stations (2 meters or less operating in the 4/6 GHz frequency band); (5) Receive Only Earth Stations; (6) Fixed Satellite Very Small Aperture Terminal (VSAT) Systems; (7) Mobile Satellite Earth Stations; (8) Space Stations (Geostationary); (9) Space Stations (NGSO); (10) Direct Broadcast Satellites; (11) International Broadcast Stations; (12) Permit to Deliver Programs to Foreign Broadcast Stations; and (13) Recognized Operating Agency. We discontinue the option of manual fee payments and instead require the use of an electronic payment for each service listed above.

5. Section 1.1107 of the Commission's rules, 47 CFR 1.1107, provides a schedule of application fees for proceedings handled by IB. The rule had also directed filers that do not utilize the Commission's on-line filing and fee payment systems to send manual payments to P.O. Box 979093 at U.S. Bank in St. Louis, Missouri. In recent years, there have been a decreasing number of lockbox filers, and it now is rare that the Commission receives a lockbox payment.

6. The Commission has begun to reduce its reliance on P.O. Boxes for the collection of fees, instead encouraging the use of electronic payment systems for all application and regulatory fees and closing certain lockboxes. We find that electronic payment of fees for the services processed by IB reduces the agency's expenditures (including eliminating the annual fee for the bank's services) and the cost of manually processing each transaction, with little or no inconvenience to the Commission's regulatees, applicants, and the public.

7. As part of this effort, we are now closing P.O. Box 979093 and modifying the relevant rule provision that requires payment of fees via the closed P.O. Box. In addition, we make minor modifications to reflect the replacement of the International Bureau Filing System (IBFS) with a new system, MyIBFS. Finally, we make a minor adjustment to rule § 1.10006 to reflect that applications for which an electronic form is not available must now be filed through the Electronic Comment Filing System (ECFS) solely in PDF format until new forms are introduced. The rule changes are contained in the Appendix of the Order and the Final Rules of this document. We make these changes without notice and comment because they are rules of agency organization, procedure, or practice exempt from the general notice-and-comment requirements of the Administrative Procedure Act, *see* 5 U.S.C. 553(b)(A).

8. *Implementation.* As a temporary transition measure, for 90 days after publication of this document in the

[1] A P.O. Box used for the collection of fees is referred to as a ''lockbox'' in our rules and other Commission documents. The FCC collects application processing fees using a series of P.O. Boxes located at U.S. Bank in St. Louis, Missouri. *See* 47 CFR 1.1101–1.1109 (setting forth the fee schedule for each type of application remittable to the Commission along with the correct lockbox).

Federal Register, U.S. Bank will continue to process payments to P.O. Box 979093. After that date, payments for these IB services must be made in accordance with the procedures set forth on the Commission's website, *https://www.fcc.gov/licensing-databases/fees/application-processing-fees* (International Bureau Fee Filing Guide). For now, such payments will be made through the Fee Filer Online System (Fee Filer), accessible at *https://www.fcc.gov/licensing-databases/fees/fee-filer.* As we assess and implement U.S. Treasury initiatives toward an all-electronic payment system, we may transition to other secure payment systems with appropriate public notice and guidance.

III. Ordering Clauses

9. *Accordingly, it is ordered*, that pursuant to sections 4(i), 4(j), 158, 208, and 224 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 158, 208, and 224, the Order is hereby *adopted* and the rules set forth in the Appendix of the Order are hereby *amended* effective April 27, 2020.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 63

Cable television, Communications common carriers, Radio, Reporting and recordkeeping requirements, Telegraph, Telephone.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 63 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

■ 2. Amend § 1.1107 by revising the introductory text to read as follows:

§ 1.1107 Schedule of charges for applications and other filings for the international services.

Remit payment for these services electronically using the Commission's electronic payment system in accordance with the procedures set forth on the Commission's website, *www.fcc.gov/licensing-databases/fees.*

* * * * *

■ 3. Amend § 1.10001 by revising the definition of ''All other applications'' to read as follows:

§ 1.10001 Definitions.

All other applications. We consider all other applications officially filed once you file the application in the International Bureau Filing System (MyIBFS) and applicable filing fees are received and approved by the FCC, unless the application is determined to be fee-exempt. We determine your official filing date based on one of the following situations:

(1) You file your Satellite Space Station Application or your Application for Earth Stations to Access a Non-U.S. Satellite Not Currently Authorized to provide the Proposed Service in the Proposed Frequencies in the United States in MyIBFS.	Your official filing date is the date and time (to the millisecond) you file your application and receive a confirmation of filing and submission ID.
(2) You file all other applications in MyIBFS and then do one of the following:	Your official filing date is:
(i) Pay by online Automatic Clearing House (ACH) payment, online Visa, MasterCard, American Express, or Discover credit card payment, or wire transfer payment denominated in U.S. dollars and drawn on a United States financial institution and made payable to the Federal Communications Commission (through MyIBFS).	The date your online payment is approved. (*Note:* You will receive a remittance ID and an authorization number if your transaction is successful).
(ii) Determine your application type is fee-exempt or your application qualifies for exemption to charges as provided in this part.	The date you file in MyIBFS and receive a confirmation of filing and submission ID.

* * * * *

■ 4. Revise § 1.10006 to read as follows:

§ 1.10006 Is electronic filing mandatory?

Electronic filing is mandatory for all applications for international and satellite services for which an International Bureau Filing System (MyIBFS) form is available. Applications for which an electronic form is not available must be filed through the Electronic Comment Filing System (ECFS) in PDF format until new forms are introduced. See §§ 63.20 and 63.53 of this chapter. As each new MyIBFS form becomes available for electronic filing, the Commission will issue a public notice announcing the availability of the new form and the effective date of mandatory filing for this particular type of filing. As each new form becomes effective, manual filings will not be accepted by the Commission and the filings will be returned to the applicant without processing. Mandatory electronic filing requirements for applications for international and satellite services are set forth in this part and parts 25, 63, and 64 of this chapter. A list of forms that are available for electronic filing can be found on the MyIBFS homepage. For information on electronic filing requirements, see §§ 1.1000 through 1.10018 and the MyIBFS homepage at *http://licensing.fcc.gov/myibfs.*

■ 5. Amend § 1.10007 by revising paragraph (a) to read as follows:

§ 1.10007 What applications can I file electronically?

(a) For a complete list of applications or notifications that must be filed electronically, log in to the MyIBFS website at *http://licensing.fcc.gov/myibfs.*

* * * * *

■ 6. Amend § 1.10009 by revising paragraphs (c)(2)(i), (e)(1)(iii), (e)(2), (e)(3)(i) and (ii), and (e)(4), removing paragraph (e)(5), redesigning paragraph (e)(6) as paragraph (e)(5), revising newly redesignated paragraph (e)(5), and removing paragraph (e)(7) to read as follows:

§ 1.10009 What are the steps for electronic filing?

* * * * *

(c) * * *

(2) * * *

(i) The referenced information is filed in MyIBFS.

* * * * *

(e) * * *

(1) * * *

(iii) You can run a draft electronic submission of payment online form through MyIBFS, in association with a filed application, and the system will automatically enter your required fee on the form.

(2)(i) A complete FCC electronic submission of payment online form must accompany all fee payments. You must provide the FRN for both the applicant and the payer. You also must include your International Bureau (IB) submission ID number on the electronic submission of payment online form in the box labeled ''FCC Code 2.'' In addition, for applications for transfer of control or assignment of license, call signs involved in the transaction must be entered into the ''FCC Code 1'' box on the FCC electronic submission of payment online form. (This may require the use of multiple rows on the electronic submission of payment online form for a single application where more than one call sign is involved.)

(ii) You can generate a pre-filled FCC electronic submission of payment online form from MyIBFS using your IB submission ID. For specific instructions on using MyIBFS to generate your FCC electronic submission of payment online form, go to the MyIBFS website (*http://licensing.fcc.gov/myibfs*) and click on the ''Getting Started'' button.

(3) * * *

(i) Pay by credit card (through MyIBFS);

(ii) Pay by online Automatic Clearing House (ACH) payment; or

* * * * *

(4) You must electronically submit payment on the date you file your application in MyIBFS. If not, we will dismiss your application.

(5) For more information on fee payments, refer to Payment Instructions found on the MyIBFS internet site at *http://licensing.fcc.gov/myibfs,* under the Using IBFS link.

■ 7. Revise § 1.10010 to read as follows:

§ 1.10010 Do I need to send paper copies with my electronic applications?

When you file electronically through MyIBFS, the electronic record is the official record. You do not need to submit paper copies of your application.

■ 8. Amend § 1.10011 by revising paragraphs (a) through (c) and (d) introductory text to read as follows:

§ 1.10011 Who may sign applications?

(a) The Commission only accepts electronic applications. An electronic application is ''signed'' when there is an electronic signature. An electronic signature is the typed name of the person ''signing'' the application, which is then electronically transmitted via MyIBFS.

(b) For all electronically filed applications, you (or the signor) must actually sign a paper copy of the application, and keep the signed original in your files for future reference.

(c) You only need to sign the original of applications, amendments, and related statements of fact.

(d) Sign applications, amendments, and related statements of fact as follows:

* * * * *

■ 9. Amend § 1.10015 by revising paragraph (b) to read as follows:

§ 1.10015 Are there exceptions for emergency filings?

* * * * *

(b) Emergency authorizations stop at the end of emergency periods or wars. After the emergency period or war, you must submit your request by filing the appropriate form electronically.

* * * * *

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, 571, unless otherwise noted.

■ 11. Amend § 63.53 by revising paragraph (a) to read as follows:

§ 63.53 Form.

(a) Applications for international service under section 214 of the Communications Act must be filed electronically with the Commission. Subject to the availability of electronic forms, all applications and other filings described in this section must be filed electronically through the International Bureau Filing System (MyIBFS). A list of forms that are available for electronic filing can be found on the MyIBFS homepage. For information on electronic filing requirements, see §§ 1.10000 through 1.10018 of this chapter and the MyIBFS homepage at *http://www.fcc.gov/ibfs.* See also § 63.20.

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[FR Doc. 2020–05800 Filed 3–26–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 200321–0084]

RIN 0648–BJ70

Emergency Measures To Address Fishery Observer Coverage During the COVID–19 Coronavirus Pandemic

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

ACTION: Temporary rule; emergency action; request for comments.

SUMMARY: NMFS issues this temporary rule (also referred to herein as ''emergency action'') to provide it with authority to waive observer coverage requirements established in regulations promulgated under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and other statutes, consistent with applicable law and international obligations. NMFS is taking this action to address public health concerns relating to the evolving pandemic of Coronavirus Disease 19 (COVID–19). NMFS is taking this action to protect public health, economic security, and food security, and to safeguard the health and safety of fishermen, observers, and other persons involved with such monitoring programs, while safeguarding the ability of fishermen to continue business operations and produce seafood for the Nation. This action also authorizes NMFS to waive some training or other program requirements to ensure that as many observers are available as possible while ensuring the safety and health of the observers and trainers.

DATES: Effective March 24, 2020 through September 23, 2020. Comments must be received by April 27, 2020.

ADDRESSES: Written comments, identified by NOAA–NMFS–2020–0036, may be submitted to NMFS using an electronic submission via the Federal e-Rulemaking portal. Go to *https://www.regulations.gov/docket?D=NOAA-NMFS-2020-0036,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

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 generally will 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).

FOR FURTHER INFORMATION CONTACT: Kelly Denit at 301–427–8517.

SUPPLEMENTARY INFORMATION:

Background

NMFS is promulgating this emergency action in response to the evolving COVID–19 pandemic. Currently, NMFS requires many fishing vessels to carry an observer as part of a mandatory observer program (or provides for voluntary observer programs) under the MSA (16 U.S.C. 1801 *et seq.*) and other Federal fishery statutes, including the Marine Mammal Protection Act (MMPA, 16 U.S.C. 1361 *et seq.*), and statutes implementing international agreements, such as the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*), South Pacific Tuna Act of 1988 (16 U.S.C. 973 *et seq.*), Western and Central Pacific Commission Implementation Act (16 U.S.C. 6901 *et seq.*), Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 *et seq.*), Antigua Convention Implementing Act (16 U.S.C. 951 *et seq.*), High Seas Fishing Compliance Act (16 U.S.C. 5501 *et seq.*), and the Agreement on the International Dolphin Conservation Program as per MMPA. National observer regulations for the adequacy of a vessel for safety purposes are at 50 CFR 600.746, but there are also fishery-specific regulations regarding observers.

Many fisheries across the Nation are subject to mandatory observer coverage requirements that prohibit a vessel from fishing unless it carries one or more observers or at-sea monitors. While observers most frequently are deployed on fishing vessels, they are also deployed on motherships and at shoreside locations, including first receivers and processing facilities. Observers can also be called ''catch-monitors'' or ''at-sea monitors.'' Observers provide critical fishery-dependent data, which are used to manage fisheries pursuant to catch limits, collect information on bycatch, and monitor compliance. Observers also collect biological information that may not otherwise be collected. In some fisheries, observers are placed on only a portion of fishing vessel trips, while in other fisheries, observers are placed on every fishing vessel trip. Observers are also placed at fish processing plants and collect additional information, such as that associated with a prohibited species census. Regulations requiring observer coverage do not expressly address the circumstances when NMFS may waive coverage due to a public health emergency. Further, some observer coverage regulations stipulate specific training and other program requirements that observers must meet in order to continue to serve as an observer, and do not address when NMFS may waive such requirements. Consistent with applicable law and international obligations, this emergency action will allow NMFS, under certain circumstances related to the COVID–19 pandemic, to waive observer coverage and some training and other program requirements for observers.

Given the COVID–19 pandemic, the resulting national and local declarations of emergency, and guidance from the Centers for Disease Control and Prevention, NMFS has determined that an emergency action is needed to enable NMFS to waive observer coverage and some related training and other program requirements. This emergency action would permit waivers in appropriate circumstances to protect public health and to ensure the safety of fishermen, observers, and other persons involved with observer coverage, while meeting conservation needs and providing an ongoing supply of fish to markets.

Emergency Management Measures

Under this emergency action, NMFS may waive observer coverage requirements if:

- Local, State, or national governments, or private companies or organizations that deploy observers pursuant to NMFS regulations, restrict travel or otherwise issue COVID–19-related social control guidance, or requirement(s) addressing COVID–19-related concerns, such that it is inconsistent with the requirement(s) or not recommended to place an observer(s); or
- No qualified observer(s) are available for placement due to health, safety, or training issues related to COVID–19.

If either of these conditions is satisfied, then NMFS may waive observer coverage requirements for an individual trip or vessel, an entire fishery or fleet, or all fisheries administered under a NMFS Regional Office (*see* 50 CFR 600.10 (defining Region) and *https://www.fisheries.noaa.gov/regions*) or NMFS Headquarters Office. However, waivers should be issued as narrowly as possible in terms of duration and scope to meet the particular circumstances. Such waivers will be communicated in writing or electronic format. At any time, if the circumstances for a waiver are no longer applicable, NMFS will withdraw, in writing or electronic format, that waiver. In making decisions regarding observer coverage waivers, NMFS will gather information, if needed, from relevant observer service providers and other parties involved with observer coverage before issuing the waivers. Additionally, NMFS will take into account the ability of fishermen who are subject to observer coverage to adjust operations in response to this pandemic, such as for those fisheries that have year-round access compared with those that have only seasonal availability of fish.

This emergency action also allows NMFS to waive certain observer training and other observer program requirements (*e.g.,* requiring a minimum class size or requiring that observers transfer to other vessels between trips). Before doing so, NMFS will ensure that any such waiver does not remove requirements that ensure the health and safety of the observer or observer trainer.

This emergency action is effective on March 24, 2020. However, NMFS is soliciting public comment on this temporary rule, and will consider any comments received as it evaluates whether any modifications to the emergency measures are needed. NMFS will continue to monitor and evaluate the COVID–19 pandemic and will take additional action if needed. Unless otherwise determined, NMFS anticipates that these emergency measures will be effective until the earlier of the following dates: (1) The date when the current COVID–19 pandemic is no longer deemed a public health emergency by the Secretary of Health and Human Services; and (2) September 23, 2020, with a possible extension of 186 days following that date, see MSA section 305(c)(3)(B), 16 U.S.C. 1855(c)(3)(B), if necessary. As warranted, if this emergency continues beyond the end of the 186-day extension period, NMFS may consult with the Secretary of Health and Human Services pursuant to MSA section 305(c)(3)(C) or may conduct more permanent rulemaking.

NMFS expects this emergency action to advance the protection of and to promote public health and the safety of fishermen, observers, and other parties in the area that may come in contact with those persons, consistent with relevant guidance and any local, State, and national requirements, and to help

secure the economic well-being of the Nation. NMFS will consider applicable law (*e.g.,* the Endangered Species Act and the statutes noted above) and international obligations when making decisions about observer coverage waivers. In issuing such waivers, NMFS will carefully monitor the status of the fishery and/or protected species that were being observed or monitored to ensure that the relevant conservation and management goals are still being met. If needed to address any significant issues or concerns, or if NMFS determines that a waiver cannot be issued (*e.g.,* observer coverage is required due to other applicable law or international obligations), NMFS may implement additional, separate actions (*e.g.,* fishery closures, additional monitoring) per existing regulations or may issue emergency regulations, as necessary and appropriate. As a result, no ecological or socioeconomic impacts are expected by this temporary rule beyond any caused by the COVID–19 pandemic itself.

Classification

This action is issued pursuant to section 305(c) of the MSA, 16 U.S.C. 1855(c), and pursuant to the rulemaking authority under other statutes that apply to Federal fisheries management or that implement international agreements. Such statutes include, but are not limited to, the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*), South Pacific Tuna Act of 1988 (16 U.S.C. 973 *et seq.*), Western and Central Pacific Commission Implementation Act (16 U.S.C. 6901 *et seq.*), Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 *et seq.*), Antigua Convention Implementing Act (16 U.S.C. 951 *et seq.*), High Seas Fishing Compliance Act (16 U.S.C. 5501 *et seq.*), and MMPA (16 U.S.C. 1361 *et seq.*). This temporary rule is intended to authorize NMFS to waive any observer requirement implemented under any of those authorities, consistent with other applicable law. Consistent with MSA section 305(c)(3)(B), this action will remain in effect as to all such requirements for 180 days, with a possible extension of up to an additional 186 days (unless, prior to these dates, the current COVID–19 pandemic is no longer deemed a public health emergency by the Secretary of Health and Human Services, in which case NMFS anticipates that a notice of termination of this temporary rule would be filed in the **Federal Register** pursuant to MSA section 305(c)(3)(D)). If this emergency needs to be extended beyond that time, or if this public health emergency evolves to the point where it is deemed necessary, NMFS will consult with the Secretary of Health and Human Services, pursuant to MSA section 305(c)(3)(C), to seek the Secretary's concurrence on extending the action until the circumstances that created the public health emergency related to COVID–19 no longer exist.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. Prior notice and opportunity for public comment would be contrary to the public interest, as this action is needed immediately to enable NMFS to respond to evolving, public safety-related concerns. NMFS is implementing this emergency action to authorize action to prevent any potential health issues caused by spreading the virus to fishermen, observers, technicians, and other persons involved with observer coverage. Any delay of implementation of this emergency action could result in public health and safety issues during this global pandemic. In addition, this emergency action is needed to address potential disruptions in observer and technician availability due to health, training or travel issues or COVID–19-related guidance, requirements, or restrictions.

For the reasons stated above, the AA also finds good cause to waive the 30-day delay in effective date of this temporary rule under 5 U.S.C. 553(d)(3).

Because prior notice and opportunity for public comment are not required for this temporary rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

Dated: March 24, 2020.

Samuel D. Rauch III,

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

[FR Doc. 2020–06426 Filed 3–24–20; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 60
Friday, March 27, 2020

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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 704

RIN 3133–AF13

Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) is seeking comment on a proposed rule that would amend the NCUA's corporate credit union regulation. The proposed rule would update, clarify, and simplify several provisions of the NCUA's corporate credit union regulation, including: Permitting a corporate credit union to make a minimal investment in a credit union service organization (CUSO) without the CUSO being classified as a corporate CUSO under the NCUA's rules; expanding the categories of senior staff positions at member credit unions eligible to serve on a corporate credit union's board; amending the minimum experience and independence requirement for a corporate credit union's enterprise risk management expert; and requiring a corporate credit union to deduct certain investments in subordinated debt instruments issued by natural person credit unions.

DATES: Comments must be received by May 26, 2020.

ADDRESSES: You may submit written comments, identified by RIN 3133–AF13, by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (703) 518–6319. Include ''[Your Name]—Comments on Proposed Rule: Corporate Credit Unions'' in the transmittal.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You may view all public comments on the Federal eRulemaking Portal at *http://www.regulations.gov* as submitted, except for those we cannot post for technical reasons. The NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in the NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518–6546, or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: *Policy and Analysis:* Robert Dean, National Supervision Analyst, Office of National Examinations and Supervision, (703) 518–6652; *Legal:* Rachel Ackmann, Senior Staff Attorney, Office of General Counsel, (703) 548–2601; or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Introduction

a. Legal Authority and Background

The Board is issuing this rule pursuant to its authority under the Federal Credit Union Act (FCU Act).[1] Under the FCU Act, the NCUA is the chartering and supervisory authority for Federal credit unions (FCUs) and the federal supervisory authority for federally insured credit unions (FICUs). The FCU Act grants the NCUA a broad mandate to issue regulations governing both FCUs and FICUs. Section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe regulations for the administration of the FCU Act.[2] Section 209 of the FCU Act is a plenary grant of regulatory authority to the NCUA to issue regulations necessary or appropriate to carry out its role as share insurer for all FICUs.[3] The FCU Act also includes an express grant of authority for the Board to subject federally chartered central, or corporate, credit unions to such rules, regulations, and orders as the Board deems appropriate.[4]

Part 704 of the NCUA's regulations implements the requirements of the FCU Act regarding corporate credit unions.[5] In 2010, the Board comprehensively revised the regulations governing corporate credit unions to provide longer-term structural enhancements to the corporate system in response to the financial crisis of 2007–2009.[6] The provisions of the 2010 rule successfully stabilized the corporate system and improved corporate credit unions' ability to function and provide services to natural person credit unions. Since 2010, and as part of the Board's continuous reevaluation of its regulation of corporate credit unions, the Board has amended part 704 on several occasions.[7] Part 704 was last amended in 2017, when the Board amended corporate credit union capital standards to change the calculation of capital after a consolidation and to set a retained earnings ratio target in meeting prompt corrective action (commonly referred to as PCA) standards.[8]

b. Regulatory Review

The NCUA reviews all of its existing regulations every three years. The NCUA's Office of General Counsel maintains a rolling review schedule that identifies one-third of its existing regulations for review each year and provides notice to the public of those regulations under review so the public may have an opportunity to comment. Part 704 was part of the Office of General Counsel's 2019 annual regulatory review.[9] The Board received several comments on updating part 704 as part of the 2019 annual regulatory review.

II. Proposed Rule

The Board proposes to update, clarify, and simplify several provisions of part 704. Specifically, the proposed rule would: (1) Permit a corporate credit union to make a minimal investment in a CUSO without the CUSO being

[1] 12 U.S.C. 1751 *et seq.*
[2] 12 U.S.C. 1766(a).
[3] 12 U.S.C. 1789.
[4] 12 U.S.C. 1766(a).
[5] 12 CFR part 704.
[6] 75 FR 64786 (Oct. 20, 2010).
[7] *See e.g.,* 80 FR 25932 (May 6, 2015), 80 FR 57283 (Sept. 23, 2015), and 82 FR 55497 (Nov. 22, 2017).
[8] 82 FR 55497 (Nov. 22, 2017).
[9] *See, https://www.ncua.gov/regulation-supervision/rules-regulations/regulatory-review.*

classified as a corporate CUSO and subject to heightened NCUA oversight; (2) expand the categories of senior staff positions at member credit unions eligible to serve on a corporate credit union's board; (3) remove the experience and independence requirement for a corporate credit union's enterprise risk management expert; (4) clarify the treatment of an investment in a subordinated debt instrument of a natural person credit union; (5) codify the current list of permissible activities for a corporate CUSO; (6) clarify the definition of a collateralized debt obligation; and (7) simplify the requirement for net interest income modeling. Each proposed change is discussed in detail below.

A. Minimal Investment in Natural Person CUSOs

Part 704 includes specific regulations for a corporate credit union's investment and lending activity and permits a corporate credit union to invest in and lend to a corporate CUSO. A corporate CUSO is defined as an entity that is at least partly owned by a corporate credit union; primarily serves credit unions; restricts its services to those related to the normal course of business of credit unions; [10] and is structured as a corporation, limited liability company, or limited partnership under state law.[11]

Similar to natural person credit union service organizations (NP CUSOs), the Board cannot regulate corporate CUSOs directly, but it can, for safety and soundness reasons, regulate the types of investments that corporate credit unions make and whether a corporate credit union may invest in a CUSO. Part 704 includes several prudential requirements to ensure corporate credit union investment in and lending to corporate CUSOs is safe and sound. For example, part 704 regulates aggregate corporate credit union investment in and lending to corporate CUSOs. Part 704 also includes customer base requirements, permissible activities, accounting and audit standards, and requires NCUA access to corporate CUSO facilities, books, and records. In general, many of the prudential standards for corporate CUSOs are more restrictive than the standards for NP CUSOs.[12] The Board has historically imposed more restrictive standards for corporate CUSOs as they may serve hundreds or even thousands of natural person credit unions and pose unique systemic risk.[13] Additionally, core functions of corporate credit unions that pose systemic risk could be moved to corporate CUSOs. The Board has expressed concern that the movement of these core functions to entities that are not directly regulated by the NCUA could increase the systemic risk associated with corporate CUSOs, and the Board wants to ensure it has a degree of oversight and control of these activities.[14]

As stated above, a corporate CUSO is defined as an entity that is at least partly owned by a corporate credit union; primarily serves credit unions; restricts its services to those related to the normal course of business of credit unions; and is structured as a corporation, limited liability company, or limited partnership under state law.[15] The definition is broad and includes no exception for de minimus, non-controlling equity investments. Accordingly, any corporate credit union equity interest in a CUSO, regardless of how small a share of the CUSO the corporate credit union owns, is sufficient to designate the CUSO as a corporate CUSO and subject it to additional requirements under part 704.

The proposed rule would amend the definition of corporate CUSO so that a corporate credit union could make a de minimus, non-controlling investment in a NP CUSO without the CUSO being deemed a corporate CUSO. The Board has reconsidered its position that any corporate credit union investment in a CUSO must be subject to enhanced standards under part 704. The Board believes that a corporate credit union's non-controlling investment would not pose the same systemic risks to the credit union system as a controlling investment. It is unlikely that a corporate credit union would move its essential functions into a non-controlled CUSO.

The Board has also considered the benefits of permitting corporate credit unions to make de minimus, non-controlling investments in NP CUSOs. Compared to corporate CUSOs, NP CUSOs are permitted to engage in a broader range of permissible activities and services. Consequently, NP CUSOs are often a source of collaboration and innovation among FICUs that may result in the origination of new products and services. To compete effectively in today's technology-based financial service market, FICUs may need to rely increasingly on pooling their resources to fund CUSOs and to build the necessary infrastructure. The costs for research and development, acquisition, implementation, and specialized staff capable of managing these new technologies may be prohibitive for all but a very few of the largest FICUs. CUSOs may provide the means for FICUs to collectively address these challenges and may enable FICUs to collaboratively develop technologies that better serve their members.

Without the opportunity to invest in NP CUSOs, a corporate credit union may be restricted in its ability to participate in this process. The Board believes that by expanding corporate credit union investment authorities, while still maintaining necessary safeguards, corporate credit unions will be in a better position to participate in the development of new products and services. NP CUSOs would also benefit from a larger pool of potential investors, which may enable further research and development during this period of rapid technological growth.

In addition to amending the definition of corporate CUSO to permit de minimus, non-controlling investments in NP CUSOs, the proposed rule would also make several conforming amendments to part 704. The specific details of the proposed amendments are discussed below.

§ 704.2 Definitions

Consolidated credit union service organization. Generally, consolidated CUSOs are those majority-owned by a corporate credit union. The proposed rule would amend the definition of consolidated CUSO to use the newly defined term ''CUSO'' for clarity. Under the proposed rule, a consolidated CUSO would mean any CUSO the assets of which are consolidated with those of the corporate credit union for purposes of reporting under Generally Accepted Accounting Principles (GAAP).

Corporate CUSO. As discussed above, the proposed rule would amend the definition of a corporate CUSO. Under the proposed rule, a CUSO would be designated as a corporate CUSO only if one or more corporate credit unions

[10] *See,* 12 CFR 704.11(e).

[11] 12 CFR 704.11(a).

[12] For example, the permissible activities for a corporate CUSO are more limited than the permissible activities for a NP CUSO. A corporate CUSO may seek Board permission to engage in additional activities, but the process can be burdensome. In addition, corporate CUSOs are also subject to more rigorous NCUA oversight. A corporate CUSO must agree to give the NCUA complete access to its personnel, facilities, equipment, books, records, and other documentation that the NCUA deems pertinent. In contrast, NP CUSOs must provide the NCUA with complete access to its books and records and the ability to review its internal controls, as deemed necessary by the NCUA. Finally, corporate CUSOs must provide quarterly financial statements to the corporate credit union. In contrast, NP CUSOs must prepare quarterly financial statements, but do not have to provide the statements to FCUs.

[13] 74 FR 65210 (Dec. 9, 2009).

[14] *Id.*

[15] 12 CFR 704.11(a).

have a controlling interest. A corporate credit union would be considered to have a controlling interest if: (1) The CUSO is consolidated on a corporate credit union's balance sheet; (2) a corporate credit union has the power, directly or indirectly, to direct the CUSO's management or policies; or (3) a corporate credit union owns 25 percent or more of the CUSO's contributed equity, stock, or membership interests.[16] A CUSO would also be designated as a corporate CUSO if the aggregate corporate credit union ownership of all corporates investing in the CUSO meets or exceeds 50 percent of the CUSO's contributed equity, stock, or membership interests. The Board is concerned that if several corporate credit unions have a majority ownership interest in a CUSO, the CUSO could present the same risk to the credit union system as a CUSO that is controlled by one corporate credit union. If any of these four conditions are met, then the CUSO would meet the definition of a corporate CUSO and be subject to additional requirements under part 704. The definition of corporate CUSO would also be moved to § 704.2 for consistency with the location of other definitions in part 704.

Credit Union Service Organization (CUSO). The proposed rule would define the term CUSO for purposes of part 704. Under the proposed rule, a CUSO would mean both a NP CUSO under part 712 and a corporate CUSO under part 704.11. The proposed definition makes it clear that the term CUSO applies to both NP CUSOs and corporate CUSOs unless otherwise stated. For example, when calculating tier 1 capital under part 704, a corporate credit union must deduct, in part, investments in any ''unconsolidated CUSO.'' By using the term ''CUSO,'' instead of the defined terms ''corporate CUSO'' and ''consolidated CUSO,'' the proposed rule should be clear that a corporate credit union must deduct unconsolidated investments in both a NP CUSO and a corporate CUSO.

§§ 704.5 Investments, 704.6 Credit Risk Management, and 704.7 Lending

The proposed rule would remove references to corporate CUSOs and instead refer to the general term CUSO because those provisions would continue to apply to a corporate credit union investing in and lending to both NP CUSOs and corporate CUSOs, as explained in detail below in the discussion of the proposed changes to § 704.11.

§ 704.11 Credit Union Service Organizations (CUSOs)

Under the proposed rule, § 704.11 would be reorganized for clarity, however, the substantive requirements for corporate CUSOs would not be amended. The intent of the reorganization is to be clear that certain requirements apply to a corporate credit union's investment in or lending to both NP CUSOs and corporate CUSOs, certain requirements apply only to NP CUSOs, and other requirements apply only to corporate CUSOs.

The proposed rule sets forth the requirements for all corporate credit union investments in or lending to CUSOs. The proposed rule, in § 704.11(a), states that the aggregate investment and lending limits apply regardless of whether a corporate credit union's investment or loan is to a NP CUSO or a corporate CUSO. The proposed rule does not amend the current aggregate limitations on investments and lending.[17] A corporate credit union that has already invested in or loaned the maximum permitted under the current rule would not be authorized to invest or lend any additional money. Instead, such a corporate credit union would have to reallocate its investments or loans if it seeks to make any new investments that are prohibited.

In § 704.11(b), the proposed rule states that all corporate credit union loans to CUSOs are subject to due diligence requirements.[18] The proposed rule, as does the current rule, would require corporate credit unions to comply with certain due diligence requirements from the NCUA's member business loans rule before making a loan to a CUSO. Under the proposed rule, corporate credit unions would be subject to the commercial loan policy and due diligence requirements in the NCUA's member business loans rule[19] for lending to both NP CUSOs and corporate CUSOs. The board-approved policy must ensure corporate credit union lending activities are performed in a safe and sound manner by providing for ongoing control, measurement, and management of CUSO lending. The policy should also include qualifications and experience requirements for personnel involved in underwriting, processing, approving, administering, and collecting loans to CUSOs. The corporate credit union must also have a loan approval process, underwriting standards and risk management processes commensurate with the size, scope and complexity of its CUSO lending. The Board believes these due diligence requirements are the minimum requirements necessary to ensure that corporate credit unions are engaging in safe and sound lending practices. The requirements should not place a new burden on corporate credit unions because any corporate credit union that is currently making a loan to a corporate CUSO should be following these basic safety and soundness principles.

In § 704.11(c), the proposed rule would set forth the regulations governing corporate credit union investment in and lending to NP CUSOs. The proposed rule would state that corporate credit union investment in and lending to NP CUSOs are generally subject to part 712 of this chapter. The intent of this section is to be clear that a CUSO is either governed under part 704 as a corporate CUSO, as discussed below, or subject to part 712 as a NP CUSO. A corporate credit union investment in a CUSO of a state-chartered natural person credit union would also be subject to the requirements in part 712.

In § 704.11(d), the proposed rule, like the current rule, would include safety and soundness requirements for corporate credit union investments in and loans to corporate CUSOs. In general, the proposed rule does not make any substantive changes to the existing prudential requirements. The requirements have been reorganized for clarity and as part of the general restructuring of § 704.11, but are not otherwise substantively amended.[20]

Finally, in § 704.11(e), the proposed rule would include one new prudential requirement for corporate credit union investments in and loans to corporate CUSOs. The proposed rule states that

[16] The proposed definition is related to the definition of control in the Federal Deposit Insurance Act for notices filed under the Change in Bank Control Act. 12 U.S.C. 1817(j).

[17] 12 CFR 704.11(b). In general, the aggregate of all investments in corporate CUSOs that a corporate credit union may make must not exceed 15 percent of a corporate credit union's total capital. The aggregate of all investments in and loans to corporate CUSOs that a corporate credit union may make must not exceed 30 percent of a corporate credit union's total capital. A corporate credit union may lend to corporate CUSOs an additional 15 percent of total capital if the loan is collateralized by assets in which the corporate has a perfected security interest under state law.

[18] 12 CFR 704.11(c). The current rule includes a cross-reference to due diligence requirements in the member business loan rule. The member business loan rule, however, was updated in 2015 and the cross-referenced requirements have been removed. Accordingly, the proposed rule would update the cross references to reflect the revised member business loan rule.

[19] 12 CFR 723.4.

[20] The proposed rule would include a few non-substantive language changes that are only intended to streamline the provision and enhance clarity.

any subsidiary of a corporate CUSO would be automatically designated a corporate CUSO. The proposed rule also would provide that all tiers or levels of a corporate CUSO's structure are subject to the requirements for corporate CUSOs. The Board believes this level of oversight is necessary for all tiers of a corporate CUSO because corporate CUSOs affect not only the health of the investing corporate credit union, but also the health of the credit union system as a whole. Many corporate CUSOs serve natural person credit unions directly. As stated previously, the Board has historically been concerned that some activities might migrate from corporate credit unions to CUSOs and their subsidiaries, and the Board needs to ensure each layer in the corporate structure is subject to certain minimal prudential requirements.

§ 704.19 Disclosure of Executive Compensation

Section 704.19 currently requires that each corporate credit union annually prepare and maintain a document that discloses the compensation of certain employees, including compensation received from a corporate CUSO.[21] The proposal would amend § 704.19 to require that employee compensation from either a NP CUSO or a corporate CUSO must be reported. The Board notes that under the current rule to facilitate this disclosure, § 704.11(g) requires a corporate CUSO to disclose compensation paid to any employees that are also employees of a corporate credit union lending to, or investing in, the CUSO. This provision places the burden of disclosure on the corporate CUSO. The proposed rule, however, would not include a similar requirement for NP CUSOs.[22] Accordingly, the dual employee would be required to disclose his or her compensation from the NP CUSO for the corporate credit union to make the required disclosure.

B. Corporate Credit Union Board Representation

Section 704.14 currently requires that at least a majority of a corporate credit union's board members must serve on the corporate credit union's board as a representative of a member credit union.[23] In addition, any candidate for a position on the board of a corporate credit union must hold a senior management position at a member credit union and hold that position at the time he or she is seated on the board of a corporate credit union. Currently, only an individual who holds the position of chief executive officer, chief financial officer, chief operating officer, or treasurer/manager at a member credit union, and will hold that position at the time he or she is seated on the corporate credit union board if elected, may seek election or re-election to the corporate credit union board.

The proposed rule would expand the credit union officials eligible to serve on a corporate credit union board. The proposed rule would no longer expressly limit the corporate credit union board to the above stated positions and instead would include any person in a senior staff position at a member credit union. The proposed rule would then list the current positions as examples of senior staff positions that are eligible to serve on a corporate credit union board. The proposed rule also would include two new positions, chief information officer and chief risk officer, in the list of examples of senior staff positions eligible to serve on a corporate credit union board.

The Board believes that officials who hold a senior management position at a member credit union are qualified individuals who could offer expertise as a corporate credit union board member. Not only would the corporate credit union members have more flexibility in choosing board members, but expanding eligible senior staff positions, such as chief information officer and chief risk officer, would widen the range of expertise on corporate credit union boards.

C. Enterprise Risk Management

Section 704.21 requires corporate credit unions to develop and follow an enterprise risk management policy.[24] A corporate credit union must also establish an enterprise risk management committee (ERMC) and include an independent risk management expert on the committee. The Board adopted these requirements in 2011 due to concerns that corporate credit unions were not adequately focused on the aggregation of exposures across entire institutions, even though the Board believed that corporate credit unions were adequately focused on individual risk exposures.[25]

The current rule includes several specific requirements regarding the independent risk management expert on the committee. The risk management expert must have at least five years of experience in identifying, assessing, and managing risk exposures.[26] This experience must be commensurate with the size of the corporate credit union and the complexity of its operations. In addition, the current rule provides what constitutes independence. A risk management expert qualifies as independent if: (1) The expert reports to the ERMC and to the corporate credit union's board of directors; (2) neither the expert, nor any immediate family member of the expert, is supervised by or has any material business or professional relationship with the chief executive officer (CEO) of the corporate credit union, or anyone directly or indirectly supervised by the CEO; and (3) neither the expert, nor any immediate family member of the expert, has had any of the previously described relationships for at least the past three years.[27] The Board specifically included experience and independence requirements to ensure the enterprise risk management expert is adequately qualified and not influenced by the operational side of the corporate credit union.[28]

The Board, however, no longer believes that it is necessary for prescriptive experience requirements and for the risk management expert to be independent of the corporate credit union. The Board believes the corporate credit union should have more discretion in choosing an adequate risk management expert. The Board does not believe that a prescriptive five-year experience requirement is necessary. The Board believes that corporate credit unions are in the best position to determine the appropriate level of experience necessary for the position. The proposed rule also would permit the risk management expert to report directly to the ERMC.

Additionally, the Board believes that the effectiveness of risk management practices is driven by a multitude of factors, to include policies, processes, and qualified knowledge. Many corporate credit unions have integrated their enterprise risk management function into their business decision making, and at many corporate credit unions, internal corporate staff possess the skills and experience to capably manage the enterprise risk management program. By and large, corporate credit unions have improved their ability to assess risk and effectively challenge

[21] 12 CFR 704.19(a).

[22] The Board notes, however, that part 712 prohibits officials and senior management employees, and their immediate family members of an FCU with an outstanding loan or investment from receiving any salary, commission, investment income, or other income or compensation from the CUSO, either directly or directly. 12 CFR 712.8.

[23] 12 CFR 704.14.

[24] 12 CFR 704.21.

[25] 76 FR 23861 (Apr. 29, 2011) and 80 FR 25932 (May 6, 2015).

[26] 12 CFR 704.21(c).

[27] 12 CFR 704.21(d).

[28] 76 FR 23861 (Apr. 29, 2011).

evaluations of risk since the current rule was first adopted. The proposed rule would provide the corporate credit unions flexibility to choose an internal risk management expert instead of engaging an outside consultant.

The Board, however, notes that even though independence is no longer an explicit requirement, for best enterprise risk management practices, the expert should have appropriate stature and authority to effectively manage and lead an enterprise risk management program. The expert must be competent to analyze risks across the institution and have the capability to communicate those risks to the board or ERMC despite potential influence from the operational side of the corporate credit union. The NCUA will evaluate the adequacy of a corporate credit union's enterprise risk management practices through the supervisory process. Sound risk management is a cornerstone responsibility of a credit union's leadership; therefore, CAMEL and risk ratings will incorporate the supervisory team's assessment of this area. Weaknesses in risk management may result in supervisory actions.

D. Natural Person Credit Union Subordinated Debt Instruments

The Board recently issued a proposed rule to permit low-income designated credit unions, complex credit unions, and new credit unions to issue subordinated debt instruments for purposes of regulatory capital treatment (subordinated debt NPR).[29] If the Board adopts the proposed rule as final, it expects additional credit unions to begin issuing subordinated debt instruments. Therefore, the Board believes it is necessary to clarify whether corporate credit unions may purchase such instruments and, if so, the treatment of the investments under part 704.

This proposed rule would create a new definition for the term natural person credit union subordinated debt instrument. The proposed rule would define a natural person credit union subordinated debt instrument as any debt instrument issued by a natural person credit union that is subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and either the National Credit Union Share Insurance Fund (NCUSIF) or the insurer of a privately insured credit union. The Board intends for this definition to include all instruments issued under the subordinated debt NPR.

The Board is clarifying that corporate credit unions may purchase subordinated debt instruments of natural person credit unions under a corporate credit union's lending authority. This authority is derived from their lending authority because subordinated debt instruments are issued under a natural person credit union's borrowing authority. Additionally, natural person credit unions are also permitted to, subject to various restrictions and limits, purchase such subordinated debt instruments from other natural person credit unions under their lending authority. Treating the purchase of such subordinated debt instruments as lending would ensure consistent treatment between natural person credit unions and corporate credit unions. The proposed rule would not explicitly state that a corporate credit union may purchase a natural person credit union subordinate debt instrument because the Board believes corporate credit unions' current lending authority is currently sufficiently broad to include purchasing subordinated debt instruments.

The proposed rule, however, would require that a corporate credit union fully deduct the amount of the subordinated debt instrument from its tier 1 capital to ensure consistent treatment between investments in the capital of other corporate credit unions and natural person credit unions. Corporate credit unions are currently required to deduct from tier 1 capital any investments in perpetual contributed capital and nonperpetual capital accounts that are maintained at other corporate credit unions.[30] The Board believes that investments in natural person credit union subordinated debt instruments should be treated similarly as such instruments may qualify as regulatory capital for the natural person credit union. The Board is also concerned about systemic risk if corporate credit unions own a significant amount of natural person credit union issued subordinated debt. Finally, a natural person credit union subordinated debt instrument would be in a first loss position, even before the NCUSIF and any private insurance fund or entity. Therefore, an involuntary liquidation of the issuing credit union would potentially mean large, and likely total, losses for the holders of those subordinated obligations. The Board believes that fully deducting such instruments from tier 1 capital will ensure any potential losses do not affect the capital position of the investing corporate credit union. This measured approach strikes the right balance between providing corporate credit unions the flexibility to purchase natural person credit union subordinated debt instruments and avoiding undue systemic risk to the credit union system.

E. Approved Corporate CUSO Activities.

Part 704 does not list the permissible activities for corporate CUSOs in the regulatory text of part 704 of the Code of Federal Regulations, unlike part 712, which does so for NP CUSOs.[31] Instead, § 704.11 requires that, generally, a corporate CUSO must agree that it will limit its services to brokerage services, investment advisory services, and other categories of services as preapproved by NCUA and published on NCUA's website.[32] A CUSO that desires to engage in an activity not preapproved by NCUA can apply to NCUA for that approval. To increase transparency and make it easier for corporate credit unions to determine if an activity has previously been determined by the Board to be permissible, the proposed rule would replace the permissible activities list from the NCUA website with a new appendix to part 704. The proposed rule would include a new Appendix D, which would reprint the current list of permissible activities and conditions for corporate CUSO activities. The Board is not proposing any amendments to the list at this time. In the future, the Board would make any additions or changes to the list by amending Appendix D through a rulemaking.

F. Definition of Collateralized Debt Obligation.

Corporate credit unions are prohibited from purchasing certain overly complex or leveraged investments, including collateralized debt obligations (commonly referred to as CDOs).[33] Under the current rule, the term CDO means a debt security collateralized by mortgage-backed securities, other asset-backed securities, or corporate obligations in the form of nonmortgage loans or debt. The term does not include: (1) Senior tranches of Re–REMICs consisting of senior mortgage- and asset-backed securities; (2) Any

[29] *Available at, https://www.ncua.gov/files/publications/regulations/proposed-rule-subordinated-debt.pdf* (Feb. 7, 2020).

[30] See the definition of tier 1 capital in 12 CFR 704.2.

[31] 12 CFR 712.5(b).

[32] *https://www.ncua.gov/regulation-supervision/corporate-credit-unions/corporate-cuso-activities/approved-corporate-cuso-activities.*

[33] The prohibition on purchasing CDOs was intended to protect corporate credit unions from the potential for excessive investment losses. 75 FR 64786, 64793 (Oct. 20, 2010).

security that is fully guaranteed as to principal and interest by the U.S. Government or its agencies or its sponsored enterprises; or (3) Any security collateralized by other securities where all the underlying securities are fully guaranteed as to principal and interest by the U.S. Government or its agencies or its sponsored enterprises.[34] The proposed rule would amend the definition of CDO to clarify that the definition includes both loans and debt securities. The proposed rule would change the defined term to ''collateralized loan or debt obligation,'' but would not otherwise amend the definition. The NCUA Board is aware that there has been confusion among industry participants concerning whether collateralized loans meet the definition and are therefore prohibited. The Board believes amending the name of the defined term clarifies the Board's intent.

G. Net Interest Income Modeling

Under the current rule, a corporate credit union must perform net interest income (NII) modeling to project earnings in multiple interest rate environments for a period of no less than two years.[35] NII modeling must, at minimum, be performed quarterly, including once on the last day of the calendar quarter. The proposed rule would make a change to the timeframe for NII. Under the proposed rule, a corporate credit union would not be required to perform NII modeling for two years and instead would only be required to perform modeling for one year.

The Board is proposing to amend the requirements for NII given that corporate credit unions are also subject to weighted average life (WAL) limits, which limit asset maturities to less than two years.[36] Under the current rule, a corporate credit union must test its financial assets at least quarterly, including once on the last day of the calendar quarter, for compliance with this limitation. If the WAL of a corporate credit union's assets exceeds two years on the testing date, this test must be calculated at least monthly, including once on the last day of the month, until the WAL is below two years.

The Board believes that NII modeling performed over a longer period than the WAL limits for asset maturities is less useful because the corporate credit union would also have to estimate what reinvestments would occur over the two-year period beyond simply estimating interest cash flows on assets. In addition, corporate credit unions already conduct net economic value analyses which capture a long-term view of interest rate risk. The Board believes that NII modeling over a one-year period sufficiently captures a corporate credit union's short-term interest rate risk.

III. Request for Comment on the Proposed Rule

The above proposed changes are consistent with the Board's ongoing efforts to reduce regulatory burden while assuring that corporate credit unions operate in a safe and sound manner. The Board welcomes comment on all aspects of the proposal. The Board is particularly interested in comments on the proposed thresholds and definitions and is willing to consider alternatives. The Board is requesting comment specifically on the following questions.

1. Is the proposed definition of corporate CUSO appropriate? Does it capture the types of corporate credit union investments most likely to pose systemic risk to the credit union system? The Board is willing to consider amendments to the definition of corporate CUSO.

2. The proposed definition of a corporate CUSO states that if a corporate credit owns 25 percent or more of a CUSO's contributed equity, stock, or membership interests, then the CUSO is a corporate CUSO. Please comment on whether 25 percent is an appropriate threshold for control. Should the Board consider a higher or lower threshold? The Board is willing to consider alternative thresholds for the definition of corporate CUSO. The Board notes that for some purposes the Federal Deposit Insurance Corporation defines control as low as 10 percent of an institution's common stock.

3. How do corporate credit unions structure their investment in CUSOs? Is it generally through stock? Contributed equity? Membership interests? Are there any types of typical ownership interests excluded from the corporate CUSO definition?

4. The proposed rule would not require NP CUSOs to disclose compensation paid to any employees that are also employees of a corporate credit union lending to, or investing in, the CUSO. Are corporate credit unions able to comply with their annual compensation disclosure without receiving the information from NP CUSOs?

5. Instead of requiring a deduction from capital due to the investment in a subordinated debt instrument, should the Board prohibit a corporate credit union from investing in such an instrument? Prohibiting an investment would limit a corporate credit union's flexibility, but would further reduce the potential for systemic risk. Please discuss the definition of natural person credit union subordinated debt instrument. Does it appropriately capture the subordinated debt instruments issued by natural person credit unions that are most likely to pose systemic risk? The Board is open to alternative treatments for a corporate credit union's investment in subordinated debt instruments.

6. Would a one-year window for NII modeling provide credit unions with a more accurate window to project earnings? Should the Board consider other timeframes to balance the accuracy of projections with the need for corporate credit unions to understand its interest rate risk? The Board is willing to consider alternative time periods for NII.

VII. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities (defined for purposes of the RFA to include credit unions with assets less than $100 million).[37] A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

This proposed rule would not have a significant economic impact on a substantial number of small entities. There are no corporate credit unions under $100 million in assets. Therefore, the Board certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to information collection requirements in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden. For purposes of the PRA, a paperwork burden may take the form of a reporting, recordkeeping, or

[34] 12 CFR 704.2.

[35] 12 CFR 704.8(e).

[36] 12 CFR 704.8(f).

[37] *See* 80 FR 57512 (Sept. 24, 2015).

third-party disclosure requirement, each referred to as an information collection. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The proposed rule will amend 12 CFR part 704, in part, to address minimal investments by a corporate credit union in a CUSO without the CUSO being classified as a corporate CUSO. The information collection requirements associated with this provision are cleared under OMB control number 3133–0129 and there are no other new information collection requirements associated with this proposed rule.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, the NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the principles of the executive order. This rulemaking will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

Assessment of Federal Regulations and Policies on Families

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

List of Subjects in 12 CFR Part 704

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

By the National Credit Union Administration Board on February 20, 2020.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the Board proposes to amend 12 CFR part 704, as follows:

PART 704—CORPORATE CREDIT UNIONS

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

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

■ 2. In § 704.2:

■ a. Revise the definition of *Collateralized Debt Obligation, Consolidated Credit Union Service Organization and Tier 1 Capital;* and

■ b. Add definitions for *Corporate CUSO, Credit Union Service Organization (CUSO),* and *Natural Person Credit Union Subordinated Debt Instrument,* in alphabetical order, to read as follows:

§ 704.2 Definitions.

* * * * *

Collateralized Debt and Loan Obligation (CDLO) means a debt security collateralized by mortgage-backed securities, other asset-backed securities, or corporate obligations in the form of nonmortgage loans or debt. For purposes of Part 704, the term CDLO does not include:

(1) Senior tranches of Re–REMIC's consisting of senior mortgage-and asset-backed securities;

(2) Any security that is fully guaranteed as to principal and interest by the U.S. Government or its agencies or its sponsored enterprises; or

(3) Any security collateralized by other securities where all the underlying securities are fully guaranteed as to principal and interest by the U.S. Government or its agencies or its sponsored enterprises.

* * * * *

Consolidated Credit Union Service Organization (Consolidated CUSO) means any CUSO the assets of which are consolidated with those of the corporate credit union for purposes of reporting under Generally Accepted Accounting Principles (GAAP). Generally, consolidated CUSOs are majority-owned CUSOs.

* * * * *

Corporate CUSO means a CUSO, as defined in part 712, that:

(1) Is a consolidated CUSO;

(2) A corporate credit union has the power, directly or indirectly, to direct the CUSO's management or policies;

(3) A corporate credit union owns 25 percent or more of the CUSO's contributed equity, stock, or membership interests; or

(4) The aggregate corporate credit union ownership meets or exceeds 50 percent of the CUSO's contributed equity, stock, or membership interests.

Credit union service organization (CUSO) means both a CUSO under part 712 and a corporate CUSO under part 704.

* * * * *

Natural Person Credit Union Subordinated Debt Instrument is any debt instrument issued by a natural person credit union that is subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and either the National Credit Union Share Insurance Fund or the insurer of a privately insured credit union.

* * * * *

Tier 1 capital means the sum of items in paragraphs (1) and (2) of this definition from which items in paragraphs (3) through (7) are deducted:

(1) Retained earnings;

(2) Perpetual contributed capital;

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

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

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

(6) Deduct any amount of PCC received from federally insured credit unions that causes PCC minus retained earnings, all divided by moving daily average net assets, to exceed two percent when a corporate credit union's retained earnings ratio is less than two and a half percent; and

(7) Deduct any natural person credit union subordinated debt instrument held by the corporate credit union.

* * * * *

■ 3. Revise § 704.5(c)(3) to read as follows:

§ 704.5 Investments.

* * * * *

(c) * * *

(1) * * *

(2) * * *

(3) CUSOs, subject to the limitations of § 704.11;

* * * * *

■ 4. In § 704.6(c)(2)(vi), remove the word ''corporate'' before the word ''CUSO.''

■ 5. In § 704.7, remove the word ''corporate'' before the word ''CUSO'' each place the word appears.

■ 6. In § 704.8(e) replace the phrase ''no less than 2 years'' with ''no less than 1 year.''

■ 7. Revise § 704.11 to read as follows:

§ 704.11 Credit Union Service Organizations (CUSOs).

(a) *Investment and loan limitations.* (1) The aggregate of all investments in

member and non-member CUSOs that a corporate credit union may make must not exceed 15 percent of a corporate credit union's total capital.

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

(3) If the limitations in paragraphs (a)(1) and (a)(2) of this section are reached or exceeded because of the profitability of the CUSO and the related GAAP valuation of the investment under the equity method without an additional cash outlay by the corporate, divestiture is not required. A corporate credit union may continue to invest up to the regulatory limit without regard to the increase in the GAAP valuation resulting from the CUSO's profitability.

(b) *Due diligence.* A corporate credit union must comply with the commercial loan policy and due diligence requirements of § 723.4 of this chapter for all loans to CUSOs.

(c) *Requirements for CUSOs that are not corporate CUSOs.* Corporate credit union investments in and lending to CUSOs that are not corporate CUSOs are subject to part 712 of this chapter, except that investment and loan limitations and due diligence requirements are governed by this section.

(d) *Requirements for Corporate CUSOs.* Corporate credit union authority to invest in or loan to a corporate CUSO is limited to that provided in this section.

(1) Structure. A corporate CUSO must be structured as a corporation, limited liability company, or limited partnership under state law.

(2) Separate entity. (i) A corporate CUSO must be operated as an entity separate from a corporate credit union.

(ii) A corporate credit union investing in or lending to a corporate CUSO must obtain a written legal opinion that concludes the corporate CUSO is organized and operated in a manner that the corporate credit union will not reasonably be held liable for the obligations of the corporate CUSO. This opinion must address factors that have led courts to ''pierce the corporate veil,'' such as inadequate capitalization, lack of corporate identity, common boards of directors and employees, control of one entity over another, and lack of separate books and records.

(3) Permissible activities. (i) A corporate CUSO must agree to limit its activities to:

(1) Brokerage services,

(2) Investment advisory services, and

(3) Other categories of activities as approved in writing by NCUA and as reflected in Appendix D.

(ii) Once the NCUA has approved an activity and published that activity on its website, the NCUA will not remove that particular activity from the approved list, or make substantial changes to the content or description of that approved activity, except through the formal rulemaking process.

(4) Compensation Restrictions. An official of a corporate credit union which has invested in or loaned to a corporate CUSO may not receive, either directly or indirectly, any salary, commission, investment income, or other income, compensation, or consideration from the corporate CUSO. This prohibition also extends to immediate family members of officials.

(5) Written Agreement between the Corporate Credit Union and Corporate CUSO. Prior to making an investment in or loan to a corporate CUSO, a corporate credit union must obtain a written agreement that the corporate CUSO:

(i) Will follow GAAP;

(ii) Will provide financial statements to the corporate credit union at least quarterly;

(iii) Will obtain an annual CPA opinion audit and provide a copy to the corporate credit union. A consolidated CUSO is not required to obtain a separate annual audit if it is included in the corporate credit union's annual audit;

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

(v) Will not acquire control, directly or indirectly, of another depository financial institution or to invest in shares, stocks, or obligations of an insurance company, trade association, liquidity facility, or similar organization;

(vi) Will allow the auditor, board of directors, and NCUA complete access to the CUSO's personnel, facilities, equipment, books, records, and any other documentation that the auditor, directors, or NCUA deem pertinent;

(vii) Will inform the corporate, at least quarterly, of all the compensation paid by the CUSO to its employees who are also employees of the corporate credit union; and

(viii) Will comply with all the requirements of this section.

(e) *Subsidiary Restrictions.* Any subsidiary of a corporate CUSO is automatically designated a corporate CUSO and subject to all the requirements of this section. The requirements of this section apply to all tiers or levels of a corporate CUSO's structure.

■ 8. Revise § 704.14(a)(2) to read as follows:

§ 704.14 Representation.

* * * * *

(a) * * *

(1) * * *

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

* * * * *

■ 9. In § 704.19, remove the word ''corporate'' before the word ''CUSO''.

■ 10. In § 704.21, revise paragraph (c) and remove paragraphs (d) and (e) to read as follows:

§ 704.21 Enterprise risk management.

* * * * *

(a) * * *

(b) * * *

(c) The ERMC must include at least one risk management expert who can report directly to the board of directors. The risk management expert's experience must be commensurate with the size of the corporate credit union and the complexity of its operations.

■ 11. Add Appendix D to read as follows:

Appendix D: Approved Corporate CUSO Activities.

Category—Clerical, Professional, & Management

A corporate CUSO may engage in the following clerical, professional, and management activities:

1. Business Consulting Services: Offering consulting services in support of business development, strategic planning, industry analysis, and operational efficiency.

2. Human Resources Services: Services addressing human capital needs, reporting, and management considerations to include development of policies, procedures, and employee manuals.

3. Insurance Brokerage or Agency Referrals: Making third party insurance services or products available. This may include endorsing a product or service, negotiating group discounts and making referrals.

4. Marketing and Research Services: Systematically gathering, recording, and analyzing data about issues relating to marketing credit union products and services to identify and assess how changing elements of the marketing mix affect member behavior. Producing reports of research, making recommendations for marketing strategies, and other similar market and research services.

5. Payroll Services: Management of payroll processing, reporting, and tax filing;

6. Training Services: Furnishing pre-packaged training products, developing new or customizing existing training products/modules, and facilitating education and training of credit union staff.

7. Audit & Compliance Consulting Services: Performing, as requested and agreed upon in predetermined scope arrangement, audits (internal, operational, financial, or compliance). Providing education and consultation services for developing statutory and regulatory compliance programs related to the Bank Secrecy Act, Anti Money Laundering provision, Office of Foreign Asset Control, and U.S. Patriot Act.

8. Product Development Services: Research and development of products and services specific to the needs of credit unions and their members/consumers.

A corporate credit union may engage in the following currency services:

1. Coin and Currency Services: Providing replenishment or deposit of excess coin and cash. This may include vault cash orders, ATM replenishments, and other similar services. Coin and currency services may be offered through agreement with another financial institution, direct with the Federal Reserve, through an armored car service agreement, or other similar arrangement.

2. A corporate credit union may only engage in coin and currency services if it meets the following conditions:

a. Maintain bond/liability insurance as appropriate.

b. Annually provide OCCU copy of bond/liability insurance.

A corporate credit union may engage in the following data processing services:

1. Electronic Document Management: Providing document and record management systems which may allow for document archival, reporting, secure remote access, and similar services.

2. Core processing: Offering a back-end system in a service bureau environment used to process and record daily transactions, and post updates to accounts and other financial records. This typically includes deposit, loan and credit-processing capabilities, with interfaces to general ledger systems and reporting tools, and may allow for or integrate with front-end member access platforms, subject to the following conditions:

a. Maintain business recovery plan ensuring uninterrupted operations.

b. Maintain bond/liability insurance appropriate for activity.

c. Adhere to AICPA audit standards for reporting on controls at a service organization.

d. Annually provide OCCU copy of bond/liability insurance, business contingency plans & test results.

A corporate credit union may engage in the following lending and deposit services:

1. Business Banking—Consulting and Turnkey Services: Provide either in-house, or through turnkey operation, suite of financial products. Products may include loan products, risk monitoring, and consulting services for business loan, deposit, payment and cash management products, provided that the corporate CUSO comply with the Member Business Loan Regulation—Part 723 of the NCUA Rules and Regulations.

2. Business loan origination: Provide business loan consulting and origination services. Examples of business loan origination include commercial real estate, term loans, lines of credit, construction, agriculture, SBA loans, and loan participation servicing and brokering, provided that the corporate CUSO comply with the Member Business Loan Regulation—Part 723 of the NCUA Rules and Regulations.

3. Business Loan Support Services: Provide business loan processing and sales to include pre- and post closing underwriting, risk monitoring reports, document preparation, and servicing. Loan support services may also include debt collection services and sale of repossessed collateral.

A corporate credit union may engage in the following payments and electronic transaction services:

1. Automated Clearing House (ACH): Providing services for the receipt, processing, distribution, and settlement of electronic credits and debits among financial institutions for final posting to business entities, credit unions and members/consumers. Activities include receipt of ACH files; file distribution; receipt and processing of returned items and notification of change files; offering and/or processing ACH origination files; assisting with ACH exceptions and transaction disputes; providing settlement of ACH files; and other similar ACH services, subject to the following conditions:

a. Restrict CUSO ownership to one corporate unless approved by NCUA.

b. Comply with NACHA rules.

c. Maintain Business Continuity/Disaster Recovery plan ensuring uninterrupted operations.

d. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

e. Maintain bond/liability insurance as appropriate.

f. Adhere to AICPA audit standards for reporting on controls at a service organization.

g. Annually provide OCCU copy of bond/liability insurance, report on controls at a service organization, business continuity plans and test results.

h. Utilize distributed settlement model if providing services to other corporate credit unions.

2. Wire Transfer Services (Domestic and International): Electronically transferring funds through the Federal Reserve Bank, other financial institution, or other similar third-party funds transfer agent (*i.e.,* Western Union, etc.) directly to a domestic or foreign financial institution or receiving transfer agent with final credit to business entities, credit unions, and member/consumers, subject to the following conditions:

a. Restrict CUSO ownership to one corporate unless approved by NCUA.

b. Maintain Business Continuity/Disaster Recovery plan ensuring uninterrupted operations.

c. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

d. Comply with NCUA and FFIEC Guidance for Authentication in an Internet Banking Environment as applicable.

e. Prefund transactions prior to processing.

f. Maintain bond/liability insurance as appropriate.

g. Adhere to AICPA audit standards for reporting on controls at a service organization.

h. Annually provide OCCU copy of bond/liability insurance, report on controls at a service organization, business continuity plans and test results.

3. Forward Check Collection/Remote Deposit Capture Services: Offering a suite of image, electronic, and paper forward check processing, collection, clearing, settlement, adjustment, and reporting services. Deposit processing may occur as either ''traditional'' paper processing, electronic truncation, or image capture, processing, and

transmission of check images from remote or centralized locations. Remote deposit capture services may include branch, teller, merchant, ATM, and consumer capture, and other similar forward check collection services. Activities may include resale of equipment through negotiated agreement, bundled services, and support agreements, subject to the following conditions:

a. Restrict CUSO ownership to one corporate unless approved by NCUA.

b. Comply with Federal Reserve Operating circulars and/or image clearing house operating agreements.

c. Maintain Business Continuity/ Disaster Recovery plan ensuring uninterrupted operations.

d. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

e. Comply with NCUA and FFIEC Guidance for Authentication in an Internet Banking Environment as applicable.

f. Maintain bond/liability insurance as appropriate.

g. Adhere to AICPA audit standards for reporting on controls at a service organization.

h. Annually provide OCCU copy of bond/liability insurance, report on controls at a service organization, business continuity plans and test results.

i. Utilize distributed settlement model if providing services to other corporate credit unions.

4. Share Draft (Check) Processing: Offering inclearing services for the receipt and processing of share drafts (checks) either as electronic images or physical checks received from the Federal Reserve Bank, image exchange networks, or through direct presentment arrangements with other financial institutions. Services include receipt and processing of inclearing checks for file distribution, processing of return files, adjustments, dispute resolution assistance, financial settlement of files, and other similar services, subject to the following conditions:

a. Restrict CUSO ownership to one corporate unless approved by NCUA.

b. Comply with Federal Reserve Operating circulars and/or image clearing house operating agreements.

c. Maintain Business Continuity/ Disaster Recovery plan ensuring uninterrupted operations.

d. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

e. Comply with NCUA and FFIEC Guidance for Authentication in an Internet Banking Environment as applicable.

f. Maintain bond/liability insurance as appropriate.

g. Adhere to AICPA audit standards for reporting on controls at a service organization.

h. Annually provide OCCU copy of bond/liability insurance, report on controls at a service organization, business continuity plans and test results.

i. Utilize distributed settlement model if providing services to other corporate credit unions.

5. Share Draft, Check Imaging, and Archival Services: Providing services for capturing and storing images of physical share drafts or checks for the purpose of facilitating forward check collection, maintaining electronic archives, and facilitating electronic access to check images for consumers' statements, integration with internet banking websites, and other similar purposes. Service may also include creating copies of archival history to facilitate ''in-house'' storage or transfers to new third-party service providers, subject to the following conditions:

a. Restrict CUSO ownership to one corporate unless approved by NCUA.

b. Comply with Federal Reserve Operating circulars and/or image clearing house operating agreements.

c. Maintain Business Continuity/ Disaster Recovery plan ensuring uninterrupted operations.

d. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

e. Comply with NCUA and FFIEC Guidance for Authentication in an internet Banking Environment as applicable.

f. Maintain bond/liability insurance as appropriate.

g. Adhere to AICPA audit standards for reporting on controls at a service organization.

h. Annually provide OCCU copy of bond/liability insurance, report on controls at a service organization, business continuity plans and test results.

6. Share Draft Fraud and Risk Management Services: Offering complementary services for share draft processing designed to identify and prevent checking account fraud and losses during the share draft clearing process, subject to the following conditions:

a. Maintain Business Continuity/ Disaster Recovery plan ensuring uninterrupted operations.

b. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

c. Maintain bond/liability insurance as appropriate.

d. Adhere to AICPA audit standards for reporting on controls at a service organization.

e. Annually provide OCCU copy of bond/liability insurance, report on controls at a service organization, business continuity plans and test results.

7. Official Check Services: Offering business share drafts (checks), official checks, and money order programs to include processing, clearing, and settlement of items, maintaining list of issued drafts, and providing daily reports for reconciliation, subject to the following conditions:

a. Maintain Business Continuity/ Disaster Recovery plan ensuring uninterrupted operations.

b. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

c. Maintain bond/liability insurance as appropriate.

d. Adhere to AICPA audit standards for reporting on controls at a service organization.

e. Annually provide OCCU copy of bond/liability insurance, report on controls at a service organization, business continuity plans and test results.

8. Lockbox & Remittance Services: Providing wholesale or small batch retail remittance processing services. Service includes receiving and processing payments, providing reports or files of activity, depositing of funds, and forward collection of items, subject to the following conditions:

a. Maintain Business Continuity/ Disaster Recovery plan ensuring uninterrupted operations.

b. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

c. Maintain bond/liability insurance as appropriate.

d. Adhere to AICPA audit standards for reporting on controls at a service organization.

e. Annually provide OCCU copy of bond/liability insurance, report on controls at a service organization, business continuity plans and test results.

9. Online & Mobile Banking: Offering internet-based technological services which may provide real-time, 24/7 access to consumers' financial information. This includes the ability to manage a variety of transactional and non-transactional activities within and between accounts which may include electronic transfers, payments, on-line loan applications, and other similar banking activities. Access to accounts may be through internet web applications and/or portable electronic

devices, subject to the following conditions:

a. Maintain Business Continuity/Disaster Recovery plan ensuring uninterrupted operations.

b. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

c. Comply with NCUA and FFIEC Guidance for Authentication in an internet Banking Environment as applicable.

d. Maintain bond/liability insurance as appropriate.

e. Adhere to AICPA audit standards for reporting on controls at a service organization.

f. Annually provide OCCU copy of bond/liability insurance, report on controls at a service organization, business continuity plans and test results.

10. Bill Pay and Electronic Bill Presentment and Payment (EBPP) Services: Offering services to allow consumers to send money to a creditor or vendor to be credited against a specific account. Bill payments may be executed electronically, via paper check or banker's draft, or other similar electronic payment means. Services may also include electronically presenting bills and/or billing statements, subject to the following conditions:

a. Maintain Business Continuity/Disaster Recovery plan ensuring uninterrupted operations.

b. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

c. Comply with NCUA and FFIEC Guidance for Authentication in an internet Banking Environment as applicable.

d. Maintain bond/liability insurance as appropriate.

e. Adhere to AICPA audit standards for reporting on controls at a service organization.

f. Annually provide OCCU copy of bond/liability insurance, report on controls at a service organization, business continuity plans and test results.

11. Electronic Statements/Paper Statements: Providing electronic and paper delivery of periodic account statements, subject to the following conditions:

a. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

b. Comply with NCUA and FFIEC Guidance for Authentication in an internet Banking Environment as applicable.

c. Maintain bond/liability insurance as appropriate.

d. Annually provide OCCU copy of bond/liability insurance, business continuity plans and test results.

12. Credit Card, Debit Card, and Gift or Prepaid Card Program Services: Offering debit, credit, and gift or prepaid card programs and processing to include: access to card networks and gateways, authorization and settlement of signature debit transactions, including settlement of related funds; fraud monitoring, risk management, and case support services to include neural networks and charge-back processing services; back office card support and management, reconciliation of daily settlement and adjustment processing; card maintenance, issuance, and transaction reports; card program project management and implementation; and other similar services. Gift or prepaid cards may be reloadable or non-reloadable, subject to the following conditions:

a. Maintain Business Continuity/Disaster Recovery plan ensuring uninterrupted operations.

b. Maintain bond/liability insurance as appropriate.

c. Maintain and certify compliance with current PCI/DSS (Payment Card Industry/Data Security Standards).

d. Maintain neural network or other industry standard fraud detection system.

e. Comply with network processing agreements and standards.

f. Adhere to AICPA audit standards for reporting on controls at a service organization.

g. Annually provide OCCU copy of bond/liability insurance, business continuity plans and test results, report on controls at a service organization, and PCI/DSS compliance certification.

13. Automated Teller Machine (ATM), Electronic Funds Transfer (EFT), and Point of Sale (POS) Services and Networks: Offering programs that allow access to a network of EFT terminals and ATMs to initiate PIN-based debit or ATM card transactions. ATM services include utilizing a shared ATM network, setting up a private ATM network, monitoring of ATM connectivity and availability, including the management of telecom circuits and modems, assisting with the implementation of new ATMs, ensuring data security and integrity, providing network access, authorization of PIN transactions completed at ATMs, including settlement of related funds. Other services include fraud monitoring of PIN transactions, adjustment and dispute resolution processing to include card blocking, chargeback processing, related research and other similar services, subject to the following conditions:

a. Maintain Business Continuity/Disaster Recovery plan ensuring uninterrupted operations.

b. Maintain bond/liability insurance as appropriate.

c. Maintain and certify compliance with current PCI/DSS.

d. Maintain neural network or other industry standard fraud detection system.

e. Comply with network processing agreements and standards.

f. Adhere to AICPA audit standards for reporting on controls at a service organization.

g. Annually provide OCCU copy of bond/liability insurance, business continuity plans and test results, report on controls at a service organization, and PCI/DSS compliance certification.

14. Shared Branching Services: Providing for the sharing of infrastructure to establish a private, secure, cooperative processing network that accepts transactions from members of participating credit unions. Shared branching functionality includes conducting deposits, account balance inquiries, and check cashing, and requesting funds transfers, official checks, or other similar services, subject to the following conditions:

a. Maintain Business Continuity/Disaster Recovery plan ensuring uninterrupted operations.

b. Comply with the Security Program Requirements—Part 748 to safeguard consumer information.

c. Comply with NCUA and FFIEC Guidance for Authentication in an internet Banking Environment as applicable.

d. Maintain and certify compliance with current PCI/DSS network standards or other similar shared network security standard, if applicable.

e. Maintain bond/liability insurance as appropriate.

f. Adhere to AICPA audit standards for reporting on controls at a service organization.

g. Annually provide OCCU copy of bond/liability insurance, business continuity plans and test results, report on controls at a service organization, and PCI/DSS compliance certification, if applicable.

A corporate credit union may engage in the following information technology services:

1. Web Development, Hosting, & Content Management: Developing and designing non-transaction public websites, private or internal websites, and web applications. Website hosting to include maintaining the servers and html code for public and private

websites, intranets, and Web applications used on customer websites. Offering web content management (WCM) systems to simplify the publication of web content and updates to websites and mobile devices, subject to the following conditions:

a. Maintain business recovery plan ensuring uninterrupted operations.

b. Maintain bond/liability insurance appropriate for activity.

c. Adhere to AICPA audit standards for reporting on controls at a service organization.

d. Annually provide OCCU copy of bond/liability insurance, business contingency plans & test results.

2. Web Authentication & Security Monitoring: Web security and monitoring services such as authentication and encryption of passwords and other similar techniques for secure member login to intranets, extranets, and private websites; host based intrusion protection and detection; log monitoring; hacker-safe monitoring programs; and configuration and daily administration web security and other similar monitoring services, subject to the following conditions:

a. Comply with the Security Program Requirements—Part 748 of the NCUA Rules and Regulations.

b. Comply with NCUA and FFIEC Guidance for Authentication in an internet Banking Environment as applicable.

c. Maintain bond/liability insurance appropriate for activity.

d. Adhere to AICPA audit standards for reporting on controls at a service organization.

e. Annually provide OCCU copy of bond/liability insurance, business contingency plans & test results.

3. Software Systems Development/Application Programming Interface (API) Development: Designing, coding, testing and updating custom software system data programs and other code (*e.g.,* scripts). Application Programming Interface (API) development includes developing, testing, and updating custom applications which interface with other existing systems and applications such as core processing systems, subject to the following conditions:

a. Comply with the Security Program Requirements—Part 748 of the NCUA Rules and Regulations.

b. Conduct independent code review for custom software systems and applications.

c. Adhere to audit standards for third-party service providers.

d. Maintain source code for custom developed software systems in escrow or in similar arrangement.

4. Secure Collaboration Services: Programs, systems, or sites for establishing secure communication channels for private document storage and distribution, and dissemination of confidential or sensitive information for the purpose of collaboration between authorized parties, provided that the corporate CUSO complies with the Security Program Requirements—Part 748 of the NCUA Rules and Regulations.

5. Information Technology (IT) Consulting and Management Services: Consulting and management services for IT infrastructure design and architecture, system security, administration, support, resource management and monitoring. Services include offering Software as a Service (SaaS), Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and planning and management, and the provisioning of hardware and software for business continuity planning to include online data backup and recovery services, subject to the following conditions:

a. Comply with the Security Program Requirements—Part 748 and Records Preservation Program and Records Retention Appendix—Part 749 of the NCUA Rules and Regulations.

b. Maintain bond/liability insurance appropriate for activity.

c. Annually provide OCCU copy of bond/liability insurance, vendor due diligence reports, security program, business contingency plans & test results.

A corporate credit union may engage in the following investment/ALM services:

1. Asset Liability Management (ALM) Consulting, Advisory, and Reporting Services: Consulting, advisory, and reporting services for balance sheet and interest rate risk management. This includes ALM interest rate risk modeling, measurement, and reporting; ALM model validation services; consulting services for ALM policy development, core deposit studies, lending pool analysis and valuations, and other similar services.

[FR Doc. 2020–03837 Filed 3–26–20; 8:45 am]

BILLING CODE 7535–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1006

[Docket No. CFPB–2020–0010]

RIN 3170–AA41

Debt Collection Practices (Regulation F); Extension of Comment Period

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Supplemental notice of proposed rulemaking; extension of comment period.

SUMMARY: On March 3, 2020, the Bureau of Consumer Financial Protection (Bureau) published in the **Federal Register** a Supplemental Notice of Proposed Rulemaking (SNPRM) requesting comment on the Bureau's proposal to amend Regulation F, which implements the Fair Debt Collection Practices Act (FDCPA), to require debt collectors to make certain disclosures when collecting time-barred debts. The SNPRM provided a 60-day comment period that was set to close on May 4, 2020. To allow interested persons more time to consider and submit their comments, the Bureau has determined that an extension of the comment period until June 5, 2020, is appropriate.

DATES: The comment period for the debt collection SNPRM published March 3, 2020, at 85 FR 12672, is extended. Responses to the SNPRM must now be received on or before June 5, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2020–0010 or RIN 3170–AA41, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: 2020-NPRM-DebtCollection@cfpb.gov.* Include Docket No. CFPB–2020–0010 or RIN 3170–AA41 in the subject line of the email.
- *Mail/Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

Instructions: The Bureau encourages the early submission of comments. All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700

G Street NW, Washington, DC 20552, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202–435–9169.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary or sensitive personal information, such as account numbers, Social Security numbers, or names of other individuals, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Seth Caffrey or Kristin McPartland, Senior Counsels, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact *CFPB_accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On February 21, 2020, the Bureau issued an SNPRM proposing to amend Regulation F, 12 CFR part 1006, to prescribe Federal rules governing the activities of debt collectors, as that term is defined in the FDCPA. The SNPRM was published in the Federal Register on March 3, 2020.[1] The SNPRM proposed to require debt collectors to make certain disclosures when collecting time-barred debts.

The SNPRM provided a 60-day public comment period that was set to close on May 4, 2020. Given the challenges posed by the COVID–19 (coronavirus infection) pandemic, we have received requests from stakeholders to give interested parties more time to conduct outreach to relevant constituencies and to properly address the many questions presented in the SNPRM. The Bureau believes that an extension of the SNPRM comment period to June 5, 2020, is appropriate. This extension should allow interested parties more time to prepare responses to the SNPRM without delaying the rulemaking. The SNPRM comment period will now close on June 5, 2020.

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2020–06237 Filed 3–26–20; 8:45 am]

BILLING CODE 4810–AM–P

[1] 85 FR 12672 (Mar. 3, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 200324–0087]

RIN 0694–ZA02

Request for Comments on Future Extensions of Temporary General License (TGL)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notification of inquiry; reopening comment period.

SUMMARY: The Bureau of Industry and Security (BIS) issued a notification of inquiry requesting comments on future extensions of a temporary general license under the Export Administration Regulations (EAR), published in the **Federal Register** on March 12, 2020 with the comment period starting on the date of display on the public inspection list on March 10, 2020 and closing on March 25, 2020. This notification reopens the comment period through April 22, 2020. Comments submitted anytime between March 10, 2020 and April 22, 2020 will be accepted and considered.

DATES: The comment period for the document published on March 12, 2020 (85 FR 14428), is reopened. Submit comments on or before April 22, 2020.

ADDRESSES: You may submit comments, identified by docket number BIS 2020–0001 or RIN 0694–ZA02, through the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All filers using the portal should use the name of the person or entity submitting comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referencing the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC.'' Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. The corresponding non-confidential version of those comments must be clearly marked ''PUBLIC.'' The file name of the non-confidential version should begin with the character ''P.'' The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or rebuttal comments. All filers should name their files using the name of the person or entity submitting the comments. Any submissions with file names that do not begin with a ''BC'' or ''P'' will be assumed to be public and will be made publicly available through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Director, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, by phone at (202) 482–2440 or email at *rpd2@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

This notification reopens the public comment period established in the **Federal Register** issue of March 12, 2020 (FR 2020–05194 Filed 3–10–20; 4:15 p.m.) that closed on March 25, 2020. In that notification, BIS requested comments from the public related to future extensions of the temporary general license (TGL) to Huawei Technologies and 114 of its non-US affiliates on the Entity List. BIS is seeking public comments on the impact on companies, organizations, individuals, and other impacted entities in five areas, each described in the March 12 notification. As published on May 22, 2019 (84 FR 23468), extended and amended through a final rule published on August 21, 2019 (84 FR 43487), and as currently extended through a final rule published on March 12, 2020 (85 FR 14416), Commerce has authorized the temporary general license (TGL) to Huawei Technologies and 114 of its non-US affiliates on the Entity List through May 15, 2020.

As was stated in the notification, BIS is requesting these comments to assist the U.S. Government in evaluating whether the temporary general license should continue to be extended, to evaluate whether any other changes may be warranted to the temporary general license, and to identify any alternative authorization or other regulatory provisions that may more effectively address what is being authorized under the temporary general license.

Instructions for the submission of comments, including comments that contain business confidential information, are found in the **ADDRESSES** section of this notification.

Dated: March 24, 2020.

Richard E. Ashooh,

Assistant Secretary for Export Administration.

[FR Doc. 2020–06545 Filed 3–25–20; 4:15 pm]

BILLING CODE 3510–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2020–0132; FRL–10007–10–Region 1]

Air Plan Approval and Air Quality Designation; Connecticut; Determination of Clean Data for the 2008 8-Hour Ozone Standard for the Greater Connecticut Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Greater Connecticut Serious 8-hour ozone nonattainment area has attained the 2008 8-hour National Ambient Air Quality Standard (NAAQS) for ozone, based on certified 2016–2018 ozone data. In addition, quality controlled and quality assured ozone data for 2019 that are available in the EPA Air Quality System, but not yet certified, do not conflict with the conclusion that this area attains the 2008 8-hour ozone NAAQS. If this proposed determination is made final, the requirements for this area to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 2008 8-hour ozone NAAQS shall be suspended for so long as the area continues to attain the ozone NAAQS. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before April 27, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2020–0132 at *https://www.regulations.gov,* or via email to *townsend.elizabeth@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the For Further Information Contact section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Townsend, Air Quality Branch, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109–3912, tel. (617) 918–1614, email *townsend.elizabeth@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. Background and Purpose
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I. Background and Purpose

On March 27, 2008, EPA revised the National Ambient Air Quality Standard (NAAQS) for ozone to establish a new 8-hour standard of 0.075 parts per million (ppm). On May 21, 2012 (77 FR 30087), EPA established initial classifications for designated nonattainment areas under the 2008 8-hour ozone NAAQS and classified Greater Connecticut (an area containing Hartford County, Litchfield County, New London County, Tolland County, and Windham County) as a Marginal nonattainment area. This designation was based on certified air quality monitoring data from calendar years 2008–2010.

On May 4, 2016 (81 FR 26697), EPA published the final notice in the **Federal Register** stating that Greater Connecticut failed to attain the 2008 8-hour ozone NAAQS by the attainment date of July 20, 2015 and changed the classification for Greater Connecticut to the next higher classification of Moderate under the CAA statutory scheme.

On August 23, 2019 (84 FR 44238), Greater Connecticut was reclassified from a Moderate to Serious ozone nonattainment area. This designation was based on certified 2015–2017 ozone data that showed the Greater Connecticut area failed to attain the 2008 8-hour ozone NAAQS by the attainment date of July 20, 2018. More recent air quality data indicates that the Greater Connecticut area is now attaining the 2008 8-hour ozone standard.

II. Analysis of Air Quality Data

EPA has reviewed the ambient air monitoring data for ozone, consistent with the requirements contained in 40 CFR part 50 and recorded in the EPA Air Quality System (AQS) database for the Greater Connecticut ozone nonattainment area from 2016 through the present time. On the basis of that review, EPA has concluded that this area attained the 2008 8-hour ozone standard at the end of the 2018 ozone season, based on certified 2016–2018 ozone data. In addition, quality controlled and quality assured ozone data for 2019 that are available in AQS, but not yet certified, do not conflict with the conclusion that this area attains the 2008 8-hour ozone NAAQS.

Under EPA regulations, the 2008 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.075 parts per million (ppm) (*See* 73 FR 16436). This 3-year average is referred to as the design value. When calculating the design value, digits to the right of the third decimal place are truncated (*See* 73 FR 16436). When the design value is less than or equal to 0.075 ppm at each monitor within the area, then the area is meeting the NAAQS. Also, the data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness as determined in Appendix I of 40 CFR part 50.

Table 1 shows the fourth-highest maximum 8-hour average ozone concentrations for the Greater Connecticut nonattainment area monitors for the years 2016–2019. Table 2 shows the ozone design values for these same monitors based on the following 3-year periods: 2016–2018 and 2017–2019.

TABLE 1—FOURTH-HIGH 8-HOUR OZONE AVERAGE CONCENTRATIONS (parts per million, ppm) IN THE GREATER CONNECTICUT AREA

Location	AQS site ID	2016	2017	2018	2019
Abington	90159991	0.074	0.075	0.072	0.066
Cornwall	90050005	0.078	0.067	0.071	0.062
East Hartford	90031003	0.075	0.070	0.067	0.072
Groton	90110008	0.075	0.078	0.074	0.075
Stafford	90131001	0.072	0.07	0.071	0.073

TABLE 2—OZONE DESIGN VALUES (ppm) FOR THE GREATER CONNECTICUT AREA

Location	AQS site ID	2016–2018	2017–2019 (preliminary)
Abington	90159991	0.071	0.071
Cornwall	90050005	0.070	0.066
East Hartford	90031003	0.069	0.069
Groton	90110008	0.075	0.075
Stafford	90131001	0.071	0.071

EPA's review of these data indicate that the Greater Connecticut ozone nonattainment area has met and continues to meet the 2008 8-hour ozone NAAQS.

III. Proposed Action

EPA is proposing to determine that the Greater Connecticut Serious 8-hour ozone nonattainment area has attained the 2008 8-hour NAAQS for ozone. This determination is based upon certified ambient air monitoring data that show the area has monitored attainment of the ozone NAAQS based on 2016–2018 data. In addition, quality controlled and quality assured ozone data for 2019 that are available in the EPA AQS database, but not yet certified, do not conflict with the conclusion that this area attains the 2008 8-hour ozone NAAQS. As provided in 40 CFR 51.918, if EPA finalizes this determination, it would suspend the requirements for Connecticut to submit an attainment demonstration, a reasonable further progress plan, and contingency measures under CAA section 172(c)(9), and any other planning State Implementation Plan (SIP) revision related to attainment of the 2008 8-hour ozone NAAQS for this area, for so long as the area continues to attain the standard. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; 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, the SIP is not approved to apply 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, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by

reference, Ozone, Reporting and recordkeeping requirements.

Dated: March 19, 2020.

Dennis Deziel,

Regional Administrator, EPA Region 1.

[FR Doc. 2020–06273 Filed 3–26–20; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 85, No. 60

Friday, March 27, 2020

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 23, 2020.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology Comments regarding these information collections are best assured of having their full effect if received by April 27, 2020. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Reporting and Recordkeeping Requirements for 7 CFR, Part 29.

OMB Control Number: 0581–0056.

Summary of Collection: The Fair and Equitable Tobacco Reform Act of 2004 (7 U.S.C. 518) eliminated price supports and marketing quotas for all tobacco beginning with the 2005 crop year. Mandatory inspection and grading of domestic and imported tobacco were eliminated as well as the mandatory pesticide testing of imported tobacco and the tobacco Market News Program. The Tobacco Inspection Act (U.S.C. 511) requires that all tobacco sold at designated auction markets in the U.S. be inspected and graded. Provision is also made for interested parties to request inspection, pesticide testing and grading services on an ''as needed'' basis. The Act also provides for the establishment and maintenance of tobacco standards for U.S. grown types and the collection and dissemination of market news which are funded by appropriated money.

Need and Use of the Information: Information is collected through various forms and other documents for the inspection and certification process. Upon receiving request information from tobacco dealers and/or manufacturers, tobacco inspectors will pull samples and apply U.S. Standard Grades to tobacco samples providing the customer a Tobacco Inspection Certificate (TB–92). Also, samples can be submitted to a USDA laboratory for pesticide testing and a detailed analysis is provided to the customer.

Description of Respondents: Business or other for-profit.

Number of Respondents: 50.

Frequency of Responses: Recordkeeping; Reporting; On occasion.

Total Burden Hours: 3,651.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–06370 Filed 3–26–20; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

[Docket No. USDA–2020–0005]

Notice of Request for Approval for Generic Clearance To Conduct Multiple Crop and Pesticide Use Surveys

AGENCY: Office of the Chief Economist, Office of Pest Management Policy, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of USDA's Office of Pest Management Policy to request approval for a new information collection for Multiple Crop and Pesticide Use Surveys.

DATES: Comments on this notice must be received by May 26, 2020 to be assured of consideration.

ADDRESSES: USDA invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, Including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Office of the Chief Economist, Office of Pest Management Policy, 1400 Independence Avenue SW, Room 3871-South Building, Mailstop 3817, Washington, DC 20250.
- *Hand- or Courier-Delivered Submittals:* Deliver to 1400 Independence Avenue SW, Room 3871—South Building, Washington, DC 20250. You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Instructions: All items submitted by mail or electronic mail must include the Agency name and Docket No. USDA–2020–0005. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Hill, Office of the Chief

Economist, Office of Pest Management Policy, U.S. Department of Agriculture, 1400 Independence Ave. SW, Washington, DC 20250, (202) 720–3846.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance to Conduct Multiple Crop and Pesticide Use Surveys.

OMB Number: 0503-New.

Expiration Date of Approval: Three years from approval date.

Type of Request: New information collection.

Abstract: The Office of Pest Management Policy (OPMP) of the United States Department of Agriculture (USDA) requests approval from the Office of Management and Budget (OMB) for generic clearance that will allow OPMP to collect information from agricultural entities. The primary purpose of this information will be to support OPMP's understanding of agricultural practices pertaining to pest management. OPMP is undertaking this effort to satisfy legislative requirements outlined in Title X, Section 10109 of the 2018 Farm Bill, which mandates that the Secretary of Agriculture, acting through the Office of the Chief Economist's Director of OPMP, collect this information.

Pest management information is critical to supporting a key responsibility of OPMP, *i.e.,* to ''consult with agricultural producers that may be affected by pest management or pesticide-related activities or actions of the Department or other agencies,'' as outlined in the Agricultural Research, Extension, and Education Reform Act of 1998. This request for approval will improve OPMP's ability to better understand the utilization of pest management tools by agricultural producers via input from pest management advisors—including Extension experts and crop consultants, who in addition to being advisors are often agricultural producers themselves. Data collected are intended to capture agricultural practices and needs to support Federal activities that pertain to pest management, which are typically time-sensitive and necessitate the need for rapid data collection.

In most cases, the turnaround time for these information collections will be a function of 60-day public comment periods associated with pesticide licensing actions, making it essential for OPMP to promptly administer requests and collect responses. Various factors drive what types of questions OPMP may ask, including the active ingredient, crop, region, application method, and specific target pest problems. Examples of questions include inquiries regarding pesticide usage, the availability and comparative utility of alternative pest management tactics for target pests, and resistance management concerns. Further, OPMP often needs to understand niche pest situations on specific crops and/or regions, which typically is not information that is readily available. In certain cases, a single information collection may be administered to pest management advisors across several active ingredients for a use site. This would avoid multiple outreach efforts to the same respondents, reducing both respondent and government burden.

This effort does not intend to duplicate information collection activities administered by USDA's National Agricultural Statistics Service (NASS) that pertain to pest management. When needed data are current and available through NASS collection efforts, it is OPMP's policy to utilize and recognize such information as Best Available Data.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–113) and OMB's regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995).

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response. Outside of upfront demographic questions, no more than 10 questions will be asked per response.

Type of Respondents: American Society of Agronomy Certified Crop Advisors (CCAs), Crop Consultants associated with the National Alliance of Independent Crop Consultants (NAICC), and university agricultural specialists (including Extension experts) that work with or on behalf of agriculturalists, such as farmers, ranchers, nursery operators, animal operations (cattle, chickens, catfish, etc.), foresters, beekeepers, farm managers, farm contractors, extermination and pest control operators, postharvest crop packing and/or processing activities, and/or cotton ginning.

Estimated Number of Respondents: Given that it is impossible to predict the number of impactful Federal actions that pertain to pest management in any given year, the entire universe of specialists employed in the areas outlined above could be considered as possible respondents. Realistically, however, only a small subset of these individuals is expected to respond or even be requested to participate in providing information. Using estimates provided by the American Society of Agronomy and NAICC, as of June 2019 there were 11,695 CCAs in the United States and approximately 800 NAICC independent crop consultants. Although some individuals are both CCAs and independent crop consultants, at most the total universe of crop advisors/consultants is 12,495 respondents. Of these respondents, NASS survey methodologists estimate a response rate of 15 percent should be expected until further empirical data is available, or 1,874 respondents if crop consultants across all agricultural systems were surveyed.

Of the institutions represented under the North American Industry Classification System (NAICS) code ''Universities, and Professional Schools'' (NAICS 6113), respondents are limited to land grant universities housing agricultural experts and/or Extension specialists. Typically, only one expert/specialist from a land grant university has the knowledge to respond to the types of questions that would be included in the proposed information collection, with an estimate of 130 such entities existing according to the Association of Public and Land-Grant Universities. This would result in 20 respondents assuming a 15 percent response rate. In all, across crop advisors/consultants and university specialists, the number of respondents per request is likely no greater than 1,894. The actual number of respondents for any given information request is expected to be far less than this, as requests will be for specific crops, regions, and/or pest management needs.

Estimated Number of Responses: It is not possible to precisely predict the number of significant actions or activities that would necessitate OPMP conducting an information collection request. From 2016 to 2019, the Environmental Protection Agency (EPA) made approximately 40 requests to OPMP for information across a total of more than 85 crops. Additionally, as of June 2019, EPA had 73 Preliminary Interim Decisions (PIDs) and 55 Draft Risk Assessments (DRAs) scheduled for completion in Fiscal Year 2019 (FY19), which is likely representative of the number of PID and DRA actions on an annual basis for the foreseeable future. OPMP does not plan to seek additional information for all actions and each action typically only applies to a subset of crops grown in the United States. Historically, for most actions that necessitate OPMP input, individual inquiries typically address one to five

crops, although in some cases inquiries may target the same crop and could result in the target population being contacted more than once annually. This is a function of more than one EPA action out for public comment in a given year being registered for use on the same crop. EPA actions are posted to the docket in quarterly batches which allows OPMP to limit contacting individual respondents to four or fewer times annually, as OPMP will be able to combine questions across multiple crops onto one survey. For this new collection request, 1,894 respondents could be contacted four times annually, or 7,576 responses per year.

Estimated Number of Responses per Respondent: Respondents will be contacted no more than four times annually, *i.e.,* on a quarterly basis.

Estimated Total Annual Burden on Respondents: 3,166 burden hours annually, or 9,498 hours over the 3-year life of the approved collection. [As stated in 13c of the Form OMB 83–1.]

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Robert Johansson,

Chief Economist.

[FR Doc. 2020–06466 Filed 3–26–20; 8:45 am]

BILLING CODE 3410–GL–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0103]

Import Requirements for the Importation of Fresh Fragrant Pears From China Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to revise the import requirements for the importation of fresh fragrant pears from China into the United States and to authorize importation from an additional area of production. Based on the findings of the pest risk analysis, which we made available to the public to review and comment through a previous notice, we have concluded that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh fragrant pears fruit from this additional production area.

DATES: The articles covered by this notice may be authorized for importation under the revised conditions after March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2114.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart L—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56–4 of the regulations contains a notice-based process based on established performance standards for authorizing the importation of fruits and vegetables. Paragraph (c) of that section provides that the name and origin of all fruits and vegetables authorized importation into the United States, as well as the requirements for their importation, are listed on the internet in APHIS' Fruits and Vegetables Import Requirements database, or FAVIR (*https://epermits.aphis.usda.gov/manual*). It also provides that, if the Administrator of APHIS determines that any of the phytosanitary measures required for the importation of a particular fruit or vegetable are no longer necessary to reasonably mitigate the plant pest risk posed by the fruit or vegetable, APHIS will publish a notice in the **Federal Register** making its pest risk analysis and determination available for public comment.

In accordance with that process, we published a notice [1] in the **Federal Register** on April 17, 2019 (84 FR 15994–15995, Docket No. APHIS–2017–0103) announcing the availability, for review and comment, of a pest list and risk management document (RMD) prepared relative to revising the conditions for the importation of fresh fragrant pears (*Pyrus x sinkiangensis* Yu) from China into the United States. The notice proposed both to revise the conditions for the importation of fragrant pears from an existing authorized area of production in China, the Korla region of Xinjiang Province, and to authorize importation of fragrant pears from another area of production, the Akesu region of Xinjiang Province.

We solicited comments on the pest list and RMD for 60 days ending on June 17, 2019. We received two comments by that date. They were both from an organization representing domestic pear producers within the United States. The comments that we received are discussed below by topic.

Comments on the Pest List

The pest list identified two pests of quarantine significance that could follow the pathway on fragrant pears from the Korla or Akesu regions of China, *Eulecanium circumfluum,* a soft scale, and *Euzophera pyriella,* the pyralid moth.

A commenter pointed out that *Schizaphis piricola,* an aphid, *Eulecanium giganteum* and *Rhodococcus turanicus,* both soft scales, and *Janus piri* and *Janus piriodorus,* both sawflies, were listed on the pest list as quarantine pests, but were not considered likely to follow the pathway on fragrant pears from China imported into the United States on the grounds that they attack stems, rather than fruit. The commenter stated that pears are often shipped with stems attached, and the pests should therefore have been considered to follow the pathway. The commenter also stated that the pests should have been mitigated for in the RMD by requiring that the national plant protection organization examine places of production, packinghouses, and packed fruit for them.

By ''stems,'' the pest list meant in a broad sense the above-ground, woody parts of the pear tree other than the trunk. There is evidence that *S. piricola, E. giganteum, R. turanicus, J. piri,* and *J. piriodorus* are all quarantine pests of branches, twigs, and cuttings of fragrant pears, but no evidence that they are associated with commercially produced fruit, with or without a portion of the stem attached.

The commenter stated that *Bactrocera dorsalis,* the Oriental fruit fly (OFF), is a quarantine pest that is known to exist

[1] To view the notice, pest list, RMD, economic effects assessment, and the comments that we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0103.*

in the Akesu and Korla regions and attacks pears. The commenter noted that OFF was not even included in the pest list and stated that it not only should have been included, but should have been considered a quarantine pest likely to follow the pathway on fragrant pears from China imported into the United States. The commenter also stated that OFF should have been mitigated for in the RMD by requiring bagging of fruit from places of production in which OFF is known to occur and fruit cutting during packinghouse procedures.

We acknowledge that OFF does exist in China and can attack several species of pears. However, we found no evidence that fragrant pears are a host of OFF.

The commenter pointed out that *Stemphylium pyrinum* was listed on the pest list as a quarantine pest but was not considered likely to follow the pathway on fragrant pears from China imported into the United States on the grounds that it attacks leaves, rather than fruit. The commenter stated that it can cause disease in fruit, however, and therefore should have been considered likely to follow the pathway on fragrant pears from China imported into the United States, and mitigated for in the RMD.

We found no evidence that *S. pyrinum* is associated with fragrant pear fruit; evidence indicated it solely attacks fragrant pear leaves. Since the commenter did not provide a citation in support of the assertion that *S. pyrinum* attacks fragrant pear fruit, we are not able to evaluate the commenter's claim.

The commenter stated that *Stemphylium lycopersici* and *Stemphylium mali* should have been added to the pest list as quarantine pests and should have been considered likely to follow the pathway on fragrant peas from China imported into the United States, and mitigated for in the RMD.

S. lycopersici is a synonym for *S. pyrinum.* As noted above, we found no evidence that *S. pyrinum* is associated with fragrant pear fruit. We also found no evidence that fragrant pears are a host of *S. mali.*

The commenter pointed out that *Amphitetranychus viennensis* and *Eotetranychus pruni,* both spider mites, were listed on the pest list as quarantine pests but were not considered likely to follow the pathway of fragrant pears from China imported into the United States on the grounds that they attack leaves, rather than fruit. The commenter stated that, while the mites feed on foliage, they can collect on fruit, particularly in calices, during the harvest season, and may therefore follow the pathway on harvested fruit. The commenter provided a photograph documenting this behavior on an apple from Washington State, as well as a citation to an article suggesting that the mites follow the pathway on fruit.[2]

We are aware of the behavior the commenter referred to and it is documented to occur on certain harvested fruit, including apples. However, we have no evidence that the behavior is ubiquitous on all hosts, nor does the cited article suggest this is the case. We found no evidence that spider mites collect on fragrant pear fruit prior to harvest, and no primary evidence that the mites feed on fragrant pears.

The commenter pointed out that while the pest list listed *Euzophera pyriella* as a quarantine pest that could follow the pathway of fragrant pears from China, it also listed *E. pyriella* as being present in the continental United States and not under official control. The commenter stated that they could find no evidence that *E. pyriella* exists in the United States and asked if the pest list was in error regarding its distribution.

The pest list was in error on this matter and should have stated that *E. pyriella* is not known to occur in the United States.

The commenter stated that *Cacopsylla chinensis,* a psyllid, should have been listed in the pest list as a quarantine pest that could follow the pathway of fragrant pears from China imported into the United States.

Based on our review of the relevant literature and other sources used to compile the pest list, we found no evidence that *C. chinensis* attacks fragrant pear fruit.

Therefore, in accordance with § 319.56–4(c)(4)(ii) of the regulations, we are announcing our decision to revise the requirements for the importation of fragrant pears from China into the United States. The revised conditions are as follows:

- The fragrant pears must be grown in the Akesu or Korla region at a production site that is registered with the NPPO of China.
- Registered production sites must have in place a production site control program approved by APHIS and the NPPO of China.
- The NPPO of China is responsible for ensuring that registered production sites are subject to field sanitation and that growers are aware of quarantine pests and control measures to be taken for their control. Such measures must be described in detail in an operational workplan approved by the NPPO of China and APHIS.
- Only intact fruits may be harvested for export and the harvested fruit must be safeguarded against quarantine pests from the production site until the consignment is shipped.
- Fragrant pears must be packed in a packinghouse registered with the NPPO of China.
- The packinghouses must have a tracking system in place that will allow for traceback of the fruit to individual production sites.
- Registered packinghouses are prohibited from packing fragrant pears destined for other countries while packing fruit destined for the United States.
- Packinghouse procedures must be in accordance with the operational workplan.
- Each shipping box must be marked with the identity of the packinghouse and grower.
- Each consignment of fragrant pears must be accompanied by a phytosanitary certificate issued by the NPPO of China attesting to place of origin and stating that all APHIS phytosanitary requirements have been met and that the consignment was inspected and found free of quarantine pests.
- Fragrant pears may be imported as commercial consignments only.
- Fragrant pears are subject to inspection at the port of entry into the United States.
- Fragrant pears must be imported under permit.

These revised conditions will be listed in the Fruits and Vegetables Import Requirements database (available at *https://epermits.aphis.usda.gov/manual*). In addition to these specific measures, fresh fragrant pear fruit from China will be subject to the general requirements listed in § 319.56–3 that are applicable to the importation of all fruits and vegetables.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the reporting and recordkeeping requirements included in this notice are covered under the Office of Management and Budget (OMB) control number 0579–0049.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government

[2] CABI. 2019. *Amphitetranychus viennensis (hawthorn (spider) mite).* Invasive Species Compendium. *https://www.cabi.org/isc/datasheet/53368.*

information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this notice, please contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851–2483.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as not a major rule, as defined by 5 U.S.C. 804(2).

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 23rd day of March 2020.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–06374 Filed 3–26–20; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS–20–Telecom–0007]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice; comment requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named agency to request Office of Management and Budget's (OMB) approval for an extension of a currently approved information collection in support of RUS Specification for Quality Control and Inspection of Timber Products.

DATES: Comments on this notice must be received by May 26, 2020 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, Room 4227, South Building, Washington, DC 20250–1522. Telephone: (202) 720–2825. Email *arlette.mussington@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) The accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the Search box, enter the Docket No RUS–20–Telecom–0007 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Title: RUS Specification for Quality Control and Inspection of Timber Products.

OMB Control Number: 0572–0076.

Expiration Date of Approval: November 30, 2020.

Type of Request: Extension of a currently approved collection.

Abstract: RUS Bulletin 1728H–702 and 7 CFR 1728.202 describe the responsibilities and procedures pertaining to the quality control by producers and pertaining to inspection of timber products produced in accordance with RUS specifications. In order to ensure the security of loan funds, adequate quality control of timber products is vital to loan security on electric power systems where hundreds of thousands of wood poles and cross-arms are used. Since RUS and its borrowers do not have the expertise or manpower to quickly determine imperfections in the wood products or their preservatives treatments, they must obtain service of an inspection agency to ensure that the specifications for wood poles and cross-arms are being met. Copies of test reports on various preservatives must accompany each load of poles treated at the same time in a pressure cylinder (charge) as required by 7 CFR 1728.202(i). RUS feels the importance of safety concerns are enough to justify requiring test reports so that the purchaser, inspectors, and RUS will be able to spot check the general accuracy and reliability of the tests.

Estimate of Burden: This collection of information is estimated to average 1 hour per response.

Respondents: Not-for-profit institutions; Business or other for profit.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 800.

Estimated Total Annual Burden on Respondents: 20,333 hours.

Copies of this information collection can be obtained from Arlette Mussington, Innovation Center—Regulations Management Division, at (202) 720–2825. Email: *arlette.mussington@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Chad Rupe,

Administrator, Rural Utilities Service.

[FR Doc. 2020–06393 Filed 3–26–20; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS–20–ELECTRIC–0008]

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Rural Utilities Service (RUS) invites comments on the following information collection extension for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by May 26, 2020.

FOR FURTHER INFORMATION CONTACT: Lauren Cusick, Management Analysis, Regulations Management Division, Rural Development, 1400 Independence Ave. SW, STOP 1522, South Building, Washington, DC 20250–1522. Telephone: (202) 720–1414 or email *Lauren.Cusick@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB)

regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for revision.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the collection of information including the validity of the methodology and 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 appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the Search box, insert RUS–20–ELECTRIC–0008 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Title: Electric System Emergency Restoration Plan.

OMB Control Number: 0572–0140.

Type of Request: Extension of a currently approved collection.

Abstract: USDA Rural Development administers rural utilities programs through the Rural Utilities Service (Agency). The Agency manages loan programs in accordance with the Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 *et sec.,* as amended. One of the Agency's main objectives is to safeguard loan security. An important part of safeguarding loan security is to make sure Agency financed facilities are utilized responsibly, adequately operated and adequately maintained. Accordingly, RUS borrowers have a duty to RUS to maintain their respective systems. In performing this duty, borrowers further the purposes of the RE Act while also preserving the value of electric systems to serve as collateral for repayment of RUS assistance.

A substantial portion of the electric infrastructure of the United States resides in rural America and is maintained by rural Americans. RUS is uniquely coupled with the electric infrastructure of rural America and its electric borrowers serving rural America. To ensure that the electric infrastructure in rural America is adequately protected, electric borrowers conduct a Vulnerability and Risk Assessment (VRA) of their respective systems and utilize the results of this assessment to enhance an existing Emergency Restoration Plan (ERP) or to create an ERP. The VRA is utilized to identify specific assets and infrastructure owned or served by the electric utility, to determine the criticality and the risk level associated with the assets and infrastructure including a risk versus cost analysis, to identify threats and vulnerabilities, if present, to review existing mitigation procedures and to assist in the development of new and additional mitigating procedures, if necessary. The ERP provides written procedures detailing response and restoration efforts in the event of a major system outage resulting from a natural or man-made disaster. The annual exercise of the ERP ensures operability and employee competency and serves to identify and correct deficiencies in the existing ERP. The exercise may be implemented individually by a single borrower, or by an individual borrower as a participant in a multi-party (to include utilities, government agencies and other participants or combination thereof) tabletop execution or actual implementation of the ERP.

Electric borrowers maintain ERPs as part of prudent utilities practices. These ERPs are essential to continuous operation of the electric systems. Each electric borrower provides RUS with an annual self-certification that an ERP exists for the system and that an initial VRA has been performed.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hour per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 625.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 313 hours.

Copies of this information collection can be obtained from Lauren Cusick, Regulations Management Division, at (202) 720–1414, or email: *lauren.cusick@usda.gov.*

All responses to this notice will be summarized and included in the requests for OMB approval. All comments will also become a matter of public record.

Chad Rupe,

Administrator, Rural Utilities Service.

[FR Doc. 2020–06400 Filed 3–26–20; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Notice of Request for Revision of a Currently Approved Information Collection; Comments Requested

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this Notice announces the Rural Utilities Service (RUS) intention to request a revision for a currently approved information collection in support of the program servicing Water Program loans and grants.

DATES: Comments on this notice must be received by May 26, 2020 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Lauren Cusick, Management Analyst, Regulations Management Division, Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave. SW, STOP 1571, South Building, Washington, DC 20250–1522. Telephone: (202) 720–1414. Email: *Lauren.Cusick@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that will be submitted to OMB for extension and revision.

Title: Servicing of Water Programs Loans and Grants.

OMB Control Number: 0572–0137.

Type of Request: Revision of a currently approved information collection.

Abstract: The Rural Utilities Service (RUS) Water and Environmental Programs (WEP) provide financing and technical assistance for development and operation of safe and affordable water supply systems and sewage and other waste disposal facilities. WEP provides loans, guaranteed loans and grants for water, sewer, storm water, and

solid waste disposal facilities in rural areas and towns of up to 10,000 people. The recipients of the assistance covered by 7 CFR part 1782 must be public entities. These public entities can include municipalities, counties, special purpose districts, federally designated Indian tribes, and corporations not operated for profit, including cooperatives. The information, for the most part financial in nature, is needed by the Agency to determine if borrowers, based on their individual situations, qualify for the various servicing options.

Estimate of Burden: Public reporting for this collection of information is estimated to average 2.15 hours per response.

Respondents: Business or other for profit and non-profit institutions, and state and local governments.

Estimated Number of Respondents: 304.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 654 hours.

Copies of this information collection can be obtained from Lauren Cusick, Regulations Management Division, at (202) 720–1414. Email: *Lauren.Cusick@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''RUS'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select 0572–0137 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Chad Rupe,

Administrator, Rural Utilities Service.

[FR Doc. 2020–06396 Filed 3–26–20; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–19–2020]

Foreign-Trade Zone (FTZ) 77—Memphis, Tennessee; Notification of Proposed Production Activity; ISK Biosciences Corporation (Agricultural Chemicals); Memphis, Tennessee

The City of Memphis, grantee of FTZ 77, submitted a notification of proposed production activity to the FTZ Board on behalf of ISK Biosciences Corporation (ISK Biosciences), located in Memphis, Tennessee. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 12, 2020.

ISK Biosciences' facility is located within Subzone 77I. The facility is used for the production of agricultural chemicals. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt ISK Biosciences from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, ISK Biosciences would be able to choose the duty rates during customs entry procedures that apply to: Fluazinam SC 50%; Altima Fluazinam SC 50%; Allegro 500F fungicide; Secure fungicide; Shirlan 500 SC; Altima 500 SC; Shogun 50% WS; Shogun 50% SL and Fluazinam 500F fungicide; Omega and Omega 500 flowable; technical fluazinam fungicide; Ranman 400SC fungicide; Ranman 40SC and Ranman 40 SC; Bulk Cyazofamid 400SC; Cyazofamid 40% SC; Ranman fungicide; Segway herbicide; Segway O fungicide; Torrent herbicide; cyazofamid and cymoxanil pre-mixture; Pyriofenone 300SC fungicide; Property 300SC fungicide; Property 300 SC; Property fungicide; Prolivo fungicide; Isofetamid 400SC fungicide; bulk isofetamid 400SC; Kenja 400SC fungicide; Kabuto herbicide; Kenja herbicide; Isofetamid 400SC fungicide/Kryor 400SC; Astun fungicide; Fervent 475SC; Harvanta insecticide; Harvanta 50SL insecticide; Harvanta PRO; Cyclaniliprole 50SL insecticide; Cyclaniliprole 100SL insecticide; Verdepryn Insecticide; Sarisa insecticide; and, Pradia insecticide (duty rate ranges from 5% to 6.5%). ISK Biosciences would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include technical cyazofamid, isofetamid, pyriofenone, cyclaniliprole and fluazinam (duty rate 6.5%). The request indicates that the materials/components are subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 6, 2020.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: March 23, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–06360 Filed 3–26–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–859]

Steel Concrete Reinforcing Bar From Taiwan: Rescission of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on steel concrete reinforcing bar from Taiwan for

the period of review (POR): October 1, 2018, through September 30, 2019.

DATES: Applicable March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Leo Ayala or Kathryn Wallace, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; Telephone: (202) 482–3945 or (202) 482–6251, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2019, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on steel concrete reinforcing bar (rebar) from Taiwan for the period October 1, 2018, through September 30, 2019.[1] On October 31, 2019, the petitioner[2] filed a timely request for review with respect to Power Steel Co., Ltd. (Power Steel).[3] No other review requests were submitted. Based on the petitioner's request, on December 11, 2019, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Commerce published in the **Federal Register** a notice of initiation of an administrative review of Power Steel for the October 1, 2018, through September 30, 2019 POR.[4] On March 10, 2020, the petitioner submitted a timely withdrawal of its review request of Power Steel in this administrative review of the antidumping duty order on rebar from Taiwan.[5]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested the review withdraw the request within 90 days of the date of publication of notice of initiation of the requested review. As noted above, the petitioner fully withdrew its review request by the 90-day deadline, and no other party requested an administrative review of the antidumping duty order. As such, Commerce is in receipt of a timely request for withdrawal of this administrative review with respect to the sole company for which a review was requested and for which this review was initiated, Power Steel.[6] Accordingly, we are rescinding the administrative review of the antidumping duty order on rebar from Taiwan for the period October 1, 2018, through September 30, 2019, in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of rebar from Taiwan at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice in the **Federal Register**.

Notification to Importers

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

Notification Regarding Administrative Protective Order

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

This notice is issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: March 23, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–06397 Filed 3–26–20; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 52068 (October 1, 2019).

[2] The petitioner is Rebar Trade Action Coalition (RTAC), and its individual members Byer Steel Group, Inc., Commercial Metals Company, Gerdau Ameristeel U.S. Inc., Nucor Corporation, and Steel Dynamics, Inc.

[3] *See* Petitioner's Letter, ''Steel Concrete Reinforcing Bar from Taiwan: Request for Administrative Review,'' dated October 31, 2019.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 67712 (December 11, 2019) (*Initiation Notice*).

[5] *See* Petitioner's Letter, ''Steel Concrete Reinforcing Bar from Taiwan: Withdrawal of Request for Administrative Review,'' dated March 10, 2020.

[6] *See Initiation Notice.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) determines that Fila Dixon Stationery (Kunshan) Co., Ltd. (Kunshan Dixon) is not eligible for a separate rate and, therefore, remains part of the China-wide entity. The period of review (POR) is December 1, 2017 through November 30, 2018.

DATES: Applicable March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin or Brian Smith, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6478, or (202) 482–1766, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* on October 10, 2019, and invited interested parties to comment.[1] Kunshan Dixon and its affiliate Beijing Fila Dixon Stationery Co., Ltd. (Beijing Dixon) (the Dixon Companies) submitted a case brief.[2] For the events that occurred subsequent to the *Preliminary Results, see* Commerce's Issues and Decision Memorandum.[3]

[1] *See Certain Cased Pencils from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission of Review, in Part; 2017–2018,* 84 FR 54592 (October 10, 2019) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] *See* the Dixon Companies' Letter, ''Certain Cased Pencils from the People's Republic of China: Case Brief and Request for hearing by Fila Dixon Stationery (Kunshan) Co., Ltd. (Case No. A–570–827),'' dated November 12, 2019 (Dixon Companies' Case Brief).

[3] *See* Memorandum, ''Certain Cased Pencils from the People's Republic of China: Issues and Decision

Continued

Scope of the Order

The merchandise subject to the order includes certain cased pencils from China. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9609.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written product description is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

In the Issues and Decision Memorandum, we addressed all issues raised in the Dixon Companies' Case Brief. In the Appendix to this notice, we provide a list of these issues. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes From the Preliminary Results

Based on our analysis of the comments received, Commerce has not revised the *Preliminary Results.*

Methodology

Commerce has conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). In the *Preliminary Results,* Commerce determined that Kunshan Dixon was ineligible for a separate rate and is part of the China-wide entity, subject to the China-wide entity rate of 114.90 percent.[4] As we have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsidering this determination, we continue to find that Kunshan Dixon is ineligible for a separate rate.

As noted in the *Preliminary Results,* Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[5] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, and we did not self-initiate a review, the entity is not under review and the entity's rate is not subject to change.

For a full description of the methodology underlying our conclusions, *see* Issues and Decision Memorandum.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. We intend to issue assessment instructions to CBP 15 days after the publication date of these final results of review. We further intend to instruct CBP to apply an *ad valorem* assessment rate of 114.90 percent to all entries of subject merchandise during the POR which were exported by Kunshan Dixon.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin for the China-wide entity which is 114.90 percent; and (3) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter(s) that supplied that non-Chinese exporter. These cash deposit requirements, effective upon publication of these final results, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

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

Notification Regarding Administrative Protective Order

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

Notification to Interested Parties

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: March 23, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issues
  Comment 1: Whether Kunshan Dixon is Subject to Review
  Comment 2: Kunshan Dixon's Claim of No Shipments
  Comment 3: Whether Commerce Abused its Discretion
V. Recommendation

[FR Doc. 2020–06448 Filed 3–26–20; 8:45 am]

BILLING CODE 3510–DS–P

Memorandum for the Final Results; 2017–2018,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See Preliminary Results.*

[5] *See Antidumping Proceedings: Announcement of Change in Department Practice Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65970 (November 4, 2013).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Reporting of Sea Turtle Entanglement in Fishing Gear or Marine Debris

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 May 26, 2020.

ADDRESSES: Direct all written comments to Adrienne Thomas, PRA Officer, NOAA, 151 Patton Avenue, Room 159, Asheville, NC 28801 (or via the internet at *PRAcomments@doc.gov*). All comments received are part of the public record. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Kate Sampson, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930, (978) 282–8470, *kate.sampson@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA's National Marine Fisheries Service (NMFS) manages the Sea Turtle Disentanglement Network (STDN) to respond to sea turtle entanglement in active or discarded fishing gear (in particular those involving the vertical line of fixed gear fisheries), marine debris, or other line in the marine environment. Entanglement has the potential to cause serious injury or mortality, which would negatively impact the recovery of endangered and threatened sea turtle populations. The STDN is made up of dedicated, trained, and specially-equipped non-profit organizations, state and federal agencies, and universities. The STDN's goals are to increase reporting, to reduce serious injury and mortality to sea turtles, and to collect information that can be used for mitigation of these threats. Initial reports are provided by radio or phone from a variety of sources, including private and commercial boaters, fishermen, government and state agencies, and even non-profit organizations. Once initial reports are received and the STDN responds to document and, hopefully, release the entangled turtle, information from the initial report and the response are provided via hard copy or electronic entanglement report forms that are later submitted to NOAA Fisheries via electronic mail (most often). As there is limited observer coverage of fixed gear fisheries, the STDN data are invaluable to NMFS in understanding the threat of entanglement and working towards mitigation.

II. Method of Collection

Reports will be submitted on paper (faxed or mailed), by telephone, or electronically.

III. Data

OMB Control Number: 0648–0496.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Estimated Number of Respondents: 116.

Estimated Time per Response: 2 to 2.5 hours per case (78 cases).

Estimated Total Annual Burden Hours: 168.5 hours.

Estimated Total Annual Cost to Public: $100.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 24, 2020.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–06401 Filed 3–26–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA098]

New England Fishery Management Council; Public Hearing

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

ACTION: Notice of public hearing via webinar.

SUMMARY: The New England Fishery Management Council's is convening a Public Hearing of Draft Amendment 23 to Northeast Multispecies Fishery via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: Written Public comments must be received on or before, Tuesday, May 19, 2020. This webinar will be held on Wednesday, April 15, 2020 at 4 p.m.

ADDRESSES: All meeting participants and interested parties can register to join the webinar at *https://register.gotowebinar.com/register/8766043774885604099.*

Meeting addresses: The meeting will be held via webinar. See **SUPPLEMENTARY INFORMATION.**

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Public comments: Mail to Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill #2, Newburyport, MA 01950. Mark the outside of the envelope ''DEIS for Amendment 23 to the Northeast Multispecies FMP''.

Comments may also be sent via fax to (978) 465–3116 or submitted via email to *comments@nefmc.org* with ''DEIS for Amendment 23 to the Northeast Multispecies FMP'' in the subject line.

Agenda

This hearing is the first of the series; the remaining hearings will be announced in a separate notice. Council staff will brief the public on Draft Amendment 23 before receiving comments on the amendment. The hearing will begin promptly at the time indicated above. If all attendees who wish to do so have provided their comments prior to the end time indicated, the hearing may conclude early. To the extent possible, the Council may extend hearings beyond the end time indicated above to accommodate all attendees who wish to speak.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this hearing. Council action will be restricted to those issues specifically listed 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. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This hearing is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 24, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–06423 Filed 3–26–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Reporting Requirements for the Ocean Salmon Fishery Off the Coasts of Washington, Oregon, and California

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 comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written or on-line comments must be submitted on or before May 26, 2020.

ADDRESSES: Direct all written comments to Adrienne Thomas, PRA Officer, NOAA, 151 Patton Avenue, Room 159, Asheville, NC 28801 (or via the internet at *PRAcomments@doc.gov*). All comments received are part of the public record. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Peggy Mundy, National Marine Fisheries Service (NMFS) West Coast Region, telephone: 206–526–4323; email: *peggy.mundy@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

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

Ocean salmon fisheries conducted in the U.S. exclusive economic zone, 3–200 nautical miles off the West Coast states of Washington, Oregon, and California are managed by the Pacific Fishery Management Council (Council) and NOAA's National Marine Fisheries Service (NMFS) under the Magnuson Stevens Fishery Conservation and Management Act (MSA). Management measures for the ocean salmon fisheries are set annually, consistent with the Council's Pacific Coast Salmon Fishery Management Plan (FMP). The FMP provides a framework for managing the ocean salmon fisheries in a sustainable manner, as required under the MSA, through the use of conservation objectives, annual catch limits, and other reference points and status determination criteria described in the FMP. To meet these criteria, annual management measures, published in the **Federal Register** by NMFS, specify regulatory areas, catch restrictions, and landing restrictions based on the stock abundance forecasts. These catch and landing restrictions include area- and species-specific quotas for the commercial ocean salmon fishery, and generally require landings to be reported to the appropriate state agencies to allow for a timely and accurate accounting of the season's catch (50 CFR 660.404 and 50 CFR 660.408(o)). The best available catch and effort data and projections are presented by the state fishery managers in telephone conference calls involving the NMFS Northwest Regional Administrator and representatives of the Council. However, NMFS acknowledges that unsafe weather or mechanical problems could prevent commercial fishermen from making their landings at the times and places specified, and the MSA requires conservation and management measures to promote the safety of human life at sea. Therefore, the annual management measures will include provisions to exempt commercial salmon fishermen from compliance with the landing requirements when they experience unsafe weather conditions or mechanical problems at sea, so long as the appropriate notifications are made by, for example, at-sea radio and cellular telephone, and information on catch and other required information is given, under this collection of information. The annual management measures will specify the contents and procedure of the notifications, and the entities receiving the notifications (*e.g.,* U.S. Coast Guard). Absent this requirement by the Council, the state reporting systems would not regularly collect this specific type of in-season radio report. These provisions, and this federal collection of information, promote safety at sea and provide practical utility for sustainably managing the fishery, ensuring regulatory consistency across each state by implementing the same requirements for alternative reporting in unsafe conditions in the surrounding territorial waters. This information collection is intended to be general in scope by leaving the specifics of the notifications

for annual determination, thus providing flexibility in responding to salmon management concerns in any given year.

II. Method of Collection

Notifications are made by at-sea radio or cellular phone transmissions.

III. Data

OMB Control Number: 0648–0433.
Form Number(s): None.
Type of Review: Regular submission (extension of a currently approved collection).
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 40.
Estimated Time per Response: 15 minutes.
Estimated Total Annual Burden Hours: 10 hours.
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: March 24, 2020.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–06402 Filed 3–26–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2020–0019]

Grant of Interim Extension of the Term of U.S. Patent No. 8,858,612; Reducer®

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of interim Patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting interim extension for a one-year interim extension of the term of U.S. Patent No. 8,858,612.

FOR FURTHER INFORMATION CONTACT: Ali Salimi by telephone at (571) 272–0909; by mail marked to his attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to his attention at (571) 273–0909; or by email to *ali.salimi@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On March 11, 2020, Neovasc Medical Ltd., the patent owner of record, timely filed an application under 35 U.S.C. 156(d)(5) for an interim extension of the term of U.S. Patent No. 8,858,612. The patent claims method of use of catheter delivered implantable device, Reducer®. The application for patent term extension indicates that a Premarket Approval Application (PMA) P190035 was submitted to the Food and Drug Administration (FDA) on December 31, 2019.

Review of the patent term extension application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for one year as required by 35 U.S.C. 156(d)(5)(B). Because the regulatory review period will continue beyond the original expiration date of the patent, March 27, 2020, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 8,858,612 is granted for a period of one year from the original expiration date of the patent.

Robert Bahr,

Deputy Commissioner for Patent Examination Policy, United States Patent and Trademark Office.

[FR Doc. 2020–06447 Filed 3–26–20; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2020–0020]

Grant of Interim Extension of the Term of U.S. Patent No. 6,953,476; Reducer®

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting interim extension under 35 U.S.C. 156(d)(5) for a one-year interim extension of the term of U.S. Patent No. 6,953,476.

FOR FURTHER INFORMATION CONTACT: Ali Salimi by telephone at (571) 272–0909; by mail marked to his attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to his attention at (571) 273–0909; or by email to *ali.salimi@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On March 11, 2020, Neovasc Medical Ltd., the patent owner of record, timely filed an application under 35 U.S.C. 156(d)(5) for an interim extension of the term of U.S. Patent No. 6,953,476. The patent claims a catheter delivered implantable device, Reducer®. The application for patent term extension indicates that a Premarket Approval Application (PMA) P190035 was submitted to the Food and Drug Administration (FDA) on December 31, 2019.

Review of the patent term extension application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for one year as required by 35 U.S.C. 156(d)(5)(B). Because the regulatory review period will continue beyond the original expiration date of the patent, March 27, 2020, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 6,953,476 is granted for a period of one year from the original expiration date of the patent.

Robert Bahr,

Deputy Commissioner for Patent Examination Policy, United States Patent and Trademark Office.

[FR Doc. 2020–06445 Filed 3–26–20; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and a service previously furnished by such agencies.

DATES: Comments must be received on or before: April 26, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN—Product Name:
6515–01–NIB–2636—Exam Light, Tactical, For CLS 6545–01–677–4906 Only
Mandatory Source of Supply: Lighthouse Works, Orlando, FL
Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT

NSN—Product Name:
MR 13116—Pan, Fry, Non-stick, Silicone Handle, 11 Inches
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: Military Resale-Defense Commissary Agency

Service

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Engineer District San Francisco, Bay Model Visitor Center, Sausalito, CA
Mandatory Source of Supply: North Bay Rehabilitation Services, Inc., Rohnert Park, CA
Contracting Activity: DEPT OF THE ARMY, W075 ENDIST SAN FRAN

Deletions

The following products and service are proposed for deletion from the Procurement List:

Products

NSN—Product Name:
7510–01–317–4219—Dispenser, Clip System, Paper, Desktop, Medium
Mandatory Source of Supply: San Antonio Lighthouse for the Blind, San Antonio, TX
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSNs—Product Names:
360–01–J19–2026—Dining Packet
7360–01–J19–2030—Dining Packet
7360–01–J19–2062—Dining Packet
Mandatory Source of Supply: LC Industries, Inc., Durham, NC
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSNs—Product Names:
8415–01–315–9765—Ruff, Cold Weather Parka, White Synthetic Fur and Woodland Camouflage, X-Small
8415–01–315–9766—Ruff, Cold Weather Parka, White Synthetic Fur and Woodland Camouflage, Small
8415–01–315–9767—Ruff, Cold Weather Parka, White Synthetic Fur and Woodland Camouflage, Medium
8415–01–315–9768—Ruff, Cold Weather Parka, White Synthetic Fur and Woodland Camouflage, Large
8415–01–315–9769—Ruff, Cold Weather Parka, White Synthetic Fur and Woodland Camouflage, X-Large
Mandatory Source of Supply: RLCB, Inc., Raleigh, NC
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSNs—Product Names:
MR 10647—Saver, Herb, Includes Shipper 20647
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
MR 11088—Blanket, Pet, Large
MR 11302—Cooler, Styrofoam, Handled, 22 Qt.
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: Military Resale-Defense Commissary Agency

NSN—Product Name:
8010–00–848–9272—Enamel, Aerosol, Ammunition and Metals, Flat Olive Drab
Mandatory Source of Supply: The Lighthouse for the Blind, St. Louis, MO
Contracting Activity: FAS HEARTLAND REGIONAL ADMINISTRATO, KANSAS CITY, MO

NSN—Product Name:
6230–01–641–0756—Flashlight, Tactical, Lithium-Ion Rechargeable, Multi-color LEDs
Mandatory Source of Supply: Central Association for the Blind & Visually Impaired, Utica, NY
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

Service

Service Type: Maintenance Service Re-lamping
Mandatory for: Department of Interior—South: Office of Surface Mining, Washington, DC
Mandatory Source of Supply: ServiceSource, Inc., Oakton, VA
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2020–06453 Filed 3–26–20; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a product and services from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* April 26, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703)

603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

On 11/22/2019 and 12/13/2019, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. The action will result in authorizing small entities to furnish the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type: Conference Center Management
Mandatory for: DHS, Transportation Security Administration Headquarters, Springfield, VA
Mandatory Source of Supply: Didlake, Inc., Manassas, VA
Contracting Activity: TRANSPORTATION SECURITY ADMINISTRATION, WEO

Service Type: Custodial Service
Mandatory for: U.S. Air Force, Hurlburt Field, FL
Mandatory Source of Supply: Brevard Achievement Center, Inc., Rockledge, FL
Contracting Activity: DEPT OF THE AIR FORCE, FA4417 1 SOCONS LGC

Deletions

On 2/21/2020, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the product and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the product and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product and services are deleted from the Procurement List:

Product

NSN—Product Name:
7530–01–515–7899—Paper, Printer, Ink Jet, Photo Quality, Glossy, Letter, 89 Bright White
Mandatory Source of Supply: Wiscraft, Inc., Milwaukee, WI
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Services

Service Type: JWOD Staffing Services
Mandatory for: GSA, Nationwide
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Service Type: Switchboard Operation
Mandatory for: Veterans Affairs Medical Center: 3601 South 6th Avenue, Tucson, AZ
Mandatory Source of Supply: Southern Arizona Association for the Visually Impaired deleted, Tucson, AZ
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC

Service Type: Janitorial/Custodial
Mandatory for: Hoffman I Building: 2461 Eisenhower Avenue, Alexandria, VA
Mandatory Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: DEPT OF DEFENSE, DOD/OFF OF SECRETARY OF DEF (EXC MIL DEPTS)

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: 5300 Jack Gibb Blvd., Columbus, OH
Mandatory Source of Supply: Licking-Knox Goodwill Industries, Inc., Newark, OH
Contracting Activity: DEPT OF THE ARMY, W6QM MICC FT MCCOY (RC)

Service Type: Janitorial/Grounds Maintenance
Mandatory for: U.S. Army Reserve Center: Hilo, Hilo, HI
Mandatory Source of Supply: The ARC of Hilo, Hilo, HI
Contracting Activity: DEPT OF THE ARMY, 0413 AQ HQ

Service Type: Administrative Services
Mandatory for: U.S. Federal Building and Courthouse: Poff, Roanoke, VA
Mandatory Source of Supply: Goodwill Industries of the Valleys, Inc., Roanoke, VA
Contracting Activity: PUBLIC BUILDINGS SERVICE, GSA/PBS/R03 REGIONALCONTRACTS SUPPORT SERVICES SECTION

Service Type: ShadowBoarding
Mandatory for: Anniston Army Depot: 7 Frankford Avenue, Bldg 221, Anniston, AL
Contracting Activity: DEPT OF THE ARMY, W0LX ANNISTON DEPOT PROP DIV

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Reserve Center: Caesar Creek Lake, Caesar Creek Lake, OH
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Janitorial/Custodial
Mandatory for: Special Mental Health Clinic, Grand Rapids, MI
Mandatory Source of Supply: Hope Network Services Corporation, Grand Rapids, MI
Mandatory for: VA, Grand Rapids Community Based Outpatient Clinic, Grand Rapids, MI
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 610–MARION

Service Type: Management Services
Mandatory for: Department of Housing & Urban Development, Seattle, WA
Mandatory Source of Supply: Pacific Coast Community Services, Richmond, CA
Contracting Activity: HOUSING AND URBAN DEVELOPMENT, DEPARTMENT OF, DEPT OF HOUSING AND URBAN DEVELOPMENT

Service Type: Janitorial/Custodial
Mandatory for: Greensburg AMSA 104, Greensburg, PA
Mandatory for: AMSA #106, Punxsutawney, PA

Service Type: Janitorial/Custodial
Mandatory for: James A. Haley Veterans Hospital, Tampa, FL
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC

Service Type: Mailroom Operation, Operation of Supply Room
Mandatory for: US Army Corps of Engineers,

Estes Kefauver Building, Nashville, TN
Mandatory for: US Army Corps of Engineers, Estes Kefauver Bldg, Nashville, TN
Contracting Activity: DEPT OF THE ARMY, W072 ENDIST NASHVILLE

Service Type: Mailroom Operations
Mandatory for: U.S. Geological Survey, Menlo Park Science Center, CA
Mandatory Source of Supply: Hope Services, San Jose, CA
Contracting Activity: GEOLOGICAL SURVEY, OFFICE OF ACQUISITION AND GRANTS—SACRAMENTO

Service Type: Laundry Service
Mandatory for: James H. Quillen VA Medical Center, Mountain Home, TN
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC

Service Type: Janitorial/Custodial
Mandatory for: Kennesaw National Battlefield Park Visitor Center, Kennesaw, GA
Mandatory Source of Supply: Nobis Enterprises, Inc., Marietta, GA
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Service Type: Grounds Maintenance
Mandatory for: District Ranger Office Building & Wahweap Housing: Unit, Glen Canyon National Recreation Area, Page, AZ
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Service Type: Janitorial/Custodial
Mandatory for: Biscayne National Park, Dade County, FL
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Service Type: Warehousing & Distribution Service
Mandatory for: Internal Revenue Service Business Operations Offices: 333 Market Street, San Francisco, CA
Mandatory Source of Supply: Bobby Dodd Institute, Inc., Atlanta, GA
Contracting Activity: TREASURY, DEPARTMENT OF THE, DEPT OF TREAS/

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Reserve Facility: 8801 N. Chautauqua Boulevard Sharff Hall, West, Portland, OR
Mandatory Source of Supply: Relay Resources, Portland, OR
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Reserve Facility: 2731 SW Multnomah Boulevard, Sears Hall, South, Portland, OR
Mandatory Source of Supply: Relay Resources, Portland, OR
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: 4th & Hiller Street, Brownsville, PA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC CTR–FT DIX (RC)

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: 254 McClellandtown Road, Uniontown, PA
Mandatory for: U.S. Army Reserve Center: 900 Armory Drive, Greensburg, PA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC CTR–FT DIX (RC)

Service Type: Janitorial/Custodial
Mandatory for: Veterans Affairs Medical Center: Outpatient Clinic, Orlando, FL
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC

Service Type: Administrative Services
Mandatory for: Department of Veterans Affairs, James A. Quillen VA Medical Center, Mountain Home, TN
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 621–MOUNTAIN HOME

Service Type: Mailroom Operation
Mandatory for: Immigration & Customs Enforcement, 1100 Center Parkway, Atlanta, GA
Mandatory for: Immigration & Customs Enforcement, 180 Spring Street SW, Atlanta, GA
Mandatory for: Immigration & Customs Enforcement, 2150 Park Lake Drive, Atlanta, GA
Mandatory Source of Supply: Bobby Dodd Institute, Inc., Atlanta, GA
Contracting Activity: U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, MISSION SUPPORT ORLANDO

Service Type: Administrative Support
Mandatory for: USDA Forest Service: 4931 Broad River Road, Columbia, SC
Contracting Activity: FOREST SERVICE, DEPT OF AGRIC/FOREST SERVICE

Service Type: Janitorial/Custodial
Mandatory for: Tupelo Visitors Center and Headquarters: Natchez Trace Parkway, Tupelo, MS
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Service Type: Food Service Attendant
Mandatory for: Veterans Affairs Medical Center: Corner of Lamont and Sydney Streets, Mountain Home, TN
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 249P–NETWORK CONTRACT OFFICE 9

Service Type: Administrative Services
Mandatory for: Building 8–1078, 1–3571, C–7417, 8–6643, Fort Bragg, NC
Mandatory Source of Supply: ServiceSource, Inc., Oakton, VA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC FDO FT BRAGG

Service Type: Janitorial/Custodial
Mandatory for: Illinois Waterway Visitor Center: Dee Bennett Road, Utica, IL
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Reserve Center: 271 Hedges Street Scouten, Mansfield, OH
Contracting Activity: DEPT OF THE ARMY, W6QM MICC FT MCCOY (RC)

Service Type: Janitorial/Custodial
Mandatory for: Vice President Living Quarters: Naval Observatory, Washington, DC
Mandatory Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: FEDERAL PRISON SYSTEM, TERMINAL ISLAND, FCI

Service Type: Janitorial/Custodial
Mandatory for: Defense National Stockpile Depot: Hoyt Avenue, Binghamton, NY
Contracting Activity: DEFENSE LOGISTICS AGENCY, DEFENSE NATIONAL STOCKPILE CENTER

Service Type: Laundry Service
Mandatory for: Yakima Training Center, Yakima, WA
Mandatory Source of Supply: Yakima Specialties, Inc., Yakima, WA
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Michael R. Jurkowski,
Deputy Director, Business & PL Operations.

[FR Doc. 2020–06452 Filed 3–26–20; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, April 1, 2020; 1:30 p.m.

PLACE: via Teleconference.

STATUS: Commission Meeting—Closed to the Public.

MATTER TO BE CONSIDERED: Compliance Matters: Staff will brief the Commission on the status of specific compliance matters.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Secretary, Division of the Secretariat, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7479.

Dated: March 25, 2020.

Alberta E. Mills,
Secretary.

[FR Doc. 2020–06527 Filed 3–25–20; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2018–HQ–0006]

Submission for OMB Review; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 27, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or*whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil*.

SUPPLEMENTARY INFORMATION:

Title; associated form; and OMB number: Intercontinental Ballistic Missile Hardened Intersite Cable Right-of-Way Landowner Questionnaire; AF Form 3951; OMB Control Number 0701–0141.

Type of request: Reinstatement.

Number of respondents: 4,500.

Responses per respondent: 1.

Annual responses: 4,500.

Average burden per response: 15 minutes.

Annual burden hours: 1,125.

Needs and uses: This form collects updated landowner/tenant information as well as data on local property conditions which could adversely affect the Hardened Intersite Cable System (HICS) such as soil erosion, projected/building projects, evacuation plans, etc. This information also aids in notifying landowners/tenants when HCIS preventative or corrective maintenance becomes necessary to ensure uninterrupted Intercontinental Ballistic Missile command and control capability. The information collection requirement is necessary to report changes in ownership/lease information, conditions of missile cable route and associated appurtenances, and projected building/excavation projects. The information collected is used to ensure system integrity and to maintain a close contact public relations program with involved personnel and agencies.

Affected public: Business or other for profit; Not-for-profit institutions.

Frequency: On occasion.

Respondent's obligation: Voluntary.

OMB desk officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title 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.

DOD clearance officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 24, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–06443 Filed 3–26–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0035]

Privacy Act of 1974; System of Records

AGENCY: Defense Manpower Data Center (DMDC), Department of Defense (DoD).

ACTION: Notice of a Modified System of Records

SUMMARY: The DMDC is modifying a System of Records, Defense Travel System (DTS), DHRA 08 DoD. The DTS manages and processes unclassified DoD temporary duty travel. It procures commercial travel services via the DTS web portal. The DTS web portal books travel reservations, verifies travel requirements, computes the costs associated with each trip, reconciles cost, disburses payments, and archives each travel record in accordance with DoD requirements.

DATES: This System of Records modification is effective upon publication; however, comments on the Routine Uses will be accepted on or before April 27, 2020. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: https://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

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 *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPDD), 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0478.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) is modifying this System of Records to ensure it is representative of DoD travel systems by changing the following sections: System identifier; system location; system managers; the authority for maintenance of the system; the purpose(s); categories of individuals; categories of records; record source categories; routine uses; storage; retrievability; retention and disposal; safeguards; record access procedures; contesting record procedures; and notification procedure.

The OSD notices for Systems of Records subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Transparency Division website at *https://dpcld.defense.gov.*

The proposed system reports, as required by the Privacy Act, as amended, were submitted on December 11, 2019, to the House Committee on Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to Section 6 of OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' revised December 23, 2016 (December 23, 2016, 81 FR 94424).

Dated: March 23, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Defense Travel System (DTS), DHRA 08 DoD.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Operational DTS is located at the Central Data Center 1, Quality Technology Services (QTS), 1506 Moran Road, Dulles, VA 20166–9306 with the COOP site at the Central Data Center 2, Quality Technology Services (QTS), 1175 N. Main Street, Harrisonburg, VA 22802–4630.

The DTS Archive is located at Defense Manpower Data Center, DoD Center, Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

The DTS Modernization Effort is located in the Concur cloud platform, a commercial entity, Concur Technologies, Inc., 700 Central Expressway South, Suite 230, Allen, TX 75013–8104.

The Employee Rewards System is located at Amazon Web Service, 21155 Smith Switch Road, Ashburn, VA 20147.

The Automated Trip Request Information Process (ATRIP) is located at the Defense Threat Reduction Agency, 8725 John J. Kingman Road, Stop 6201, Fort Belvoir, VA 22060–6201.

SYSTEM MANAGER(S):

For DTS, DTS Modernization records, and the Employee Rewards System: Deputy Director, Defense Travel Management Office, 4800 Mark Center Drive, Suite 04J25–01, Alexandria, VA 22350–6000; email: *dodhra.dodc-mb.dmdc.mbx.webmaster@mail.mil.*

For DTS Archive records: Deputy Director, Defense Travel System Archive, Defense Manpower Data Center, 400 Gigling Road, Seaside, CA 93955–6771; email: *dodhra.dodc-mb.dmdc.mbx.webmaster@mail.mil.*

For ATRIP records: Chief, Program Integration Office, Cooperative Threat Reduction, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Stop 6201, Fort Belvoir, VA 22060–6201; email: *dtra.belvoir.ct.list.ct-travel-team@mail.mil.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 57, Travel, Transportation, and Subsistence; 50 U.S.C. 3711, Authority to carry out Department of Defense Cooperative Threat Reduction Program; Department of Defense (DoD) Directive 5100.87, Department of Defense Human Resources Activity; DoDD 5105.62, Defense Threat Reduction Agency (DTRA); DoD Instruction 5154.31, Volume 3, Commercial Travel Management: Defense Travel System (DTS); DoDI 5154.31, Volume 4, Commercial Travel Management: DoD Government Travel Charge Card (GTCC) Program; DoD Financial Management Regulation 7000.14–R, Vol. 9, Defense Travel System Regulation, current edition; DoD Directive 4500.09E, Transportation and Traffic Management; DTR 4500.9–R, Defense Transportation Regulation, Parts I, Passenger Movement, II, Cargo Movement, III, Mobility, IV, Personal Property, V, Customs; 41 CFR 300–304, The Federal Travel Regulation (FTR); Joint Federal Travel Regulations, Uniformed Service Members and DoD Civilian Employees; and E.O. 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM:

The purpose of the DTS is to provide a DoD-wide travel management process which will cover all official travel, from pre-travel arrangements to post-travel payments. Also, the DTS verifies individual travel information is accurate, current, and meets DoD foreign nation requirements for travel within the continental United States and outside the continental United States. The system facilitates the processing of official travel requests for DoD personnel and other individuals traveling on DoD travel orders. The DTS provides information to financial systems to reimburse individual travel expenses, as well as to a commercial system to facilitate a voluntary rewards program for travelers using government travel charge cards (GTCC) for select purchases. The DTS includes a tracking and reporting system to monitor travel authorizations, obligations, and payments. Additionally, the DoD uses the DTS data to conduct surveys of program effectiveness, provide insight into the gap between product/service delivery and customer expectations, and assist in understanding the drivers of customer satisfaction.

The DTS business intelligence tool and archives provide a repository for reporting and archiving travel records. It assists with planning, budgeting, and allocating resources for future DoD travel, conducting oversight operations, analyzing travel, budgetary, or other trends, detecting fraud and abuse, and provides a mechanism for responding to authorized internal and external requests for data relating to DoD official travel and travel-related services.

To increase the efficiency of DoD travel operations, the DTS modernization effort evaluates newer technology, common industry practices, and the feasibility of a commercial travel product. The scope of the effort will start small and expand over time to include more functionality and different types of DoD users.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD civilian personnel; active, former, and retired military members; Reserve and National Guard personnel; academy nominees, applicants, and cadets; dependents of military personnel; foreign nationals; and all other individuals in receipt of DoD travel orders/authorizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The DTS collects the following types of personal information: Full name, Social Security Number (SSN), DoD Identification Number (DoD ID Number), gender, date of birth, place of birth, citizenship, Passport information, Visa information, mailing address, home address, emergency contact name, phone number and personal email address. Employment information including: Service/Agency, duty station information, title/rank/grade, civilian/military status information, work email address, work phone number, and security clearance level. Financial information including: GTCC number and expiration date, personal credit card number and expiration date, personal checking and or savings account numbers and bank routing information. Travel information including: Frequent flyer information, travel itineraries (includes dates of travel) and reservations, trip record number, trip cost estimates, travel vouchers, travel-related receipts, travel document status information, travel budget information, commitment of travel funds, records of actual payment of travel funds, and supporting documentation.

RECORD SOURCE CATEGORIES:

The individual traveler, authorized DoD personnel, Government Travel Card records, and DoD information systems via electronic import such as the Air Reserve Orders Writing System and the Navy Reserve Order Writing System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND 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 may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To Federal and private entities providing travel services for purposes of arranging transportation and lodging for those individuals authorized to travel at government expense on official business.

b. To the Internal Revenue Service to provide information concerning the pay

of travel allowances which are subject to federal income tax.

c. To banking establishments for the purpose of confirming billing or expense data.

d. To such recipients and under such circumstances and procedures as mandated by federal statute or treaty.

e. To foreign or international law enforcement, security, or investigatory authorities to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements, including those regulating the stationing and status in foreign countries of DoD military and civilian personnel.

f. To contractors responsible for performing or working on contract for the DoD when necessary to accomplish an agency function related to this System of Records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DoD officers and employees.

g. To a federal agency, in response to its request in connection with an investigation of an employee, service member, or other authorized individual to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

h. To the Office of Personnel Management (OPM) concerning information on pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

i. To the Merit Systems Protection Board, including the Office of the Special Counsel, for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems, review of OPM or component rules and regulations, investigation of alleged or possible prohibited personnel practices; and administrative proceedings involving any individual subject of a DoD investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

j. To appropriate Federal, State, local, territorial, tribal, foreign, or international agencies for the purpose of counterintelligence activities authorized by U.S. law or Executive Order, or for the purpose of executing or enforcing laws designed to protect the national security or homeland security of the United States, including those relating to the sharing of records or information concerning terrorism, homeland security, or law enforcement.

k. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

l. To any component of the Department of Justice for litigation for the purpose of representing the DoD, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

m. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before and administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

n. To the National Archives and Records Administration (NARA) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

o. To a Member of Congress or staff acting upon the Member's behalf when the member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

p. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the System of Records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

q. To another Federal agency or Federal entity, when the DoD determines that information from this System of Records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in paper and electronic storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Travel authorization and voucher records for DoD employees are retrieved by the DoD Component, name, and/or partial or full SSN. For U.S. citizens, records can be retrieved using the full name, trip number, travel dates and travel destination, and DoD component. For employees' dependents, records can be retrieved using the host employee's component, name, and SSN. For the modernization effort (which only includes a small subset of Federal Government employees) the data is retrieved by DoD ID Number and name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

For DTS and DTS Modernization records: The majority of the records will be destroyed 6 years after the final payment or cancellation. Records relating to a claim will be destroyed 6 years and 3 months after the claim is closed, or when any applicable court order is lifted. In the case of a waiver of a claim, the record will be destroyed 6 years and 3 months after the close of the fiscal year in which the waiver was approved. In the case of a claim for which the Government's right to collect was not extended, the record will be destroyed 10 years and 3 months after the year in which the Government's right to collect first accrued.

For the Employee Rewards System: Records are cutoff and destroyed when no longer needed for business use. For ATRIP records: Records will be destroyed 6 years after the final payment or cancellation.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are stored in office buildings protected by security guards, closed circuit TV, controlled screening, use of visitor registers, electronic access, key cards, ID badges, and/or locks. Access to the system's data is controlled using intrusion detection systems, firewalls, a virtual private network, and DoD public key infrastructure certificates. Procedures are in place to deter and detect browsing and unauthorized access. To access the records, personnel are assigned role-based access and must complete two-factor authentication using a common access card credential and password/PIN. Access to records is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their official duties. Physical and electronic access is

limited to persons responsible for servicing and authorized to use the record system. The backups of data are encrypted and secured. The program office conducts security audits and monitors security practices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in the DTS, the DTS Archive, the DTS Modernization, or the Employee Rewards System should address written requests to: Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155. Requests for records maintained in the ATRIP should address written requests to: Defense Threat Reduction Agency (DTRA) Freedom of Information/Privacy Act Office Request Center, Defense Threat Reduction Agency (DTRA), 8725 John J. Kingman Road, Stop 6201, Fort Belvoir, VA 22060–6201. Requests must include the name and number of this System of Records Notice in addition to the individual's full name, SSN (if applicable), office or organization where assigned when trip was taken, travel destination, and dates of travel. The request must be signed by the individual. In addition, the requester must provide either 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 DoD rules for accessing records, contesting contents and appealing initial agency determinations are published in 32 CFR part 310, or may be obtained from the System Manager.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in the DTS, DTS Archive, the DTS Modernization, or the Employee Rewards System should address written inquiries to: Deputy Director, Defense Travel Management Office, 4800 Mark Center Drive, Suite 04J25–01, Alexandria, VA 22350–6000 or (for archived records) the Deputy Director, Defense Travel System/Management Information System, Defense Manpower Data Center, 400 Gigling Road, Seaside, CA 93955–6771.

Individuals seeking to determine whether information about themselves is contained in the ATRIP should address written inquiries to: Chief, Program Integration Office, Cooperative Threat Reduction, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Stop 6201, Fort Belvoir, VA 22060–6201. Individuals should provide their full name, office or organization where assigned when the trip was taken, travel destination and dates of travel. In the case of legal claims or duplicate names, an individual's SSN (last 4 digits or full number, depending on the scenario) may be required. In addition, the requester must provide either 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).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

March 24, 2010, 75 FR 14142.

[FR Doc. 2020–06467 Filed 3–26–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2020–OS–0034]

Proposed Collection; Comment Request

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Chief Management Officer, Washington Headquarters Services (WHS) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 26, 2020.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title 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: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Ms. Angela James at the Department of Defense, Washington Headquarters Services, ATTN: Executive Services Directorate, Directives Division, 4800 Mark Center Drive, Suite 03F09–09, Alexandria, VA 22350–3100 or call 571–372–7574.

SUPPLEMENTARY INFORMATION: *Title; Associated Form; and OMB Number:* Regular Generic Clearance for the Collection of Focus Groups, Usability Studies, Preliminary and Formative Research, Routine Reports and Survey Testing; OMB Control Number 0704–XXXX.

Needs and Uses: The proposed information collection activity provides a means to gather data science, conduct qualitative analysis, statistical experiments, program evaluation, test development, and forecasting in an efficient, timely manner in order to improve and monitor DoD programs and policies that impact the general public. These collections will provide insights

into existing programs and support the construction of new studies and programs. In accordance with the Executive Services Directorate commitment to be the preeminent provider of knowledge managements services to the warfighter, Department and throughout the Federal government, these collections will allow for ongoing collaborative and actionable communications between the Agency and its customers and stakeholders. The information collected will contribute directly to the improvement of program management, surveys, studies and research.

The information collections will be used to plan and design surveys, conduct initial testing, and. The collections will not raise substantive policy issues, issues of significant concern to other agencies, be used to make high-level policy or resource allocation decisions or involve potentially controversial topics. Date collected will not be generalized to the overall population. However, the collections will be low-burden, may involve the use of statistical rigor, and may publish their results. The participation of respondents will be voluntary and Personally Identifiable Information (PII) is collected only to the extent necessary and is not retained.

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

Annual Burden Hours: 300,000.

Number of Respondents: 300,000.

Responses per Respondent: 1.

Annual Responses: 300,000.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

Dated: March 24, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2020–06454 Filed 3–26–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2019–OS–0117]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition University, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 27, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Acquisition University, Data Services Management; OMB Control Number 0704–AAKD.

Type of Request: Extension.

Number of Respondents: 2,500.

Responses per Respondent: 1.

Annual Responses: 2,500.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 208.

Needs and Uses: The Data Services Management provides administrative and academic capabilities and functions related to student registrations, account requests, courses attempted and completed, and graduation notifications to DoD training systems.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title 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.

DoD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 24, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–06449 Filed 3–26–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0052]

Agency Information Collection Activities; Comment Request; ED–524 Budget Information Non-Construction Programs Form and Instructions

AGENCY: Office of the Secretary (OS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 26, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0052. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W–208B, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kelly Terpak, 202–205–5231.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an

opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: ED–524 Budget Information Non-Construction Programs Form and Instructions.

OMB Control Number: 1894–0008.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 5,400.

Total Estimated Number of Annual Burden Hours: 94,500.

Abstract: The ED–524 form and instructions are included in U.S. Department of Education discretionary grant application packages and are needed in order for applicants to submit summary-level budget data by budget category, as well as a detailed budget narrative, to request and justify their proposed grant budgets which are part of their grant applications.

Dated: March 24, 2020.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–06436 Filed 3–26–20; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Proposed Voluntary Voting System Guidelines 2.0 Requirements; Correction

SUMMARY: The U.S. Election Assistance Commission published a document in the **Federal Register** on March 24, 2020, Proposed Voluntary Voting System Guidelines 2.0 Requirements; Request for Public Comment.

Correction

In the **Federal Register** on March 24, 2020, in FR Doc. 2020–06086 on page 16621, in the second column, correct the Supplementary Information to read:

SUPPLEMENTARY INFORMATION: The EAC is placing the proposed VVSG 2.0 Requirements as submitted by the Technical Guidelines Development Committee (TGDC) out for a 90-day public comment period. The EAC is asking for comments regarding all sections of the VVSG 2.0 Requirements.

The EAC made the decision to undertake the drafting of VVSG 2.0 as a result of feedback received over several years from a variety of stakeholders including, state and local election officials, voting system manufacturers, and usability, accessibility and security interest groups.

The TGDC proposed a different structure for developing the VVSG 2.0 than in previous years. This structure differs significantly from previous versions of the VVSG because the VVSG 2.0 Requirements are presented in a separate document from the VVSG 2.0 Principles and Guidelines. The VVSG 2.0 Principles and Guidelines are high-level system design goals and a broad description of the functions that make up a voting system. The EAC sought public comments on the VVSG 2.0 Principles and Guidelines from February 28, 2019 to June 7, 2019. Aligned with the VVSG 2.0 Principles and Guidelines, the VVSG 2.0 Requirements represent the requirements to which a voting system is tested to obtain certification under the EAC Testing and Certification Program.

The TGDC unanimously approved to recommend VVSG 2.0 Requirements on February, 7 2020, and sent the Requirements to the EAC Acting Executive Director via the Director of the National Institute of Standards and Technology (NIST), in the capacity of the Chair of the TGDC on March 9, 2020. Upon adoption, the VVSG 2.0 would become the fifth iteration of national level voting system standards. The Federal Election Commission published the first two sets of federal standards in 1990 and 2002. The EAC then adopted Version 1.0 of the VVSG on December 13, 2005. In an effort to update and improve version 1.0 of the VVSG, on March 31, 2015, the EAC commissioners unanimously approved VVSG 1.1.

FOR FURTHER INFORMATION CONTACT: Jerome Lovato, Telephone: (301) 960–1216, E-Mail: *jlovato@eac.gov.*

Amanda Joiner,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2020–06413 Filed 3–26–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–105–000.
Applicants: RE Mustang Two Barbaro, LLC.
Description: Self-Certification of EWG Status of RE Mustang Two Barbaro, LLC.
Filed Date: 3/23/20.
Accession Number: 20200323–5150.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: EG20–106–000.
Applicants: RE Mustang Two Whirlaway, LLC.
Description: Self-Certification of EWG Status of RE Mustang Two Whirlaway, LLC.
Filed Date: 3/23/20.
Accession Number: 20200323–5152.
Comments Due: 5 p.m. ET 4/13/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1863–004; ER10–1857–012; ER10–1932–012; ER10–1935–012; ER10–1973–011; ER10–1974–022.
Applicants: Coolidge Solar I, LLC, FPL Energy Cape, LLC, FPL Energy Wyman, LLC, FPL Energy Wyman IV, LLC, NextEra Energy Seabrook, LLC, Northeast Energy Associates, A Limited Partnership.
Description: Notification of Change in Status of the NextEra Resources Entities.
Filed Date: 3/20/20.
Accession Number: 20200320–5273.
Comments Due: 5 p.m. ET 4/10/20.

Docket Numbers: ER19–158–004; ER10–1975–024; ER10–2421–002; ER10–2616–016; ER10–2617–009; ER10–2619–010; ER10–2674–013; ER10–2677–013; ER11–2457–002; ER11–4266–015; ER11–4400–013;

ER12–192–004 ER12–1769–005; ER12–2250–003; ER12–2251–003; ER12–2252–004; ER12–2253–003; ER12–75–006; ER13–2475–011; ER14–1569–009; ER14–2245–003; ER14–883–010; ER15–1596–009; ER15–1598–006; ER15–1599–009; ER15–1600–005; ER15–1602–005; ER15–1605–005; ER15–1607–005; ER15–1608–005; ER19–102–002; ER19–2803–001; ER19–2806–001; ER19–2807–001; ER19–2809–001; ER19–2810–001; ER19–2811–001

Applicants: Ambit Northeast, LLC, TriEagle Energy, LP, Richland-Stryker Generation LLC, Public Power (PA), LLC, Public Power, LLC, Public Power & Utility of NY, Inc., Public Power & Utility of Maryland, LLC, Pleasants Energy, LLC, Ontelaunee Power Operating Company, LLC, North Jersey Energy Associates, A Limited Partnership, Massachusetts Gas & Electric, Inc., Illinois Power Marketing Company, Everyday Energy, LLC, Everyday Energy NJ, LLC, Energy Services Providers, Inc., Energy Rewards, LLC, Dynegy Zimmer, LLC, Dynegy Washington II, LLC, Dynegy Power Marketing, LLC, Dynegy Miami Fort, LLC, Dynegy Marketing and Trade, LLC, Dynegy Kendall Energy, LLC, Calumet Energy Team, LLC, Cincinnati Bell Energy LLC, Connecticut Gas & Electric, Inc., Dynegy Commercial Asset Management, LLC, Dynegy Fayette II, LLC, Dynegy Dicks Creek, LLC, Dynegy Energy Services (East), LLC, Dynegy Energy Services, LLC, Dynegy Hanging Rock II, LLC, Kincaid Generation, L.L.C., Luminant Energy Company LLC, Viridian Energy NY, LLC, Viridian Energy PA, LLC, Viridian Energy, LLC, Liberty Electric Power, LLC.

Description: Notice of Change in Status of the Vistra MBR Sellers.

Filed Date: 3/19/20.

Accession Number: 20200319–5171.

Comments Due: 5 p.m. ET 4/9/20.

Docket Numbers: ER19–1409–002.

Applicants: Birdsboro Power LLC.

Description: Report Filing: Refund Report to be effective N/A.

Filed Date: 3/20/20.

Accession Number: 20200320–5119.

Comments Due: 5 p.m. ET 4/10/20.

Docket Numbers: ER19–1943–002.

Applicants: NorthWestern Corporation.

Description: Compliance filing: Order Nos. 845 & 845—A Second Compliance Filing to be effective 3/25/2020.

Filed Date: 3/23/20.

Accession Number: 20200323–5147.

Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: ER20–732–001.

Applicants: California Independent System Operator Corporation.

Description: Tariff Amendment: 2020–03–20 Deliverability Assessment Initiative—Deficiency Letter Response to be effective 3/3/2020.

Filed Date: 3/20/20.

Accession Number: 20200320–5159.

Comments Due: 5 p.m. ET 4/10/20.

Docket Numbers: ER20–1011–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Errata to Service Agreement No. 1131, Non-Queue #NQ122 to be effective 6/2/2015.

Filed Date: 3/20/20.

Accession Number: 20200320–5151.

Comments Due: 5 p.m. ET 4/10/20.

Docket Numbers: ER20–1365–000.

Applicants: Dominion Energy South Carolina, Inc.

Description: Compliance filing: Order 845 Supplemental Compliance Filing to be effective 6/15/2019.

Filed Date: 3/23/20.

Accession Number: 20200323–5094.

Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: ER20–1366–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Southwest Texas EC-Golden Spread EC Interconnection Agreement 5th Amended to be effective 3/17/2020.

Filed Date: 3/23/20.

Accession Number: 20200323–5116.

Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: ER20–1367–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: First Revised ISA, SA No. 4311; Queue No. AE1–035 to be effective 2/24/2020.

Filed Date: 3/23/20.

Accession Number: 20200323–5130.

Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: ER20–1368–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: Monte Alto PDA Cancellation to be effective 5/22/2020.

Filed Date: 3/23/20.

Accession Number: 20200323–5144.

Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: ER20–1369–000.

Applicants: Ohio Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Ohio Power Company submits Facilities Agreement re: ILDSA SA No. 1336 to be effective 5/22/2020.

Filed Date: 3/23/20.

Accession Number: 20200323–5149.

Comments Due: 5 p.m. ET 4/13/20.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD20–5–000.

Applicants: North American Electric Reliability Corp.

Description: Application of the North American Electric Reliability Corporation and Texas Reliability Entity, Inc. for approval of proposed regional Reliability Standard BAL–001–TRE–2.

Filed Date: 3/11/20.

Accession Number: 20200311–5287.

Comments Due: 5 p.m. ET 4/16/20.

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: March 23, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–06416 Filed 3–26–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP20–667–000.

Applicants: Columbia Gas Transmission, LLC.

Description: Compliance filing TCO Petition for Limited Tariff Waiver to be effective N/A.

Filed Date: 3/20/20.

Accession Number: 20200320–5013.

Comments Due: 5 p.m. ET 4/1/20.

Docket Numbers: RP20–668–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 032020 Negotiated Rates—Emera Energy Services, Inc. R–2715–41 to be effective 4/1/2020.

Filed Date: 3/20/20.

Accession Number: 20200320–5032.

Comments Due: 5 p.m. ET 4/1/20.

Docket Numbers: RP20–669–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Volume No. 2–Neg Rate Agmt—Macquarie Energy 356528 & GDF Suez 355259 &355260 to be effective 4/1/2020.

Filed Date: 3/20/20.

Accession Number: 20200320–5054.

Comments Due: 5 p.m. ET 4/1/20.

Docket Numbers: RP20–670–000.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Compliance filing Flow Through of Cash-Out Revenues filed on 3–20–20 to be effective N/A.

Filed Date: 3/20/20.

Accession Number: 20200320–5070.

Comments Due: 5 p.m. ET 4/1/20.

Docket Numbers: RP20–671–000.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Compliance filing Flow Through of Penalty Revenues Report filed on 3–20–20 to be effective N/A.

Filed Date: 3/20/20.

Accession Number: 20200320–5072.

Comments Due: 5 p.m. ET 4/1/20.

Docket Numbers: RP20–672–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 032020 Negotiated Rates—Macquarie Energy LLC R–4090–20 to be effective 4/1/2020.

Filed Date: 3/20/20.

Accession Number: 20200320–5076.

Comments Due: 5 p.m. ET 4/1/20.

Docket Numbers: RP20–673–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Non-Conforming Agreements (Saavi_Sempra 2020) to be effective 4/1/2020.

Filed Date: 3/20/20.

Accession Number: 20200320–5128.

Comments Due: 5 p.m. ET 4/1/20.

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: March 23, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–06415 Filed 3–26–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC20–13–000]

Commission Information Collection Activities (FERC–603); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–603 (Critical Energy/Electric Infrastructure Information Data Request).

DATES: Comments on the collection of information are due May 26, 2020.

ADDRESSES: You may submit comments (identified by Docket No. IC20–13–000) by either of the following methods:

- *eFiling at Commission's Website: 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).

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,* and telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–603, Critical Energy/Electric Infrastructure Information Data Request.

OMB Control No.: 1902–0197.

Type of Request: Three-year extension of the FERC–603 information collection requirements with no changes to the current reporting and recordkeeping requirements.[1]

Abstract: This collection is used by the Commission to implement procedures for individuals with a valid or legitimate need for access to Critical Energy/Electric Infrastructure Information (CEII), which is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552), subject to a non-disclosure agreement.

On February, 21, 2003, the Commission issued Order No. 630 (66 FR 52917) to address the appropriate treatment of CEII in the aftermath of the September 11, 2001 terrorist attacks and to restrict access due to the ongoing terrorism threat. Given that such information would typically be exempt from mandatory disclosure pursuant to FOIA, the Commission determined that it was important to have a process for individuals with a valid or legitimate need to access certain sensitive energy infrastructure information. As such, the Commission's CEII process is designed to limit the distribution of sensitive infrastructure information to those individuals with a need to know in order to avoid having sensitive information fall into the hands of those who may use it to attack the Nation's infrastructure.[2] This collection was prepared as part of the implementation of the CEII request process.

On December 4, 2015, the President signed the Fixing America's Surface Transportation Act (FAST Act) into law, which directed the Commission to issue regulations aimed at securing and sharing sensitive infrastructure information.[3] On November 17, 2016, in Order No. 833 (in Docket No. RM16–15), the Commission adopted a Final Rule implementing the FAST Act by

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[1] The CEII request form and five versions of the non-disclosure agreement (General Non-Disclosure Agreement, Media Non-Disclosure Agreement, Federal Agency Acknowledgement and Agreement, State Agency Employee Non-Disclosure Agreement, and Consultant Non-Disclosure Agreement) are posted at *https://www.ferc.gov/legal/ceii-foia/ceii.asp.*

[2] The Commission defined CEII to include information about ''existing or proposed critical infrastructure that: (i) relates to the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person planning an attack on critical infrastructure; (iii) is exempt from mandatory disclosure under the Freedom of Information Act, and (iv) does not simply give the location of the critical infrastructure. Critical infrastructure means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

[3] Fixing America's Surface Transportation Act, Public Law 114–94, 61,003, 129 Stat. 1312, 1773–1779 (2015) (to be codified at 16 U.S.C. 824 *et seq.*) (FAST Act).

amending its regulations that pertain to the designation, protection, and sharing of CEII. The Final Rule became effective on February 19, 2017.

The FERC–603, Critical Energy/Electric Infrastructure Information (CEII) request form is largely unchanged from the previously approved version. As in the previous version, a person seeking access to CEII must file a request for that information by providing information about their identity and the reason the individual needs the information. With that information, the Commission is able to assess the requester's need for the information against the sensitivity of the information. The updated form has been changed to include one additional requirement, a signed statement from the requester attesting to the accuracy of the information provided in the request. This requirement was inadvertently omitted from the previous form. *See* 18 CFR 388.113(g)(5)(i)(D). A sample updated CEII request form is attached to this notice.

Type of Respondents: Persons seeking access to CEII.

Estimate of Annual Burden: [4] The Commission estimates the total annual burden and cost [5] for this information collection as follows.

FERC–603—CRITICAL ENERGY/ELECTRIC INFRASTRUCTURE INFORMATION REQUEST

Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
100	1	100	0.3 hrs.; $24	30 hrs.; $2,400	$24

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 the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 23, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–06461 Filed 3–26–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC20–72–000]

Black Hills Shoshone Pipeline, LLC; Notice of Petition for Waiver

Take notice that on March 19, 2020, Black Hills Shoshone Pipeline, LLC filed a petition for a new two-year waiver of the requirement that an independent certified public accountant attest to the conformity of the content set out in Black Hills Shoshone's FERC Form No. 2–A, reflecting activity for 2019.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s).

For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comments: 5:00 p.m. Eastern Time on April 22, 2020.

Dated: March 23, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–06462 Filed 3–26–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9050–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS) Filed March 16, 2020, 10 a.m. EST Through March 23, 2020, 10 a.m. EST Pursuant to 40 CFR 1506.9.

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20200071, Final, UDOT, UT, I–15 Milepost 11 Interchange, Contact: Elisa Albury 801–834–5284. Pursuant to 23 U.S.C. 139(n)(2), UDOT has issued a single FEIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

[4] "Burden" is 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. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[5] The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon the FERC's 2019 average cost for salary plus benefits, the average hourly cost is $80/hour.

[1] 18 CFR 158.11.

EIS No. 20200072, Final, DOE, AK, ADOPTION—Alaska LNG Project, Contact: Brian Lavoie 202–586–2489. The Department of Energy (DOE) has adopted the Federal Energy Regulatory Commission's Final EIS No. 20200066, filed 3/9/2020 with the EPA. DOE was a cooperating agency on this project. Therefore, recirculation of the document is not necessary under Section 1506.3(c) of the CEQ regulations.

EIS No. 20200073, Final, USACE, CT, Westchester County Streams, Byram River Basin Flood Risk Management Feasibility Study—Final Integrated Feasibility Report & Environmental Impact Statement, Review Period Ends: 04/27/2020, Contact: Kimberly Rightler 917–790–8722.

EIS No. 20200074, Final, BLM, AK, Ambler Road Final Environmental Impact Statement, Review Period Ends: 04/27/2020, Contact: Tina McMaster-Goering 907–271–1310.

Amended Notice

EIS No. 20200068, Draft, NMFS, MA, Northeast Multispecies Fishery Management Plan Draft Amendment 23, Comment Period Ends: 05/22/2020, Contact: Mark Grant 978–281–9145. Revision to FR Notice Published 3/20/2020; Extending the Comment Period from 5/19/2020 to 5/22/2020.

Dated: March 23, 2020.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2020–06410 Filed 3–26–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2020–0049; FRL–10006–60]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before April 27, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the File Symbol of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

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

FOR FURTHER INFORMATION CONTACT: Anita Pease, Antimicrobials Division (7507P), main telephone number: (703) 305–7090, email address: *ADFRNotices@epa.gov;* or, Michael Goodis, Registration Division (7508P), main telephone number: (703)–305–7090, email address: *RDFRNotices@epa.gov;* or, Robert McNally, Biopesticides and Pollution Prevention Division (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under EPA's public participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation website for additional information on this process (*http://www2.epa.gov/pesticide-registration/public-participation-process-registration-actions*).

Notice of Receipt—New Active Ingredients

1. *File symbol:* 352–OGR, 352–OGE. *Docket ID number:* EPA–HQ–OPP–2020–0065. *Applicant:* E.I. du Pont de Nemours & Company (''DuPont''), Chestnut Run Plaza, 974 Centre Road, Wilmington, DE 19805. *Product name:* Reklemel Technical, Salibro. *Active ingredient:* Nematicide and Fluazaindolizine 97.3%, 41.15%. *Proposed classification/Uses:* Carrots, Cucurbit vegetables (crop group 9), Fruiting vegetables (crop group 8–10),

Nonbearing citrus fruit (crop group 10–10), Nonbearing stone fruit (crop group 12–12), Nonbearing tree nut (crop group 14–12), Nonbearing small fruit vine climbing subgroup, except fuzzy kiwifruit (crop subgroup 13–07F), and Tuberous and Corm vegetables (crop subgroup 1C). *Contact:* RD.

2. *File symbol:* 1677–EAL and 1677–EAA. *Docket ID number:* EPA–HQ–OPP–2020–0120. *Applicant:* Ecolab Inc., 1 Ecolab Place, St. Paul, MN 55102. *Product name:* 919789 and Python Part A. *Active ingredient:* Antimicrobial—Glycerol Formate at 99.7%. *Proposed use:* Hospital uses as a sanitizer and a disinfectant. *Contact:* AD.

3. *File symbol:* 29964–ET. *Docket ID number:* EPA–HQ–OPP–2020–0027. *Applicant:* Pioneer Hi-Bred International, Inc. (Pioneer), 7100 NW 62nd Avenue, P.O. Box 1000, Johnston, Iowa, 50131. *Product name:* DP23211 Maize. *Active ingredient:* Plant Incorporated Protectant; DvSSJ1 dsRNA Complementary to the DvSSj1 Gene Sequence from *Diabrotica virgifera* and the genetic material necessary for its production. *Proposed use:* Insecticide. *Contact:* BPPD.

4. *File symbol:* 29964–ET. *Docket ID number:* EPA–HQ–OPP–2019–0697. *Applicant:* Pioneer Hi-Bred International, Inc. (Pioneer), 7100 NW 62nd Avenue, P.O. Box 1000, Johnston, Iowa, 50131. *Product name:* DP23211 Maize. *Active ingredient:* Plant Incorporated Protectant; *Pseudomonas chlororaphis* IPD072Aa protein and the genetic material necessary for its production. *Proposed use:* Insecticide. *Contact:* BPPD.

5. *File symbol:* 89668–I. *Docket ID number:* EPA–HQ–OPP–2020–0028. *Applicant:* Mosquito Mate, Inc., 2520 Regency Road, Suite B, Lexington, KY 40503. *Product name:* WB1 Males. *Active ingredient:* Microbial Insecticide; *Wolbachia pipientis* wAlbB strain. *Proposed use:* Insecticide. *Contact:* BPPD.

6. *File symbol:* 94424–E. *Docket ID number:* EPA–HQ–OPP–2020–0111. *Applicant:* Ph.D. Group LLC, 14143 Denver West Parkway, Golden, CO 80401. *Product name:* Sucrose Octanoate esters. *Active ingredient:* Insecticide/miticide—sucrose octanoate at 85.43%. *Proposed use:* Manufacturing Use Product. *Contact:* BPPD.

7. *File symbol:* 94424–R. *Docket ID number:* EPA–HQ–OPP–2020–111. *Applicant:* Ph.D. Group LLC, 14143 Denver West Parkway, Golden, CO 80401. *Product name:* Organishield. *Active ingredient:* Insecticide/miticide—sucrose octanoate at 40%. *Proposed use:* For controlling emergence of adult scared flies when applied to mushroom casing and/or compost prior to spawning; for controlling or suppressing soft-bodied pests in greenhouse, nursery, and field crop use; and for use against Varroa mites on adult honeybees. *Contact:* BPPD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 19, 2020.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2020–06457 Filed 3–26–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2020–0075; FRL–10007–13–OLEM]

Hazardous Waste Electronic Manifest System (''e-Manifest'') Advisory Board; Revised Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Revised notice.

SUMMARY: The Environmental Protection Agency (EPA) will convene the Hazardous Waste Electronic System (''e-Manifest'') Advisory Board for a three day virtual public meeting (held remotely via webcast and phone) to seek the Board's consultation and recommendations regarding the e-Manifest system (Meeting Theme: ''*Reengineering Electronic Signatures for Generators and Transporters to Increase Adoption of Electronic Manifests*''). This notice is a revision of the notice published in the **Federal Register** (FR) of February 20, 2020, announcing the e-Manifest public meeting. Due to potential impacts from the Coronavirus Disease 2019 (COVID–19), EPA is converting this public e-Manifest Advisory Board meeting from an in-person meeting to a fully virtual meeting and is thus updating information accordingly.

DATES: The e-Manifest Advisory Board meeting announced on February 20, 2020 (85 FR 9763) has been converted to a three-day virtual public meeting which will be held on April 14–16, 2020, from approximately 10:00 a.m. to 6:00 p.m. (EDT) each day.

ADDRESSES: This public meeting will be conducted entirely via internet webcasting and telephone. Please refer to the e-Manifest website at *www.epa.gov/e-manifest* for information on how to access the live webcasting of this public meeting.

Special accommodations. For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the Designated Federal Officer (DFO) listed under **FOR FURTHER INFORMATION CONTACT** at least ten (10) days prior to the meeting to give the EPA as much time as possible to process your request.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes further information should contact the e-Manifest Advisory Board DFO, Fred Jenkins, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, (MC: 5303P), 1200 Pennsylvania Avenue NW, Washington, DC 20460, Phone: 703–308–7049; or by email: *jenkins.fred@epa.gov.*

SUPPLEMENTARY INFORMATION:

Meeting access: This meeting will be open to the public. The full agenda and meeting materials will be available in the docket for the meeting and at the e-Manifest website at *www.epa.gov/e-manifest.* This public meeting will be conducted entirely virtually via the internet and by telephone. Please refer to the e-Manifest website at *www.epa.gov/e-manifest* for information on how to access the live webcasting of this public meeting. For questions on document availability, or if you do not have access to the internet, consult with the DFO, Fred Jenkins, listed above under **FOR FURTHER INFORMATION CONTACT**. In the event the Agency needs to make subsequent changes to this meeting, the Agency will post future notices to its e-Manifest website (*www.epa.gov/e-manifest*). The Agency strongly encourages the public to refer to the e-Manifest website for the latest meeting information, as sudden changes may be necessary.

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may be of particular interest to persons who are or may be subject to the Hazardous Waste Electronic Manifest Establishment (e-Manifest) Act.

B. How may I participate in this meeting?

You may participate in this meeting by following the instructions in this document. To ensure proper receipt of your public comments by the EPA, it is imperative that you identify docket ID number EPA–HQ–OLEM–2020–0075.

1. Oral comments. To pre-register to make oral comments, please contact the DFO, Fred Jenkins, listed under **FOR FURTHER INFORMATION CONTACT**. Requests to present oral comments during the

meeting will be accepted up until Tuesday April 7, 2020. To the extent that time permits, interested persons who have not pre-registered may be permitted by the e-Manifest Advisory Board Chair to present oral comments during the virtual meeting at the designated time on the agenda. Oral comments before the e-Manifest Advisory Board are limited to approximately five (5) minutes per individual and/or organization unless prior arrangements have been made.

2. Written comments. The Agency encourages written comments for the virtual webcast meeting be submitted via *regulations.gov* under docket number EPA–HQ–OLEM–2020–0075 on or before April 7, 2020, to provide the e-Manifest Advisory Board the time necessary to consider and review the written comments. The e-Manifest Advisory Board may not be able to fully consider written comments submitted after April 7, 2020. Written comments are accepted until the date of the meeting, but anyone submitting written comments after April 7, 2020, should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. Submitting CBI. Do not submit CBI information to EPA through *regulations.gov* or email. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments.

2. Tips for preparing your comments. When preparing and submitting your comments, see Tips for Effective Comments at *http://www.epa.gov/dockets/comments.html.*

C. Purpose of the e-Manifest Advisory Board

The Hazardous Waste Electronic Manifest System Advisory Board is established in accordance with the provisions of the Hazardous Waste Electronic Manifest Establishment Act, 42 U.S.C. 6939g, and the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The e-Manifest Advisory Board is in the public interest and supports the EPA in performing its duties and responsibilities.

The e-Manifest Advisory Board will provide recommendations on matters related to the operational activities, functions, policies, and regulations of the EPA under the e-Manifest Act, including: The effectiveness of the e-Manifest IT system and associated user fees and processes; matters and policies related to the e-Manifest program; regulations and guidance as required by the e-Manifest Act; actions to encourage the use of the electronic (paperless) system; changes to the user fees as described in e-Manifest Act Section 2 (c)(3)(B)(i); and issues in the e-Manifest area, including those identified in the EPA' s E-Enterprise strategy that intersect with the e-Manifest system, such as: Business-to-business communications; performance standards for mobile devices; and the EPA's Cross Media Electronic Reporting Rule (CROMERR) requirements.

The sole duty of the Advisory Board is to provide advice and recommendations to the EPA Administrator. As required by the e-Manifest Act, the e-Manifest Advisory Board is composed of nine (9) members. One (1) member is the EPA Administrator (or a designee), who serves as Chairperson of the Advisory Board. The rest of the committee is composed of:

- At least two (2) members who have expertise in information technology;
- At least three (3) members who have experience in using or represent users of the manifest system to track the transportation of hazardous waste under the e-Manifest Act;
- At least three (3) members who are state representatives responsible for processing manifests.

All members of the e-Manifest Advisory Board, except for the EPA Administrator, are appointed as Special Government Employees or representatives.

D. Public Meeting

EPA launched the e-Manifest system on June 30, 2018. e-Manifest enables those persons required to use a Resource Conservation and Recovery Act manifest under either federal or state law to have the option of using electronic manifests to track shipments of hazardous waste and to meet certain RCRA requirements. By enabling the transition from a paper-intensive process to an electronic system, the EPA estimates e-Manifest will ultimately save state and industry users more than $50 million annually, once electronic manifests are widely adopted.

EPA will convene its next public meeting of the e-Manifest System Advisory Board from April 14–16, 2020. The purpose of this meeting is for the Board to advise the Agency on its proposed additional methods for increasing the use of electronic manifests, which include reengineering electronic signatures for generators and transporters to reduce the administrative burdens and barriers to electronic manifesting.

Since the launch of e-Manifest, the Agency has learned through experience that it can likely increase adoption of electronic manifests by providing generators and transporters more flexibility in their methods for performing electronic signatures. This is supported by the final recommendations of the e-Manifest Advisory Board, following its June 2019 Advisory Board meeting, which was focused on increasing adoption of the e-Manifest system. In its final recommendations, delivered to the Agency on September 23, 2019, the Advisory Board identified numerous challenges with generator and transporter adoption of electronic manifests. In particular, the Advisory Board asked the Agency to reevaluate its signature requirements and stated that the Agency should consider the costs and benefits, given the diversity of roles/types of users.

The Agency is thus considering additional methods available for generator and transporter electronic signatures and will consult the Advisory Board on these methods during the April 2020 Advisory Board meeting. Specifically, EPA will present three methods for generator/transporter electronic signature, which could potentially all be available for generators and transporters to use.

A first method for generators and transporters is to require at least one person (per respective generator and transporter) to become registered in EPA's RCRAInfo system as a ''Site Manager.'' (*Note:* The Agency is not intending at this time to make any changes to the current registration process for Site Managers as this role allows users to manage permissions within their organization with respect to other modules in EPA's RCRAInfo system, in addition to e-Manifest.) Under this method, the Site Manager would identify/confirm/update the specific personnel (*e.g.,* employee on the loading dock, driver) on the electronic manifest who will have firsthand knowledge of the manifest shipment, and who will be responsible for electronically signing the generator certification or transporter acknowledgment of receipt by identifying/confirming/updating the name and either a phone number or email address associated with that name. The system would then send a link to that phone number/email of the individual employee, who could then simply click a link to electronically sign the electronic manifest.

A second method for generators and transporters is to require at least one

person to become registered in EPA's RCRAInfo system as a ''Site Manager'' for their respective sites, and have all other personnel become registered in the same way as ''Preparers'' are registered. These personnel would receive a username and password using the current registration process and would then request access to their site(s), as appropriate, but would not need to undergo further identity proofing. Generator and transporter personnel that are registered could then log in with their username/password and could create and edit electronic manifests for their sites. Electronic signatures under this method for generators and transporters would consist of, after logging in to their account, clicking a button to electronically sign.

A third method is for generators and transporters to use digitized signature pads that have been approved by the Agency under its CROMERR program. This method would require generators and transporters to possess units that allow them to capture a physical signature electronically, for example, using a stylus.

The Agency intends to provide more detail regarding these methods in its meeting materials, which will be published in the docket for the meeting.

E. e-Manifest Advisory Board Documents and Meeting Minutes

The meeting background paper, related supporting materials, charge/questions to the Advisory Board, the Advisory Board membership roster (*i.e.,* members attending this meeting), and the meeting agenda are available in the docket for this meeting. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available at *https://www.regulations.gov/* and the e-Manifest Advisory Board website at: *https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board.*

The e-Manifest Advisory Board will prepare meeting minutes summarizing its recommendations to the Agency approximately ninety (90) days after the meeting. The meeting minutes will be posted on the e-Manifest Advisory Board website or may be obtained from the docket at *http://www.regulations.gov/.*

Dated: March 23, 2020.

Donna Salyer,

Acting Director, Office of Resource Conservation and Recovery, Office of Land and Emergency Management.

[FR Doc. 2020–06515 Filed 3–26–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201338.

Agreement Name: Caribbean and Central American Emergency Cooperative Working Agreement.

Parties: Crowley Caribbean Services LLC and Crowley Latin America Services, LLC (acting as a single party); King Ocean Services Limited, Inc.; and Seaboard Marine Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The Agreement would authorize the parties to discuss and agree upon the removal of one or more vessels from the Trade or a portion thereof; the coordination of their respective shipping timetables, sailing dates, dates of call, frequency of sailings or calls, and the carrying capacity offered by each of them in the trade between the U.S. Atlantic and Gulf Coasts and Central America. It would also authorize the parties to charter space to/from one another on a voluntary basis. The parties request expedited review.

Proposed Effective Date: 5/7/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/Agreement History/27486.

Agreement No.: 011666–007.

Agreement Name: West Coast North America/Pacific Islands Vessel Sharing Agreement.

Parties: Maersk A/S and The China Navigation Co. Pte. Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment changes the name of the Maersk entity that is a party to the Agreement from Maersk Line A/S to Maersk A/S.

Proposed Effective Date: 3/23/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/Agreement History/795.

Dated: March 24, 2020.

Rachel Dickon,

Secretary.

[FR Doc. 2020–06425 Filed 3–26–20; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Solicitation of Applications for Membership on the Community Advisory Council

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) established the Community Advisory Council (the ''CAC'') as an advisory committee to the Board on issues affecting consumers and communities. This Notice advises individuals who wish to serve as CAC members of the opportunity to be considered for the CAC.

DATES: Applications received between Monday, April 6, 2020 and Friday, June 5, 2020 will be considered for selection to the CAC for terms beginning January 1, 2021.

ADDRESSES: Individuals who are interested in being considered for the CAC may submit an application via the Board's website or via email. The application can be accessed at *https://www.federalreserve.gov/secure/CAC/Application/.* Emailed submissions can be sent to *CCA-CAC@frb.gov.* The information required for consideration is described below.

If electronic submission is not feasible, submissions may be mailed to the Board of Governors of the Federal Reserve System, Attn: Community Advisory Council, Mail Stop I–305, 20th Street and Constitution Ave. NW, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: Jennifer Fernandez, Community Development Analyst, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and Constitution Ave. NW, Washington, DC 20551, or (202) 452–2412, or *CCA–CAC@frb.gov.* Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: The Board created the Community Advisory

Council (CAC) as an advisory committee to the Board on issues affecting consumers and communities. The CAC is composed of a diverse group of experts and representatives of consumer and community development organizations and interests, including from such fields as affordable housing, community and economic development, employment and labor, financial services and technology, small business, and asset and wealth building. CAC members meet semiannually with the members of the Board in Washington, DC to provide a range of perspectives on the economic circumstances and financial services needs of consumers and communities, with a particular focus on the concerns of low- and moderate-income consumers and communities. The CAC complements two of the Board's other advisory councils—the Community Depository Institutions Advisory Council (CDIAC) and the Federal Advisory Council (FAC)—whose members represent depository institutions.

The CAC serves as a mechanism to gather feedback and perspectives on a wide range of policy matters and emerging issues of interest to the Board of Governors and aligns with the Federal Reserve's mission and current responsibilities. These responsibilities include, but are not limited to, banking supervision and regulatory compliance (including the enforcement of consumer protection laws), systemic risk oversight and monetary policy decision-making, and, in conjunction with the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC), responsibility for implementation of the Community Reinvestment Act (CRA).

This Notice advises individuals of the opportunity to be considered for appointment to the CAC. To assist with the selection of CAC members, the Board will consider the information submitted by the candidate along with other publicly available information that it independently obtains.

Council Size and Terms

The CAC consists of at least 15 members. The Board will select members in the fall of 2020 to replace current members whose terms will expire on December 31, 2020. The newly appointed members will serve three-year terms that will begin on January 1, 2021. If a member vacates the CAC before the end of the three-year term, a replacement member will be appointed to fill the unexpired term.

Application

Candidates may submit applications by one of three options:

- Online: Complete the application form on the Board's website at *https://www.federalreserve.gov/secure/CAC/Application/.*
- Email: Submit all required information to *CCA–CAC@frb.gov.*
- Postal Mail: If electronic submission is not feasible, submissions may be mailed to the Board of Governors of the Federal Reserve System, Attn: Community Advisory Council, Mail Stop I–305, 20th Street and Constitution Ave. NW, Washington, DC 20551.

Interested parties can view the current Privacy Act Statement at: *https://www.federalreserve.gov/aboutthefed/cac-privacy.htm.*

Below are the application fields. Asterisks (*) indicate required fields.

- First and Last Name *
- Email Address *
- Phone Number *
- Postal Mail Street Address *
- Postal Mail City *
- Postal Mail State, Territory, or Federal District*
- Postal Zip Code *
- Organization *
- Title *
- Organization Type (select one) *
  - For Profit
    - Community Development Financial Institution (CDFI)
    - Non-CDFI Financial Institution
    - Financial Services
    - Professional Services
    - Other
  - Non-Profit
    - Advocacy
    - Association
    - Community Development Financial Institution (CDFI)
    - Educational Institution
    - Foundation
    - Service Provider
    - Think Tank/Policy Organization
    - Other
  - Government
- Primary Area of Expertise (select one) *
  - Civil rights
  - Community development finance
  - Community reinvestment and stabilization
  - Consumer protection
  - Economic and small business development
  - Labor and workforce development
  - Financial technology
  - Household wealth building and financial stability
  - Housing and mortgage finance
  - Rural issues
  - Other (please specify)
- Secondary Area of Expertise (select one)
  - Civil rights
  - Community development finance
  - Community reinvestment and stabilization
  - Consumer protection
  - Economic and small business development
  - Labor and workforce development
  - Financial technology
  - Household wealth building and financial stability
  - Housing and mortgage finance
  - Rural issues
  - Other (please specify)
- Resume *
  - The resume should include information about past and present positions you have held, dates of service for each, and a description of responsibilities.
- Cover Letter *
  - The cover letter should explain why you are interested in serving on the CAC as well as what you believe are your primary qualifications.
- Additional Information
  - At your option, you may also provide additional information about your qualifications.

Qualifications

The Board is interested in candidates with knowledge of fields such as affordable housing, community and economic development, employment and labor, financial services and technology, small business, and asset and wealth building, with a particular focus on the concerns of low- and moderate-income consumers and communities. Candidates do not have to be experts on all topics related to consumer financial services or community development, but they should possess some basic knowledge of these areas and related issues. In appointing members to the CAC, the Board will consider a number of factors, including diversity in terms of subject matter expertise, geographic representation, and the representation of women and minority groups.

CAC members must be willing and able to make the necessary time commitment to participate in organizational conference calls and prepare for and attend meetings two times per year (usually for two days). The meetings will be held at the Board's offices in Washington, DC. The Board will provide a nominal honorarium and will reimburse CAC members only for their actual travel expenses subject to Board policy.

By order of the Board of Governors of the Federal Reserve System, acting through the

Director of the Division of Consumer and Community Affairs under delegated authority, March 23, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–06359 Filed 3–26–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than April 28, 2020.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street, NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *St. Holdings, Inc., Orlando, Florida;* to become a bank holding company by acquiring Rochelle State Bank, Rochelle, Georgia.

B. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Apex Bancorp, Inc., Camden, Tennessee;* to acquire up to 25 percent of the voting shares of Community Capital Bancshares, Inc., and thereby indirectly acquire voting shares of AB&T, both of Albany, Georgia.

Board of Governors of the Federal Reserve System, March 24, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–06446 Filed 3–26–20; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0278; Docket No. 2020–0001; Sequence No. 1]

Information Collection; USA.gov National Contact Center Customer Evaluation Survey

AGENCY: USA.gov Contact Center, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding the National Contact Center customer evaluation surveys.

DATES: Submit comments on or before: May 26, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. David Kaufmann, Program Analyst, Office of Technology Transformation Services, via email to *david.kaufmann@gsa.gov.*

ADDRESSES: Submit comments identified by Information Collection 3090–0278, National Contact Center Evaluation Survey, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0278, National Contract Center Evaluation Survey''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0278, National Contract Center Evaluation Survey'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090–0278, National Contract Center Evaluation Survey.

Instructions: Please submit comments only and cite Information Collection 3090–0278, National Contract Center Evaluation Survey, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection will be used to assess the public's satisfaction with the *USA.gov* National Contact Center service (formerly the Federal Citizen Information Center's (FCIC) National Contact Center), to assist in increasing the efficiency in responding to the public's need for Federal information, and to assess the effectiveness of marketing efforts.

B. Annual Reporting Burden

The following are estimates of the annual hourly burdens for our surveys based on historical participation in our surveys.

(1) Telephone Survey:
Respondents: 6000.
Responses per Respondent: 1.
Annual Responses: 6000.
Hours per Response: 0.12.
Total Burden Hours: 720.

(2) Web Chat Survey:
Respondents: 2400.
Responses per Respondent: 1.
Annual Responses: 2400.
Hours per Response: 0.12.
Total Burden Hours: 288.
Grand Total Burden Hours: 1008.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining copies of proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0278, National Contact Center Customer

Evaluation Survey, in all correspondence.

Beth Killoran,

Deputy Chief Information Officer.

[FR Doc. 2020–06440 Filed 3–26–20; 8:45 am]

BILLING CODE 6820–CX–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Lead Exposure and Prevention Advisory Committee (LEPAC); Meeting

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Lead Exposure and Prevention Advisory Committee (LEPAC). This meeting is open to the public by web conference; however, advance registration is needed by April 15, 2020, to receive the information to join the meeting. The registration link is *https://rossstrategic.zoom.us/webinar/register/WN_I76JZ04RT5SVinnqu_tSYw.* The public comment period is scheduled on April 29, 2020, from 1:45 p.m. until 2:00 p.m., EDT. Individuals wishing to make a comment during the public comment period, please email your name, organization, and phone number by April 15, 2020, to *LEPAC@cdc.gov.*

DATES: The meeting will be held on April 29, 2020, from 9:00 a.m. to 4:30 p.m., EDT.

ADDRESSES: To receive web conference access please register at *https://rossstrategic.zoom.us/webinar/register/WN_I76JZ04RT5SVinnqu_tSYw* by April 15, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Perri Ruckart, M.P.H., Designated Federal Officer, National Center for Environmental Health, CDC, 4770 Buford Highway, Atlanta, GA 30341, 770–488–3300; email address: *pruckart@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Lead Exposure and Prevention Advisory Committee was established under Section 2203 of Public Law 114–322, the Water Infrastructure Improvements for the Nation Act; 42 U.S.C. 300j–27, Registry for Lead Exposure and Advisory Committee.

The Secretary, Department of Health and Human Services (HHS) and by delegation, the Director, CDC and Administrator, NCEH/ATSDR, are authorized under Section 2203 of Public Law 114–322 (42 U.S.C. 300j–27) to review research and Federal programs and services related to lead poisoning and to identify effective services and best practices for addressing and preventing lead exposure in communities.

The LEPAC is charged with providing advice and guidance to the Secretary, HHS, and the Director, CDC and Administrator, ATSDR, on the: (1) Review of Federal programs and services available to individual communities exposed to lead; (2) review current research on lead exposure to identify additional research needs; (3) review and identify best practices, or the need for best practices regarding lead screening and the prevention of lead poisoning; (4) identify effective services, including services relating to healthcare, education, and nutrition for individuals and communities affected by lead exposure and lead poisoning, including in consultation with, as appropriate, the lead exposure registry as established in Section 2203(b) of Public Law 114–322; and (5) undertake any other review or activities that the Secretary determines to be appropriate.

Matters To Be Considered: The agenda will include: Discussions on CDC's role in lead poisoning prevention, key federal lead programs and the Federal Lead Action Plan, methods and results of a Community Guide environmental scan and scoping review of lead interventions, lessons learned from review of CDC Childhood Lead Poisoning Prevention Program (CLPPP) cooperative agreement recipients, and available services and best practices regarding lead screening and the prevention of lead poisoning. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–06367 Filed 3–26–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Delegation of Authority

Notice is hereby given that the Director, Centers for Disease Control and Prevention (CDC), has delegated to the Chief Operating Officer, Centers for Disease Control and Prevention (CDC), without the authority to redelegate, the authority vested in the Secretary of HHS by section 212(1) of the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019 (FY 19 HHS Appropriations Act) Public Law 115–245, division B, title II, or substantially similar authorities vested in the Secretary in the future by Congress, in order to carry out international health activities to respond to the current and any future Ebola, polio, and coronavirus outbreaks.

Section 212(1) of the FY19 HHS Appropriations Act permits the Secretary of HHS to exercise authority equivalent to that available to the Secretary of State under 22 U.S.C 2669(c) to award personal services contracts for work performed in foreign countries. The authority delegated herein includes the authority to determine the necessity of negotiating, executing, and performing such contracts without regard to statutory provisions as related to the negotiation, making, and performance of contracts and performance of work in the United States.

The authority under section 212(1) is immediately revoked in the event that any subsequent fiscal year HHS appropriations act does not contain the provision currently in section 212(1) or substantially similar authority.

The Chief Operating Officer, CDC, shall consult with the Secretary of State and relevant Chief of Mission to ensure that this authority is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 and other applicable statutes administered by the Department of State.

This delegation supersedes the delegation of similar name, approved by the Director, CDC, on September 26, 2019.

This delegation became effective on March 17, 2020 and is valid through fiscal year 2021. The Director, CDC, affirms and ratifies any actions taken that involve the exercise of the authority

delegated herein prior to the effective date of this delegation.

Robert McGowan,

Chief of Staff, CDC.

[FR Doc. 2020–06471 Filed 3–26–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Ryan White HIV/AIDS Treatment Extension Act of 2009: Update to the List of Potentially Life-Threatening Infectious Diseases to Which Emergency Response Employees May Be Exposed To Include Coronavirus Disease 2019 (COVID–19), the Disease Caused by Severe Acute Respiratory Syndrome Coronavirus 2 (SARS–CoV–2)

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Notice.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH), of the Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), is adding coronavirus disease 2019 (COVID–19), the disease caused by severe acute respiratory syndrome coronavirus 2 (SARS–CoV–2), to the *List of Potentially Life-Threatening Infectious Diseases to Which Emergency Response Employees May be Exposed.* The list and companion guidelines are published by NIOSH pursuant to the Ryan White HIV/AIDS Treatment Extension Act of 2009. NIOSH encourages medical facilities to review the agency's guidelines describing the manner in which medical facilities should make determinations on whether an emergency response employee was exposed to COVID–19, the disease caused by SARS–CoV–2.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Office of the Director, NIOSH; 1090 Tusculum Avenue, MS:C–48, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Statutory Authority

The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 (Pub. L. 101–381) was reauthorized in 1996, 2000, 2006, and 2009. The most recent reauthorization, the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. 111–87), amended the Public Health Service Act (PHS Act, 42 U.S.C. 201–300ii) and, pursuant to Section 2695, requires the HHS Secretary to establish the following: A list of potentially life-threatening infectious diseases, including emerging infectious diseases, to which emergency response employees (ERE) may be exposed while responding to emergencies; guidelines describing circumstances in which EREs may be exposed to these diseases, taking into account the conditions under which emergency response is provided; and guidelines describing the manner in which medical facilities should make determinations about exposures to EREs.

In a **Federal Register** notice published on July 14, 2010, the HHS Secretary delegated this responsibility to the CDC Director.[1] The CDC Director further assigned the responsibility to the NIOSH Director and formally re-delegated the authority to develop the list and guidelines to NIOSH on August 27, 2018.[2]

Addition of COVID–19, the Disease Caused by the Virus SARS–COV–2, to the List of Potentially Life-Threatening Infectious Diseases to Which Emergency Response Employees May Be Exposed

The list of potentially life-threatening infectious diseases maintained by NIOSH is available in a **Federal Register** notice published on November 2, 2011 (76 FR 67736), available on the NIOSH website at *https://www.cdc.gov/niosh/topics/ryanwhite/default.html.* With this notice the NIOSH *List of Potentially Life-Threatening Infectious Diseases to Which Emergency Response Employees May Be Exposed* is updated by the addition of the following:

C. Potentially Life-Threatening Infectious Diseases: Routinely Transmitted Through Aerosolized Droplet Means

■ COVID–19 (the disease caused by the virus SARS–CoV–2)

COVID–19, the disease caused by the virus SARS–CoV–2, is being added to the existing list. COVID–19, the disease caused by the virus SARS–CoV–2, is a potentially life-threatening emerging infectious disease that is thought to be spread primarily by respiratory droplets generated by an infectious person through events such as coughing or sneezing (*https://www.cdc.gov/coronavirus/2019-ncov/index.html*).

EREs may be exposed to COVID–19, the disease caused by the virus SARS-CoV–2, by a victim of an emergency who may be infected with SARS–CoV–2 while attending to, treating, assisting, or transporting the victim to a medical facility. Medical facilities should review the NIOSH guidelines describing the manner in which medical facilities should make determinations about exposures to life-threatening infectious diseases, including COVID–19, available on the NIOSH website at *https://www.cdc.gov/niosh/topics/ryanwhite/default.html.*

John J. Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2020–06458 Filed 3–26–20; 8:45 am]

BILLING CODE 4163–18–P

[1] 75 FR 40842.

[2] 83 FR 50379 (October 4, 2018).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Emergency Use Authorization Declaration

ACTION: Notice of Emergency Use Authorization Declaration.

SUMMARY: The Secretary of Health and Human Services (HHS) is issuing this notice pursuant to section 564 of the Federal Food, Drug, and Cosmetic (FD&C) Act. On February 4, 2020, the Secretary determined pursuant to his authority under section 564 of the FD&C Act that there is a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves a novel (new) coronavirus (nCoV) first detected in Wuhan City, Hubei Province, China in 2019 (2019–nCoV). The virus is now named SARS–CoV–2, which causes the illness COVID–19. On the basis of this determination, he also declared that circumstances exist justifying the authorization of emergency use of medical devices, including alternative products used as medical devices, pursuant to section 564 of the FD&C Act, subject to the terms of any authorization issued under that section.

DATES: The determination was effective February 4, 2020, and this declaration is effective March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Robert P. Kadlec, M.D., MTM&H, MS, Assistant Secretary for Preparedness and Response, Office of the Secretary, Department of Health and Human

Services, 200 Independence Avenue SW, Washington, DC 20201, Telephone (202) 205–2882 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Under section 564 of the FD&C Act, 21 U.S.C. 360bbb–3, the Commissioner of the Food and Drug Administration (FDA), acting under delegated authority from the Secretary of HHS, may issue an Emergency Use Authorization (EUA) authorizing (1) the emergency use of an unapproved drug, an unapproved or uncleared device, or an unlicensed biological product; or (2) an unapproved use of an approved drug, approved or cleared device, or licensed biological product. Before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of four determinations: (1) A determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a, chemical, biological, radiological, or nuclear (''CBRN'') agent or agents; (2) the identification of a material threat by the Secretary of Homeland Security pursuant to section 319F–2 of the Public Health Service (PHS) Act sufficient to affect national security or the health and security of United States citizens living abroad; (3) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to United States military forces, including personnel operating under the authority of title 10 or title 50, of attack with (i) a biological, chemical, radiological, or nuclear agent or agents; or (ii) an agent or agents that may cause, or are otherwise associated with, an imminently life-threatening and specific risk to United States military forces; or (4) a determination by the Secretary that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of United States citizens living abroad, and that involves a CBRN agent or agents, or a disease or condition that may be attributable to such agent or agents.

Based on any of these four determinations, the Secretary of HHS may then declare that circumstances exist that justify the EUA, at which point the FDA Commissioner may issue an EUA if the criteria for issuance of an authorization under section 564 of the FD&C Act are met. The Office of the Assistant Secretary for Preparedness and Response, HHS, requested that the FDA, HHS, issue an EUA for certain medical devices to allow the Department to take response measures based on information currently available about the virus that causes COVID–19. The determination of a public health emergency, and the declaration that circumstances exist justifying emergency use of certain medical devices by the Secretary of HHS, as described below, enable the FDA Commissioner to issue an EUA for these devices for emergency use under section 564 of the FD&C Act.

II. Determination by the Secretary of Health and Human Services

On February 4, 2020, pursuant to section 564 of the FD&C Act, I determined that there is a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves a novel (new) coronavirus (nCoV) first detected in Wuhan City, Hubei Province, China in 2019 (2019–nCoV). The virus is now named SARS–CoV–2, which causes the illness COVID–19.

III. Declaration of the Secretary of Health and Human Services

On March 24, 2020, on the basis of my determination of a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves the novel (new) coronavirus, SARS–CoV–2, I declared that circumstances exist justifying the authorization of emergency use of medical devices, including alternative products used as medical devices, pursuant to section 564 of the FD&C Act, subject to the terms of any authorization issued under that section.

Notice of the EUAs issued by the FDA Commissioner pursuant to this determination and declaration will be provided promptly in the **Federal Register** as required under section 564 of the FD&C Act.

Dated: March 24, 2020.

Alex M. Azar II,

Secretary of Health and Human Services.

[FR Doc. 2020–06541 Filed 3–25–20; 4:15 pm]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, 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 Alcohol Abuse and Alcoholism Special Emphasis Panel NIAAA Review Subcommittee Member Conflict Review Panel.

Date: April 7, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Suite 2118, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Philippe Marmillot, Ph.D., National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 301–443–2861 *marmillotp@mail.nih.gov*.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group Epidemiology, Prevention and Behavior Research Review Subcommittee.

Date: June 8, 2020.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Conference Room B, Bethesda, MD 20817.

Contact Person: Anna Ghambaryan, M.D., Ph.D., Scientific Review Officer, Extramural Project Review Branch Office of Extramural Activities National Institute on Alcohol Abuse and Alcoholism, 6700b Rockledge Drive, Room 2120, MSC 6902 Bethesda, MD 20892, 301–443–4032, *anna.ghambaryan@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research

and Research Support Awards., National Institutes of Health, HHS)

Dated: March 23, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06444 Filed 3–26–20; 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, 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, 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: Genetic Toxicology Support for the National Toxicology Program (NTP).

Date: April 23, 2020.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Environmental Health Sciences, National Institutes of Health, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27709 (Virtual Meeting).

Contact Person: Laura A., Thomas, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709 (919) 541–2824, *laura.thomas@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: March 24, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06438 Filed 3–26–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–HD–20–002: Pediatric HIV/AIDS Cohort Study.

Date: April 22, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Translational Research.

Date: April 22, 2020.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Laura Asnaghi, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 6200, Bethesda, MD 20892, 301–443–1196, *laura.asnaghi@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 23, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06437 Filed 3–26–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2018]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before June 25, 2020.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA

Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2018, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazard data* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Iowa County, Iowa and Incorporated Areas **Project: 17–07–0294S Preliminary Date: July 24, 2019**	
City of Ladora	City Hall, 806 Pacific Street, Ladora, IA 52251.
City of Marengo	City Hall, 153 East Main Street, Marengo, IA 52301.
City of North English	City Hall, 200 South Main Street, North English, IA 52316.
City of Victor	City Hall, 707 2nd Street, Victor, IA 52349.
City of Williamsburg	City Hall, 210 West State Street, Williamsburg, IA 52361.
Unincorporated Areas of Iowa County	Auditor's Office, 970 Court Avenue, Marengo, IA 52301.
Palo Alto County, Iowa and Incorporated Areas **Project: 16–07–2362S Preliminary Date: June 27, 2019**	
City of Curlew	Town Hall, 102 Godwit, Curlew, IA 50527.
City of Cylinder	City Building, 217 Main Street, Cylinder, IA 50528.
City of Emmetsburg	City Hall, 2021 Main Street, Emmetsburg, IA 50536.
City of West Bend	City Hall, 301 South Broadway Avenue, West Bend, IA 50597.
Unincorporated Areas of Palo Alto County	Palo Alto County Emergency Management Office, 1907 11th Street, Emmetsburg, IA 50536.
Winneshiek County, Iowa and Incorporated Areas **Project: 17–07–0397S Preliminary Date: January 15, 2019**	
City of Calmar	City Hall, 101 South Washington Street, Calmar, IA 52132.
City of Decorah	City Hall, 400 Claiborne Drive, Decorah, IA 52101.
City of Fort Atkinson	City Hall, 98 Elm Street, Fort Atkinson, IA 52144.
City of Jackson Junction	City Hall, 1201 County Road V68, Jackson Junction, IA 52171.
City of Ossian	City Hall, 123 West Main Street, Ossian, IA 52161.
City of Spillville	Spillville Public Library, 201 Oak Street, Spillville, IA 52168.
Unincorporated Areas of Winneshiek County	Winneshiek County Courthouse, 201 West Main Street, Decorah, IA 52101.

Community	Community map repository address
Wabaunsee County, Kansas and Incorporated Areas Project: 15–07–0283S Preliminary Date: October 25, 2019	
City of Alma	City Hall, 326 Missouri Avenue, Alma, KS 66401.
City of Alta Vista	City Hall, 521 Main Street, Alta Vista, KS 66834.
City of Eskridge	City Hall, 110 South Main Street, Eskridge, KS 66423.
City of Harveyville	City Hall, 274 West Oak Street, Harveyville, KS 66431.
City of McFarland	City Hall, 518 Rock Island Road, McFarland, KS 66501.
City of Paxico	Wabaunsee County Courthouse, 215 Kansas Avenue, Alma, KS 66401.
Unincorporated Areas of Wabaunsee County	Wabaunsee County Courthouse, 215 Kansas Avenue, Alma, KS 66401.

[FR Doc. 2020–06411 Filed 3–26–20; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0003]

National Flood Insurance Program (NFIP); Assistance to Private Sector Property Insurers, Notice of FY 2021 Arrangement

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency announces the Fiscal Year 2021 Financial Assistance/Subsidy Arrangement for private property insurers interested in participating in the National Flood Insurance Program's Write Your Own Program.

DATES: Interested insurers must submit intent to subscribe or re-subscribe to the Arrangement by June 25, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah Devaney-Ice, Branch Chief, Federal Insurance and Mitigation Administration, FEMA, 400 C St. SW, Washington, DC 20472 (mail); (202) 320–5577 (phone); or *sarah.devaney-ice@fema.dhs.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Background

The National Flood Insurance Act of 1968 (NFIA), as amended (42 U.S.C. 4001 *et seq.*), authorizes the Administrator of the Federal Emergency Management Agency (FEMA) to establish and carry out a National Flood Insurance Program (NFIP) to enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real or personal property arising from flood in the United States. *See* 42 U.S.C. 4011(a). Under the NFIA, FEMA has the authority to undertake arrangements to carry out the NFIP through the facilities of the Federal Government, utilizing, for the purposes of providing flood insurance coverage, insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations as fiscal agents of the United States. *See* 42 U.S.C. 4071. To this end, FEMA may ''enter into any contracts, agreements, or other appropriate arrangements'' with private insurance companies to utilize their facilities and services in administering the NFIP on such terms and conditions as may be agreed upon. *See* 42 U.S.C. 4081(a).

Pursuant to this authority, FEMA enters into a standard Financial Assistance/Subsidy Arrangement (Arrangement) with private sector property insurers, also known as Write Your Own (WYO) companies, to sell NFIP flood insurance policies under their own names and adjust and pay claims arising under the Standard Flood Insurance Policy (SFIP). Each Arrangement entered into by a WYO company must be in the form and substance of the standard Arrangement, a copy of which is published in the **Federal Register** annually, at least 6 months prior to becoming effective. *See* 44 CFR 62.23(a).

II. Notice of Availability

Insurers interested in participating in the WYO Program for Fiscal Year 2021 must contact Sarah Devaney-Ice at *sarah.devaney-ice@fema.dhs.gov* by June 25, 2020.

Prior participation in the WYO Program does not guarantee that FEMA will approve continued participation. FEMA will evaluate requests to participate in light of publicly available information, industry performance data, and other criteria listed in 44 CFR 62.24 and the FY 2021 Arrangement, copied below. FEMA encourages private insurance companies to supplement this information with customer satisfaction surveys, industry awards or recognition, or other objective performance data. In addition, private insurance companies should work with their vendors and subcontractors involved in servicing and delivering their insurance lines to ensure FEMA receives the information necessary to effectively evaluate the criteria set forth in its regulations.

FEMA will send a copy of the offer for the FY 2021 Arrangement, together with related materials and submission instructions, to all private insurance companies successfully evaluated by the NFIP. If FEMA, after conducting its evaluation, chooses not to renew a Company's participation, FEMA, at its option, may require the continued performance of all or selected elements of the FY 2020 Arrangement for a period required for orderly transfer or cessation of the business and settlement of accounts, not to exceed 18 months. *See* FY 2020 Arrangement, Article V.C. All evaluations, whether successful or unsuccessful, will inform both an overall assessment of the WYO Program and any potential changes FEMA may consider regarding the Arrangement in future fiscal years.

Any private insurance company with questions may contact FEMA at: Sarah Devaney-Ice, Federal Insurance and Mitigation Administration, FEMA, 400 C St. SW, Washington, DC 20472 (mail); (202) 320–5577 (phone); or *sarah.devaney-ice@fema.dhs.gov* (email).

III. Fiscal Year 2021 Arrangement

Pursuant to 44 CFR 62.23(a), FEMA must publish the Arrangement at least six months prior to the Arrangement becoming effective. The FY 2021 Arrangement provided below is substantially similar to the previous year's Arrangement, but includes the following substantive changes:

1. Moved Article V (Commencement and Termination) to Article II to improve organizational clarity, and renumbered following articles.

2. In Article II.C, WYO companies will be required to notify FEMA of their

intent to not re-subscribe to the Arrangement within 30 calendar days of their decision. In the FY2020 Arrangement, such notification must be made ''promptly''.

3. Added Article II.G, which allows FEMA to extend the FY2021 Arrangement through December 31, 2022, but not to exceed 6 months following the publication of the FY2022 Arrangement.

4. Added new requirement in Article III.A.2 (Claims Processing) requiring that all independent adjusters used by WYO companies must either have a valid Flood Control Number or participate in the Flood Adjuster Capacity Program, and that WYO companies must cooperate with reinspections.

5. Updated Article III.A.3 to reflect terminology and procedural changes associated with the transition of the NFIP system of record to Pivot.

6. In Article III.A.4, added requirement to include Private Flood Insurance Separation Plan, Privacy Protection Plan, and Technology Plan in the Operations Plan submitted by WYO companies.

7. Added Article III.I (Subrogation) to confirm a WYO company's obligation to pursue subrogation claims or to refer such claims to FEMA.

8. Amended Article IV.D.3 (Oversight of Litigation), previously titled ''Limitation on Litigation Costs,'' to reflect updated litigation oversight procedures provided in the National Flood Insurance Program Litigation Manual.

9. Removed previous Article VI (Information and Annual Statements) and moved paragraph (A) to Article III.J and paragraph (B) to Article VI.D.

10. Added paragraph to Article XII (Access to Books and Records), providing that FEMA will protect confidential or proprietary information submitted by WYO companies from disclosure to the extent allowed by law.

The Fiscal Year 2021 Arrangement reads as follows:

Financial Assistance/Subsidy Arrangement

Article I. Findings, Purposes, and Authority

Whereas, the Congress in its ''Finding and Declaration of Purpose'' in the National Flood Insurance Act of 1968, Public Law 90–448, Title XIII, as amended, (''the Act'' or ''Act'') recognized the benefit of having the National Flood Insurance Program (the ''Program'' or ''NFIP'') ''carried out to the maximum extent practicable by the private insurance industry'' (Section 1302 of the Act [42 U.S.C. 4001]); and

Whereas, the Federal Emergency Management Agency (''FEMA''), which operates the Program through its Federal Insurance and Mitigation Administration (''FIMA''), recognizes this Arrangement as coming under the provisions of Sections 1340 and 1345 of the Act (42 U.S.C. 4071 and 4081, respectively); and

Whereas, the goal of FEMA is to develop a program with the insurance industry where the risk-bearing role for the industry will evolve as intended by the Congress (Section 1304 of the Act [42 U.S.C. 4011]); and

Whereas, Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108–264, as implemented by 44 CFR 62.20, permits Program policyholders to appeal the denial of a claim, completely or in part, to FEMA; and

Whereas, the NFIP is a program administered by FEMA, all participants of this Arrangement, and other entities operating on their behalf, shall align themselves toward the common purpose of helping survivors and their communities recover from floods by effectively delivering customer-focused flood insurance products and information; and

Whereas, the insurer (hereinafter the ''Company'') under this Arrangement must charge rates established by FEMA; and

Whereas, FEMA has promulgated regulations and guidance implementing the Act and the Write Your Own (WYO) Program whereby participating private insurance companies act in a fiduciary capacity utilizing Federal funds to sell and administer the Standard Flood Insurance Policies, and has extensively regulated the participating companies' activities when selling or administering the Standard Flood Insurance Policies; and

Whereas, any litigation resulting from, related to, or arising from the Company's compliance with the written standards, procedures, and guidance issued by FEMA arises under the Act or regulations, and legal issues thereunder raise a Federal question; and

Whereas, through this Arrangement, the United States Treasury will back all flood policy claim payments by the Company; and

Whereas, FEMA developed this Arrangement to enable any interested qualified insurer to write flood insurance under its own name; and

Whereas, insured survivors recover faster and more fully than uninsured survivors, and FEMA is committed to developing a culture of preparedness and closing the insurance gap across the nation; and

Whereas, one of the primary objectives of the Program is to provide coverage to the maximum number of buildings at risk and because the insurance industry has marketing access through its existing facilities not directly available to FEMA, FEMA concludes that coverage will be extended to those who would not otherwise be insured under the Program; and

Whereas, flood insurance policies issued subject to this Arrangement must be only that insurance written by the Company in its own name under prescribed policy conditions and pursuant to this Arrangement, the Act, and any guidance issued by FEMA; and

Whereas, over time, the Program is designed to increase industry participation and, accordingly, reduce or eliminate Government as the principal vehicle for delivering flood insurance to the public; and

Whereas, the sole parties under this Arrangement are the Company and FEMA.

Now, therefore, the parties hereto mutually undertake the following:

Article II. Commencement and Termination

A. The effective period of this Arrangement begins on October 1, 2020 and terminates no earlier than September 30, 2021, subject to extension pursuant to Articles II.C and II.G. FEMA may provide financial assistance only for policy applications and endorsements accepted by the Company during this period pursuant to the Program's effective date, underwriting, and eligibility rules.

B. Pursuant to 44 CFR 62.23(a), FEMA will publish the Arrangement and the terms for subscription or re-subscription for Fiscal Year 2022 in the **Federal Register** no later than April 1, 2021. Upon such publication, the Company must notify FEMA of its intent to re-subscribe or not re-subscribe to the WYO Program for the following term within ninety (90) calendar days.

C. In addition to the requirements of Article II.B, in order to assure uninterrupted service to policyholders, the Company must notify FEMA within thirty (30) days of when the Company elects not to re-subscribe to the WYO Program during the term of this Arrangement. If so notified, or if FEMA chooses not to renew the Company's participation, FEMA, at its option, may require the continued performance of all or selected elements of this Arrangement for the period required for orderly transfer or cessation of business and settlement of accounts, not to exceed eighteen (18) months after the

end of this Arrangement (September 30, 2021), and may either require transfer of activities to FEMA under Article II.C.1 or allow transfer of activities to another WYO company under Article II.C.2:

1. FEMA may require the Company to transfer all activities under this Arrangement to FEMA. Within thirty (30) calendar days of FEMA's election of this option, the Company must deliver to FEMA the following:

a. A plan for the orderly transfer to FEMA of any continuing responsibilities in administering the policies issued by the Company under the Program including provisions for coordination assistance.

b. All data received, produced, and maintained through the life of the Company's participation in the Program, including certain data, as determined by FEMA, in a standard format and medium.

c. All claims and policy files, including those pertaining to receipts and disbursements that have occurred during the life of each policy. In the event of a transfer of the services provided, the Company must provide FEMA with a report showing, on a policy basis, any amounts due from or payable to insureds, agents, brokers, and others as of the transition date.

d. All funds in its possession with respect to any policies transferred to FEMA for administration and the unearned expenses retained by the Company.

e. A point of contact within the Company responsible for addressing issues that may arise from the Company's previous participation under the WYO Program.

2. FEMA may allow the Company to transfer all activities under this Arrangement to one or more other WYO companies. Prior to commencing such transfer, the Company must submit, and FEMA must approve, a formal request. Such request must include the following:

a. An assurance of uninterrupted service to policyholders.

b. A detailed transfer plan providing for either: (1) The renewal of the Company's NFIP policies by one or more other WYO companies; or (2) the transfer of the Company's NFIP policies to one or more other WYO companies.

c. A description of who the responsible party will be for liabilities relating to losses incurred by the Company in this or preceding Arrangement years.

d. A point of contact within the Company responsible for addressing issues that may arise from the Company's previous participation under the WYO Program.

D. Cancellation by FEMA.

1. FEMA may cancel financial assistance under this Arrangement in its entirety upon thirty (30) days written notice to the Company by certified mail stating one or more of the following reasons for such cancellation:

a. Fraud or misrepresentation by the Company subsequent to the inception of the Arrangement; or

b. Nonpayment to FEMA of any amount due; or

c. Material failure to comply with the requirements of this Arrangement or with the written standards, procedures, or guidance issued by FEMA relating to the NFIP and applicable to the Company.

2. If FEMA cancels this Arrangement pursuant to Article II.D.1, FEMA may require the transfer of administrative responsibilities and the transfer of data and records as provided in Article II.C.1.a-d. If transfer is required, the Company must remit to FEMA the unearned expenses retained by the Company. In such event, FEMA will assume all obligations and liabilities owed to policyholders under such policies, arising before and after the date of transfer.

3. As an alternative to the transfer of the policies to FEMA pursuant to Article II.D.2, FEMA will consider a proposal, if it is made by the Company, for the assumption of responsibilities by another WYO company as provided in Article II.C.2.

E. In the event that the Company is unable or otherwise fails to carry out its obligations under this Arrangement by reason of any order or directive duly issued by the Department of Insurance of any jurisdiction to which the Company is subject, the Company agrees to transfer, and FEMA will accept, any and all WYO policies issued by the Company and in force as of the date of such inability or failure to perform. In such event FEMA will assume all obligations and liabilities within the scope of the Arrangement owed to policyholders arising before and after the date of transfer, and the Company will immediately transfer to FEMA all needed records and data and all funds in its possession with respect to all such policies transferred and the unearned expenses retained by the Company. As an alternative to the transfer of the policies to FEMA, FEMA will consider a proposal, if it is made by the Company, for the assumption of responsibilities by another WYO company as provided by Article II.C.2.

F. In the event the Act is amended, repealed, expires, or if FEMA is otherwise without authority to continue the Program, FEMA may cancel financial assistance under this Arrangement for any new or renewal business, but the Arrangement will continue for policies in force that shall be allowed to run their term under the Arrangement.

G. If FEMA does not publish the Fiscal Year 2022 Arrangement in the **Federal Register** on or before April 1, 2021, then FEMA may require the continued performance of all or selected elements of this Arrangement through December 31, 2022, but such extension may not exceed the expiration of the six (6) month period following publication of the Fiscal Year 2022 Arrangement in the **Federal Register**.

Article III. Undertakings of the Company

A. Responsibilities of the Company.

1. Policy Issuance and Maintenance. The Company must meet all requirements of the Financial Control Plan and any guidance issued by FEMA. The Company is responsible for the following:

a. Compliance with the Community Eligibility/Rating Criteria.

b. Making Policyholder Eligibility Determinations.

c. Policy Issuances.

d. Policy Endorsements.

e. Policy Cancellations.

f. Policy Correspondence.

g. Payment of Agents' Commissions.

h. Fund Management, including the receipt, recording, disbursement, and timely deposit of NFIP funds.

2. Claims Processing.

a. In general. The Company must process all claims consistent with the Standard Flood Insurance Policy, Financial Control Plan, other guidance adopted by FEMA, and as much as possible, with the Company's standard business practices for its non-NFIP policies.

b. Adjuster registration. The Company may not use an independent adjuster to adjust a claim unless the independent adjuster either:

i. Holds a valid Flood Control Number issued by FEMA; or

ii. Participates in the Flood Adjuster Capacity Program.

c. Claim reinspections. The Company must cooperate with any claim reinspection by FEMA.

3. Reports. The Company must certify its business under the WYO Program through monthly financial reports in accordance with the requirements of the Pivot Use Procedures. The Company must follow the Financial Control Plan and the WYO Accounting Procedures Manual. FEMA will validate and audit, in detail, these data and compare the results against Company reports.

4. Operations Plan. Within ninety (90) days of the commencement of this Arrangement, the Company must submit a written Operations Plan to FEMA describing its efforts to perform under this Arrangement. The plan must include the following:

a. Private Flood Insurance Separation Plan. If applicable, a description of the Company's policies, procedures, and practices separating their NFIP flood insurance lines of business from their non-NFIP flood insurance lines of business, including its implementation of Article III.E.

b. Marketing Plan. A marketing plan describing the Company's forecasted growth, efforts to achieve that growth, and ability to comply with any marketing guidelines provided by FEMA.

c. Distribution Plan. A description of the Company's NFIP flood insurance distribution network, including anticipated numbers of agents, efforts to train those agents, and an average rate of commissions paid to producers by state.

d. Catastrophic Claims Handling Plan. A catastrophic claims handling plan describing how the Company will respond and maintain service standards in catastrophic flood events.

e. Business Continuity Plan. A business continuity plan identifying threats and risks facing the Company's NFIP-related operations and how the Company will maintain operations in the event of a disaster affecting its operational capabilities.

f. Privacy Protection Plan. A privacy protection plan that describes the Company's standards for using and maintaining personally identifiable information.

g. Technology Plan. A technology plan describing any planned technology updates or refreshes in support of the NFIP and the Company's security update schedule.

B. Time Standards. WYO companies must meet the time standard provided below. Time will be measured from the date of receipt through the date sent out. In addition to the standards set forth below, all functions performed by the Company must be in accordance with the highest reasonably attainable quality standards generally utilized in the insurance and data processing field. Continual failure to meet these requirements may result in limitations on the company's authority to write new business or the removal of the Company from the WYO Program. Applicable time standards are:

1. Application Processing—fifteen (15) business days (Note: if the policy cannot be sent out due to insufficient or erroneous information or insufficient funds, the Company must send a request for correction or added moneys within ten business (10) days).

2. Renewal processing—seven (7) business days.

3. Endorsement processing—fifteen (15) business days.

4. Cancellation processing—fifteen (15) business days.

5. File examination—seven (7) business days.

6. Claims draft processing—seven (7) business days from completion of file examination.

7. Claims adjustment—forty-five (45) business days average from the receipt of Notice of Loss (or equivalent) through completion of examination.

8. Upload transactions to PIVOT—one (1) business day.

C. Policy Issuance.

1. The flood insurance subject to this Arrangement must be only that insurance written by the Company in its own name pursuant to the Act.

2. The Company must issue policies under the regulations prescribed by FEMA, in accordance with the Act, on a form approved by FEMA.

3. The Company must issue all policies in consideration of such premiums and upon such terms and conditions and in such states or areas or subdivisions thereof as may be designated by FEMA and only where the Company is licensed by State law to engage in the property insurance business.

D. Lapse of Authority or Appropriation. FEMA may require the Company to discontinue issuing policies subject to this Arrangement immediately in the event Congressional authorization or appropriation for the NFIP is withdrawn.

E. Separation of Finances and Other Lines of Flood Insurance.

1. The Company must separate Federal flood insurance funds from all other Company accounts, at a bank or banks of its choosing for the collection, retention and disbursement of Federal funds relating to its obligation under this Arrangement, less the Company's expenses as set forth in Article IV, and the operation of the Letter of Credit established pursuant to Article V. The Company must remit all funds not required to meet current expenditures to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual.

2. Other Flood Insurance. If the Company also offers flood insurance outside of the NFIP in any geographic area in which Program authorizes the purchase of flood insurance, the Company must:

a. Ensure that all public communications (whether written, recorded, electronic, or other) regarding non-NFIP flood insurance lines would not lead a reasonable person to believe that the NFIP, FEMA, or the Federal Government in any way endorses, sponsors, oversees, regulates, or otherwise has any connection with the non-NFIP flood insurance line. The Company may assure compliance with this requirement by prominently including in such communications the following statement: ''This insurance product is not affiliated with the National Flood Insurance Program.''

b. Ensure that data related to this Arrangement are not used to further or support the Company's non-NFIP flood insurance lines.

F. Claims. The Company must investigate, adjust, settle, and defend all claims or losses arising from policies issued under this Arrangement. Payment of flood insurance claims by the Company bind FEMA, subject to appeal.

G. Compliance with Agency Standards and Guidelines.

1. The Company must comply with the Act, regulations, written standards, procedures, and guidance issued by FEMA relating to the NFIP and applicable to the Company, including, but not limited to the following:

a. Financial Control Plan.

b. Pivot Use Procedures.

c. Flood Insurance Manual.

d. Claims Manual.

e. National Flood Insurance Program Litigation Manual.

f. WYO Accounting Procedures Manual.

g. WYO Bulletins.

2. The Company must market flood insurance policies in a manner consistent with marketing guidelines established by FEMA.

3. FEMA may require the Company to collect customer service information to monitor and improve their program delivery.

4. The Company must notify its agents of the requirement to comply with State regulations regarding flood insurance agent education, notify agents of flood insurance training opportunities, and assist FEMA in periodic assessment of agent training needs.

H. Compliance with Appeals Process.

1. FEMA will notify the Company when a policyholder files an appeal. After notification, the Company must provide FEMA the following information:

a. All records created or maintained pursuant to this Arrangement requested by FEMA; and

b. A comprehensive claim file synopsis that includes a summary of the

appeal issues, the Company's position on each issue, and any additional relevant information. If, in the process of writing the synopsis, the Company determines that it can address the issue raised by the policyholder on appeal without further direction, it must notify FEMA. The Company will then work directly with the policyholder to achieve resolution and update FEMA upon completion. The Company may have a claims examiner review the file who is independent from the original decision and who possesses the authority to overturn the original decision if the facts support it.

2. The Company must cooperate with FEMA throughout the appeal process until final resolution. This includes adhering to any written appeals guidance issued by FEMA.

3. Resolution of Appeals. FEMA will close an appeal when:

a. FEMA upholds the denial by the Company;

b. FEMA overturns the denial by the Company and all necessary actions that follow are completed;

c. The Company independently resolves the issue raised by the policyholder without further direction;

d. The policyholder voluntarily withdraws the appeal; or

e. The policyholder files litigation.

4. Processing of Additional Payments from Appeal. The Company must follow established NFIP adjusting practices and claim handling procedures for appeals that result in additional payment to a policyholder when FEMA does not explicitly direct such payment during the review of the appeal.

5. Time Standards.

a. Provide FEMA with requested files pursuant to Article III.H.1.a—ten (10) business days after request.

b. Provide FEMA with comprehensive claim file synopsis pursuant to Article III.H.1.b—ten (10) business days after request.

c. Responding to inquiries from FEMA regarding an appeal—ten (10) business days after inquiry.

d. Inform FEMA of any litigation filed by a policyholder with a current appeal—within ten (10) business days of notice.

I. Subrogation.

1. In general. Consistent with Federal law and guidance, the Company must use its customary business practices when pursuing subrogation.

2. Referral to FEMA. Pursuant to 44 CFR 62.23(i)(8), in lieu of the Company pursuing a subrogation claim, WYO companies may refer such claims to FEMA.

3. Notification. No more than ten (10) calendar days after either the Company identifies a possible subrogation claim or FEMA notifies the Company of a possible subrogation claim, the Company must notify FEMA of its intent to pursue the claim or refer the claim to FEMA.

4. Cooperation. Pursuant to 44 CFR 62.23(i)(11), the Company must extend reasonable cooperation to FEMA's Office of the Chief Counsel on matters related to subrogation.

J. Access to Records. The Company must furnish to FEMA such summaries and analysis of information including claim file information and property address, location, and/or site information in its records as may be necessary to carry out the purposes of the Act, in such form as FEMA, in cooperation with the Company, will prescribe.

Article IV. Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds

A. The Company is liable for operating, administrative, and production expenses, including any State premium taxes, dividends, agents' commissions or any other expense of whatever nature incurred by the Company in the performance of its obligations under this Arrangement but excluding other taxes or fees, such as municipal or county premium taxes, surcharges on flood insurance premium, and guaranty fund assessments.

B. Payment for Selling and Servicing Policies.

1. Operating and Administrative Expenses. The Company may withhold, as operating and administrative expenses, other than agents' or brokers' commissions, an amount from the Company's written premium on the policies covered by this Arrangement in reimbursement of all of the Company's marketing, operating, and administrative expenses, except for allocated and unallocated loss adjustment expenses described in Article IV.C. This amount will equal the sum of the average industry expenses ratios for ''Other Acq.'', ''Gen. Exp.'' and ''Taxes'' calculated by aggregating premiums and expense amounts for each of five property coverages using direct premium and expense information to derive weighted average expense ratios. For this purpose, FEMA will use data for the property/casualty industry published, as of March 15 of the prior Arrangement year, in Part III of the Insurance Expense Exhibit in A.M. Best Company's Aggregates and Averages for the following five property coverages: Fire, Allied Lines, Farmowners Multiple Peril, Homeowners Multiple Peril, and Commercial Multiple Peril (non-liability portion).

2. Agent Compensation. The Company may retain fifteen (15) percent of the Company's written premium on the policies covered by this Arrangement as the commission allowance to meet the commissions or salaries of insurance agents, brokers, or other entities producing qualified flood insurance applications and other related expenses.

3. Growth Bonus. FEMA may increase the amount of expense allowance retained by the Company depending on the extent to which the Company meets the marketing goals for the Arrangement year contained in marketing guidelines established pursuant to Article III.G.2. The total growth bonuses paid to companies pursuant to this Arrangement may not exceed two (2) percent of the aggregate net written premium collected by all WYO companies. FEMA will pay the Company the amount of any increase after the end of the Arrangement year.

4. Reimbursement for Services of a National Rating Organization. The Company, with the consent of FEMA as to terms and costs, may use the services of a national rating organization, licensed under state law, to help us undertake and carry out such studies and investigations on a community or individual risk basis, and to determine equitable and accurate estimates of flood insurance risk premium rates as authorized under the Act, as amended. FEMA will reimburse the Company for the charges or fees for such services under the provisions of the WYO Accounting Procedures Manual.

C. FEMA will reimburse Loss Adjustment Expenses as follows:

1. FEMA will reimburse unallocated loss adjustment expenses to the Company pursuant to a ''ULAE Schedule'' coordinated with the Company and provided by FEMA.

2. FEMA will reimburse allocated loss adjustment expenses to the Company pursuant to a ''Fee Schedule'' coordinated with the Company and provided by FEMA. To ensure the availability of qualified insurance adjusters during catastrophic flood events, FEMA may, in its sole discretion, temporarily authorize the use of an alternative Fee Schedule with increased amounts during the term of this Arrangement for losses incurred during a time frame and geographic area established by FEMA.

3. FEMA will reimburse special allocated loss expenses to the Company in accordance with guidelines issued by FEMA.

D. Loss Payments.

1. The Company must make loss payments for flood insurance policies from federal funds retained in the bank account(s) established under Article III.E.1 and, if such funds are depleted, from Federal funds derived by drawing against the Letter of Credit established pursuant to Article V.

2. Loss payments include payments because of litigation that arises under the scope of this Arrangement, and the Authorities set forth herein. All such loss payments and related expenses must meet the documentation requirements of the Financial Control Plan and of this Arrangement, and the Company must comply with the litigation documentation and notification requirements established by FEMA. Failure to meet these requirements may result in FEMA's decision not to provide reimbursement.

3. Oversight of Litigation.

a. The Company must conduct litigation arising out of the Company's participation in the NFIP in accordance with the National Flood Insurance Program Litigation Manual.

b. FEMA will not reimburse the Company for any award or judgment for damages and any costs to defend litigation that is either:

1. Grounded in actions by the Company that are significantly outside the scope of this Arrangement; or

2. Involves issues of agent negligence.

E. Refunds. The Company must make premium refunds required by FEMA to applicants and policyholders from Federal flood insurance funds referred to in Article II.E.1, and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article V. The Company may not refund any premium to applicants or policyholders in any manner other than as specified by FEMA since flood insurance premiums are funds of the Federal Government.

Article V. Undertakings of the Government

A. FEMA must establish Letter(s) of Credit against which the Company may withdraw funds daily, if needed, pursuant to prescribed procedures implemented by FEMA. FEMA will increase the amounts of the authorizations as necessary to meet the obligations of the Company under Article IV.C–E. The Company may only request funds when net premium income has been depleted. The timing and amount of cash advances must be as close as is administratively feasible to the actual disbursements by the recipient organization for allowable Letter of Credit expenses. Request for payment on Letters of Credit may not ordinarily be drawn more frequently than daily. This Letter of Credit may be drawn by the Company for any of the following reasons:

1. Payment of claims, as described in Article IV.D;

2. Refunds to applicants and policyholders for insurance premium overpayment, or if the application for insurance is rejected or when cancellation or endorsement of a policy results in a premium refund, as described in Article IV.E; and

3. Allocated and unallocated loss adjustment expenses, as described in Article IV.C.

B. FEMA must provide technical assistance to the Company as follows:

1. NFIP policy and history.

2. Clarification of underwriting, coverage, and claims handling.

3. Other assistance as needed.

C. FEMA must provide the Company with a copy of all formal written appeal decisions conducted in accordance with Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108–264 and 44 CFR 62.20.

D. Prior to the end of the Arrangement period, FEMA may provide the Company a statistical summary of their performance during the signed Arrangement period. This summary will detail the Company's performance individually, as well as compare the Company's performance to the aggregate performance of all WYO companies and the NFIP Direct Servicing Agent.

Article VI. Cash Management and Accounting

A. FEMA must make available to the Company during the entire term of this Arrangement the Letter of Credit provided for in Article V drawn on a repository bank within the Federal Reserve System. This Letter of Credit may be drawn by the Company for reimbursement of its expenses as set forth in Article V. A that exceed net written premiums collected by the Company from the effective date of this Arrangement or continuation period to the date of the draw. In the event that adequate Letter of Credit funding is not available to meet current Company obligations for flood policy claim payments issued, FEMA must direct the Company to immediately suspend the issuance of loss payments until such time as adequate funds are available. The Company is not required to pay claims from their own funds in the event of such suspension.

B. The Company must remit all funds, including interest, not required to meet current expenditures to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual or procedures approved in writing by FEMA.

C. In the event the Company elects not to participate in the Program in this or any subsequent fiscal year, or is otherwise unable or not permitted to participate, the Company and FEMA must make a provisional settlement of all amounts due or owing within three (3) months of the expiration or termination of this Arrangement. This settlement must include net premiums collected, funds drawn on the Letter of Credit, and reserves for outstanding claims. The Company and FEMA agree to make a final settlement, subject to audit, of accounts for all obligations arising from this Arrangement within eighteen (18) months of its expiration or termination, except for contingent liabilities that must be listed by the Company. At the time of final settlement, the balance, if any, due FEMA or the Company must be remitted by the other immediately and the operating year under this Arrangement must be closed.

D. Upon FEMA's request, the Company must provide FEMA with a true and correct copy of the Company's Fire and Casualty Annual Statement, and Insurance Expense Exhibit or amendments thereof as filed with the State Insurance Authority of the Company's domiciliary State.

Article VII. Arbitration

If any misunderstanding or dispute arises between the Company and FEMA with reference to any factual issue under any provisions of this Arrangement or with respect to FEMA's nonrenewal of the Company's participation, other than as to legal liability under or interpretation of the Standard Flood Insurance Policy, such misunderstanding or dispute may be submitted to arbitration for a determination that will be binding upon approval by FEMA. The Company and FEMA may agree on and appoint an arbitrator who will investigate the subject of the misunderstanding or dispute and make a determination. If the Company and FEMA cannot agree on the appointment of an arbitrator, then two arbitrators will be appointed, one to be chosen by the Company and one by FEMA.

The two arbitrators so chosen, if they are unable to reach an agreement, must select a third arbitrator who must act as umpire, and such umpire's determination will become final only upon approval by FEMA. The Company and FEMA shall bear in equal shares all expenses of the arbitration. Findings, proposed awards, and determinations

resulting from arbitration proceedings carried out under this section, upon objection by FEMA or the Company, shall be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

This Article shall indefinitely succeed the term of this Arrangement.

Article VIII. Errors and Omissions

A. In the event of negligence by the Company that has not resulted in litigation but has resulted in a claim against the Company, FEMA will not consider reimbursement of the Company for costs incurred due to that negligence unless the Company takes all reasonable actions to rectify the negligence and to mitigate any such costs as soon as possible after discovery of the negligence. The Company may choose not to seek reimbursement from FEMA.

B. If the Company has made a claim payment to an insured without including a mortgagee (or trustee) of which the Company had actual notice prior to making payment, and subsequently determines that the mortgagee (or trustee) is also entitled to any part of said claim payment, any additional payment may not be paid by the Company from any portion of the premium and any funds derived from any Federal letter of credit deposited in the bank account described in Article III.E.1. In addition, the Company agrees to hold the Federal Government harmless against any claim asserted against the Federal Government by any such mortgagee (or trustee), as described in the preceding sentence, by reason of any claim payment made to any insured under the circumstances described above.

Article IX. Officials Not To Benefit

No Member or Delegate to Congress, or Resident Commissioner, may be admitted to any share or part of this Arrangement, or to any benefit that may arise therefrom; but this provision may not be construed to extend to this Arrangement if made with a corporation for its general benefit.

Article X. Offset

At the settlement of accounts, the Company and FEMA have, and may exercise, the right to offset any balance or balances, whether on account of premiums, commissions, losses, loss adjustment expenses, salvage, or otherwise due one party to the other, its successors or assigns, hereunder or under any other Arrangements heretofore or hereafter entered into between the Company and FEMA. This right of offset shall not be affected or diminished because of insolvency of the Company.

All debts or credits of the same class, whether liquidated or unliquidated, in favor of or against either party to this Arrangement on the date of entry, or any order of conservation, receivership, or liquidation, shall be deemed to be mutual debts and credits and shall be offset with the balance only to be allowed or paid. No offset shall be allowed where a conservator, receiver, or liquidator has been appointed and where an obligation was purchased by or transferred to a party hereunder to be used as an offset.

Although a claim on the part of either party against the other may be unliquidated or undetermined in amount on the date of the entry of the order, such claim will be regarded as being in existence as of the date of such order and any credits or claims of the same class then in existence and held by the other party may be offset against it.

Article XI. Equal Opportunity

The Company shall not discriminate against any applicant for insurance because of race, color, religion, sex, age, handicap, marital status, or national origin.

Article XII. Access to Books and Records

A. FEMA, the Department of Homeland Security, and the Comptroller General of the United States, or their duly authorized representatives, for the purpose of investigation, audit, and examination shall have access to any books, documents, papers and records of the Company that are pertinent to this Arrangement. The Company shall keep records that fully disclose all matters pertinent to this Arrangement, including premiums and claims paid or payable under policies issued pursuant to this Arrangement. Records of accounts and records relating to financial assistance shall be retained and available for three (3) years after final settlement of accounts, and to financial assistance, three (3) years after final adjustment of such claims. FEMA shall have access to policyholder and claim records at all times for purposes of the review, defense, examination, adjustment, or investigation of any claim under a flood insurance policy subject to this Arrangement.

FEMA, to the extent permitted by law and regulation, will safeguard and treat information submitted or made available by the Company pursuant to this Arrangement as confidential where the information has been marked ''confidential'' by the Company and the Company customarily keeps such information private or closely-held. To the extent permitted by law and regulation, FEMA will not release such information to the public pursuant to a Freedom of Information Act (FOIA) request, 5 U.S.C. 552, without prior notification to the Company. FEMA may transfer documents provided by the Company to any department or agency within the Executive Branch or to either house of Congress if the information relates to matters within the organization's jurisdiction. FEMA may also release the information submitted pursuant to a judicial order from a court of competent jurisdiction.

Article XIII. Compliance With Act and Regulations

This Arrangement and all policies of insurance issued pursuant thereto are subject to Federal law and regulations.

Article XIV. Relationship Between the Parties and the Insured

Inasmuch as the Federal Government is a guarantor hereunder, the primary relationship between the Company and the Federal Government is one of a fiduciary nature, that is, to assure that any taxpayer funds are accounted for and appropriately expended. The Company is a fiscal agent of the Federal Government, but is not a general agent of the Federal Government. The Company is solely responsible for its obligations to its insured under any policy issued pursuant hereto, such that the Federal Government is not a proper party to any lawsuit arising out of such policies.

Authority: 42 U.S.C. 4071, 4081; 44 CFR 62.23.

David I. Maurstad,

Deputy Associate Administrator for Insurance and Mitigation, Federal Emergency Management Agency.

[FR Doc. 2020–06394 Filed 3–26–20; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood

Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of July 22, 2020 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Clayton County, Iowa and Incorporated Areas Docket No.: FEMA–B–1910	
City of Clayton	City Hall, 302 Main Street, Clayton, IA 52049.
City of Edgewood	City Hall, 203 West Union Street, Edgewood, IA 52042.
City of Elkader	City Hall, 207 North Main Street, Elkader, IA 52043.
City of Elkport	City Hall, 453 Linn Street, Elkport, IA 52044.
City of Farmersburg	City Hall, 208 South Main Street, Farmersburg, IA 52047.
City of Garber	City Hall, 604 Hill Street, Garber, IA 52048.
City of Garnavillo	City Hall, 104 North Main Street, Garnavillo, IA 52049.
City of Guttenberg	City Hall, 502 South 1st Street, Guttenberg, IA 52052.
City of Luana	City Hall, 304 Main Street, Luana, IA 52156.
City of Marquette	City Hall, 102 North Street, Marquette, IA 52158.
City of McGregor	City Hall, 416 Main Street, McGregor, IA 52157.
City of Monona	City Hall, 104 East Center Street, Monona, IA 52159.
City of North Buena Vista	City Hall, 502 Walnut Street, North Buena Vista, IA 52066.
City of Osterdock	Osterdock City Hall, 3181 Lynx Avenue, Colesburg, IA 52035.
City of St. Olaf	City Hall, 109 South Main Street, St. Olaf, IA 52072.
City of Strawberry Point	City Hall, 111 Commercial Street, Strawberry Point, IA 52076.
City of Volga	City Hall, 505 Washington Street, Volga, IA 52077.
Unincorporated Areas of Clayton County	Clayton County Courthouse, 111 High Street Northeast, Elkader, IA 52043.
Clinton County, Iowa and Incorporated Areas Docket No.: FEMA–B–1911	
City of Andover	Clinton County Satellite Offices, 226 11th Street, DeWitt, IA 52742.
City of Calamus	Clinton County Satellite Offices, 226 11th Street, DeWitt, IA 52742.
City of Camanche	City Hall, 818 7th Avenue, Camanche, IA 52730.
City of Charlotte	City Hall, 102 Charles Street, Charlotte, IA 52731.
City of Clinton	City Hall, 611 South 3rd Street, Clinton, IA 52732.
City of DeWitt	City Hall, 510 9th Street, DeWitt, IA 52742.
City of Goose Lake	City Hall, 1 School Lane, Goose Lake, IA 52750.
City of Grand Mound	City Hall, 615 Sunnyside Street, Grand Mound, IA 52751.
City of Lost Nation	City Hall, 410 Main Street, Lost Nation, IA 52254.
City of Low Moor	City Hall, 323 3rd Avenue, Low Moor, IA 52757.
City of Toronto	City Hall, 300 Mill Street, Toronto, IA 52777.
City of Welton	Clinton County Satellite Offices, 226 11th Street, DeWitt, IA 52742.
City of Wheatland	City Hall, 205 East Jefferson Street, Wheatland, IA 52777.
Unincorporated Areas of Clinton County	Clinton County Satellite Offices, 226 11th Street, DeWitt, IA 52742.
Lee County, Iowa and Incorporated Areas Docket No.: FEMA–B–1910	
City of Fort Madison	City Hall, 811 Avenue East, Fort Madison, IA 52627.
City of Houghton	City Hall, 406 2nd Street, Houghton, IA 52631.
City of Keokuk	City Hall, 415 Blondeau Street, Keokuk, IA 52632.

Community	Community map repository address
City of Montrose	City Hall, 102 South 2nd Street, Montrose, IA 52639.
Unincorporated Areas of Lee County	Keokuk City Hall, 415 Blondeau Street, Keokuk, IA 52632.
Bannock County, Idaho and Incorporated Areas Docket No.: FEMA–B–1920	
City of Pocatello	City Hall, 911 North 7th Avenue, Pocatello, ID 83201.
Unincorporated Areas of Bannock County	Bannock County Planning and Development, 5500 South 5th Avenue, Pocatello, ID 83204.
Plymouth County, Massachusetts (All Jurisdictions) Docket No.: FEMA–B–1842	
Town of Abington	Town Hall, 500 Gliniewicz Way, Abington, MA 02351.
Town of Carver	Town Hall, 108 Main Street, Carver, MA 02330.
Town of Duxbury	Town Hall, 878 Tremont Street, Duxbury, MA 02332.
Town of Halifax	Town Hall, 499 Plymouth Street, Halifax, MA 02338.
Town of Hanover	Town Hall, 550 Hanover Street, Hanover, MA 02339.
Town of Hanson	Town Hall, 542 Liberty Street, Hanson, MA 02341.
Town of Hingham	Town Hall, 210 Central Street, Hingham, MA 02043.
Town of Kingston	Town House, 26 Evergreen Street, Kingston, MA 02364.
Town of Marion	Town House, 2 Spring Street, Marion, MA 02738.
Town of Marshfield	Town Hall, 870 Moraine Street, Marshfield, MA 02050.
Town of Mattapoisett	Town Hall, 16 Main Street, Mattapoisett, MA 02739.
Town of Middleborough	Town Hall, 10 Nickerson Avenue, Middleborough, MA 02346.
Town of Norwell	Town Hall, 345 Main Street, Room 112, Norwell, MA 02061.
Town of Pembroke	Town Hall, 100 Center Street, Pembroke, MA 02359.
Town of Plymouth	Town Hall, 26 Court Street, Plymouth, MA 02360.
Town of Plympton	Town Hall, 5 Palmer Road, Plympton, MA 02367.
Town of Rochester	Town Hall, 1 Constitution Way, Rochester, MA 02770.
Town of Rockland	Town Hall, 242 Union Street, Rockland, MA 02370.
Town of Scituate	Town Hall, 600 Chief Justice Cushing Highway, Scituate, MA 02066.
Town of Wareham	Memorial Town Hall, 54 Marion Road, Wareham, MA 02571.
Canadian County, Oklahoma and Incorporated Areas Docket No.: FEMA–B–1836	
City of El Reno	Municipal Building, 101 North Choctaw Avenue, El Reno, Oklahoma 73036.
Adams County, Pennsylvania (All Jurisdictions) Docket No.: FEMA–B–1856	
Borough of Bonneauville	Bonneauville Borough Office, 46 East Hanover Street, Gettysburg, PA 17325.
Borough of Carroll Valley	Carroll Valley Office, 5685 Fairfield Road, Fairfield, PA 17320.
Borough of Fairfield	Borough Office, 108 West Main Street, Fairfield, PA 17320.
Borough of Gettysburg	Municipal Building, 59 East High Street, Gettysburg, PA 17325.
Borough of Littlestown	Borough Office Building, 41 South Columbus Avenue, Littlestown, PA 17340.
Township of Cumberland	Cumberland Township Municipal Building, 1370 Fairfield Road, Gettysburg, PA 17325.
Township of Franklin	Franklin Township Office, 55 Scott School Road, Orrtanna, PA 17353.
Township of Freedom	Freedom Township Office, 2184 Pumping Station Road, Fairfield, PA 17320.
Township of Germany	Germany Township Municipal Building, 136 Ulricktown Road, Littlestown, PA 17340.
Township of Hamiltonban	Hamiltonban Township Office, 23 Carrolls Tract Road, Fairfield, PA 17320.
Township of Highland	Highland Township Municipal Building, 3641 Fairfield Road, Gettysburg, PA 17325.
Township of Liberty	Liberty Township Municipal Office, 39 Topper Road, Fairfield, PA 17320.
Township of Mount Joy	Mount Joy Township Municipal Building, 902 Hoffman Home Road, Gettysburg, PA 17325.
Township of Mount Pleasant	Mount Pleasant Township Municipal Building, 1035 Beck Road, Gettysburg, PA 17325.
Township of Straban	Straban Township Municipal Building, 1745 Granite Station Road, Gettysburg, PA 17325.
Township of Union	Union Township Municipal Building, 255 Pine Grove Road, Hanover, PA 17331.
Louisa County, Virginia and Incorporated Areas Docket No.: FEMA–B–1912	
Town of Louisa	Town Hall, 212 Fredericksburg Avenue, Louisa, VA 23093.
Town of Mineral	Town Office, 312 Mineral Avenue, Mineral, VA 23117.
Unincorporated Areas of Louisa County	Louisa County Administration Building, 1 Woolfolk Avenue, Louisa, VA 23093.

[FR Doc. 2020–06409 Filed 3–26–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R2–ES–2019–0066; FXES11130200000–190–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Draft Revised Recovery Plan for Kearney's Blue Star

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of our draft revised recovery plan for Kearney's blue star, listed as endangered under the Endangered Species Act. Kearney's blue star is a perennial flowering plant, a narrow endemic known from a single mountain range in Pima County, Arizona. We provide this notice to seek comments

from the public and Federal, Tribal, State, and local governments.

DATES: We must receive written comments on or before May 26, 2020.

ADDRESSES:

Reviewing documents: You may obtain a copy of the draft revised recovery plan and recovery implementation strategy in Docket No. FWS–R2–ES–2019–0066 at *http://www.regulations.gov.*

Submitting Comments: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R2–ES–2019–0066.
- *U.S. mail or hand-delivery:* Public Comments Processing; Attn: Docket No. FWS–R2–ES–2019–0066; U.S. Fish and Wildlife Service Headquarters, MS: JAO/1N; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

For additional information about submitting comments, see Request for Public Comments and Public Availability of Comments under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Julie McIntyre, Assistant Field Supervisor, by phone at 520–670–6150, by email at *julie_mcintyre@fws.gov,* or via the Federal Relay Service at 800–877–8339 for TTY service.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our draft revised recovery plan for Kearney's blue star (*Amsonia kearneyana*), listed as endangered under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Kearney's blue star is a perennial flowering plant, a narrow endemic known from a single mountain range in Pima County, Arizona. The draft revised recovery plan includes specific recovery objectives and criteria that, when achieved, will enable us to remove Kearney's blue star from the list of endangered and threatened plants. We request review and comment on this plan from local, State, and Federal agencies; Tribes; and the public. We will also accept any new information on the status of Kearney's blue star throughout its range to assist us in finalizing the recovery plan.

Background

Recovery of endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program and the ESA. Recovery means improvement of the status of listed species to the point at which listing is no longer appropriate under the criteria set out in section 4(a)(1) of the ESA. The ESA requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. The Service approved a recovery plan for Kearney's blue star in 1993; however, the original plan did not establish criteria for removing Kearney's blue star from the list of endangered and threatened plants (delisting).

This recovery plan revision is part of a larger effort underway to revise up to 182 recovery plans covering up to 305 species, in order to achieve the following Department of the Interior Agency Priority Performance Goal (APG) outlined in the Department's Strategic Plan for Fiscal Years 2018–2022: ''By September 30, 2019, 100 percent of all Fish and Wildlife Service recovery plans will have quantitative criteria for what constitutes a recovered species.'' In addition to satisfying the Department of the Interior's APG, new information has been gathered over the last 25 years on the species' biology, distribution, and threats, leading us to develop new downlisting criteria (reclassifying Kearney's blue star from an endangered to threatened status). Therefore, this plan will serve as a revision to the 1993 recovery plan for Kearney's blue star.

We utilized a streamlined approach to recovery planning and implementation for Kearney's blue star by preparing a separate recovery plan document and recovery implementation strategy. The information in the draft recovery plan provides the biological background, a threats assessment, a strategy for recovery of Kearney's blue star, quantitative downlisting and delisting criteria, an abbreviated list of prioritized recovery actions, and the estimated time and cost to recovery. The separate recovery implementation strategy document further describes in detail the specific near-term activities needed to implement the prioritized recovery actions (Service 2019).

Summary of Species Information

Kearney's blue star is a long-lived perennial flowering plant endemic to Pima County in southern Arizona. We listed it as an endangered species on January 19, 1989, at which time it was only known from a single location in the riparian area of South Canyon in the Baboquivari Mountains on lands administered by the Tohono O'odham Nation (54 FR 2131). Since then, the discovery of new plants on lands administered by the Bureau of Land Management and the Arizona State Land Department, along with the establishment of a new location on private land (now owned and administered by the Buenos Aires National Wildlife Refuge), has increased the known spatial distribution of the species to include ridges in Brown Canyon, Jaguar Canyon, and Thomas Canyon in southern Arizona. Recently uncovered herbarium records also indicate there are multiple locations of Kearney's blue star in Sycamore and Baboquivari Canyons on Tohono O'odham Nation lands.

Kearney's blue star produces large white flowers tinged with blue at the base in late April and May. The species is capable of reproducing both vegetatively (asexually, through roots) and through seed (sexually). Sexual reproduction of this species requires pollinators, and a wide variety have been documented visiting Kearney's blue star plants and flowers. Specifically, the pollinators noted visiting plants include: Skipper butterfly (Hesperidae); pipevine swallowtail (Papilionidae); gossamer-winged butterfly (Lycaenidae); sphinx moth (Sphingidae); tiger moth (Arctiidae); snout moth (Lasiocampidae); thrips (Thysanoptera); long-winged black Coleoptera; mordellid and various other beetles; broad-tailed hummingbird (*Selasphorus platycercus*); bee flies (Bombyliidae); and Arizona metalmarks (Riodinidae) (Service 2012, p. 5).

The habitat of Kearney's blue star lies at the lower elevation transition of the Madrean pine-oak woodland and the semi-desert grassland. Within this habitat, Kearney's blue star occurs in both open woodland on unconsolidated slopes of over 20 degrees, and canyon bottoms in full sun to partial shade. We estimate that the known habitat for Kearney's blue star is 2,064 hectares (5,101 acres). It is not fully understood what constitutes a population of Kearney's blue star; therefore, we use the terms ''site'' (areas supporting Kearney's blue star individuals that are surrounded by a 1,000-meter radius of suitable habitat for the species and its pollinators) and ''sub-site'' (areas within sites that support Kearney's blue star individuals that likely share pollinators) to describe the current distribution of the species.

Despite the discovery of plants at new locations, the overall abundance of Kearney's blue star individuals has decreased, and documentation of reproduction is limited to one incident in 1982. A comparison of recent and historical survey results from accessible sub-sites indicates that the number of individuals has declined by about 48 percent. Although the overall

abundance of Kearney's blue star individuals has decreased since the time of listing, the quantity of the species' habitat does not appear to have declined. It is therefore believed that habitat quality for the species is changing due to a combination of factors, likely including poorly managed livestock grazing, nonnative plant presence and spread and the resulting altered wildfire regime, border activities, and drought and climate change. As a result, woodland habitats, such as those that support Kearney's blue star, are becoming more desertified, with fewer trees and more grassland species associates (Service 2012, p. 1).

Recovery Plan Goals

The objective of a recovery plan is to provide a framework for the recovery of a species so that protection under the ESA is no longer necessary. A recovery plan includes scientific information about the species and provides criteria and actions necessary for us to be able to reclassify the species to threatened status or remove it from the lists of endangered and threatened wildlife and plants. Recovery plans help guide our recovery efforts by describing actions we consider necessary for the species' conservation, and by estimating time and costs for implementing needed recovery measures.

The original Kearney's blue star recovery plan includes downlisting criteria; however, no delisting criteria were established due to the unknown nature of the species' life history and habitat requirements at that time (Service 1993). The downlisting criteria in the original plan focus on the maintenance of self-sustaining natural populations and establishing procedures to ensure continued protection of these populations from human and natural threats (Service 1993). Once these downlisting criteria were met, the intention was to revise the original recovery plan to establish specific delisting objectives. In this revised recovery plan, our core strategy is to ensure the viability of Kearney's blue star across its range, and to conserve and manage habitat for the species and its pollinators. Our population-based recovery objective is to conserve existing, newly discovered, and introduced plants and their seedbanks throughout the species' range to ensure the long-term survival of the taxon. Our habitat and threat-based recovery objective is to conserve, restore, and manage the quantity and quality of Kearney's blue star habitat and pollinator habitat. This may be accomplished by minimizing significant threats to the species, such as habitat degradation, the spread of nonnative plant species, an altered fire regime, and other stressors such as climate change-induced drought and border activities.

The revised recovery plan establishes both population-based and habitat-based downlisting and delisting criteria. These criteria focus on maintaining a viable level of Kearney's blue star individuals, and conserving habitat of sufficient quantity and quality for the species and its pollinators. To achieve these recovery criteria, various actions are needed, such as monitoring and augmentation of existing sub-sites; surveying for and establishing new sub-sites; monitoring and minimizing threats; and conducting research, education, and outreach. When the recovery criteria established in this plan are met, we will review the species' status and consider downlisting and, ultimately, removal from the list of endangered and threatened plants.

Request for Public Comments

Section 4(f) of the ESA requires us to provide public notice and an opportunity for public review and comment during recovery plan development. It is also our policy to request peer review of recovery plans (July 1, 1994; 59 FR 34270). In an appendix to the approved recovery plan, we will summarize and respond to the issues raised by the public and peer reviewers. Substantive comments may or may not result in changes to the recovery plan; comments regarding recovery plan implementation will be forwarded as appropriate to Federal or other entities so that they can be taken into account during the course of implementing recovery actions. Responses to individual commenters will not be provided, but we will provide a summary of how we addressed substantive comments in an appendix to the approved recovery plan.

We invite written comments on the draft recovery plan. In particular, we are interested in additional information regarding the current threats to the species, ongoing beneficial management efforts, and the costs associated with implementing the recommended recovery actions.

Public Availability of Comments

All comments received, including names and addresses, will become part of the administrative record and will be available to the public. 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—will be publicly available. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Authority

We developed our draft recovery plan and publish this notice under the authority of section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Jeffrey Fleming,

Acting Regional Director, Southwest Region.

[FR Doc. 2020–06421 Filed 3–26–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2020–N058; FXES11140800000–190–FF08EVEN00]

Draft Environmental Assessment and Draft General Conservation Plan for Oil and Gas Activities in Santa Barbara County, California; Extension of Public Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; extension of public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is extending the public comment period for the draft environmental assessment (DEA) and general conservation plan (GCP) for oil and gas activities in Santa Barbara County.

DATES: The comment period for the DEA and GCP, published on March 6, 2020, at 85 FR 13181, which expires on April 6, 2020, is extended. Please submit your comments by 11:59 p.m. PST on May 6, 2020.

ADDRESSES:

Document availability: To view the DEA and GCP, go to the U.S. Fish and Wildlife Service's Ventura Field Office website at *http://www.fws.gov/ventura.*

Submitting comments: You may submit comments by one of the following methods. If you have already submitted a comment, you need not resubmit it.

- *U.S. mail:* Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
- *Email: sbc-oilandgasgcp@fws.gov.*

We request that you submit comments by only the methods described above.

FOR FURTHER INFORMATION CONTACT: Rachel Henry, by phone at 805–677–3312 or via the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: The GCP was developed by the Service in accordance with section 10(a)(2)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The GCP meets the issuance criteria as required by section 10(a)(2)(B) of the ESA for issuance of a section 10(a)(1)(B) incidental take permit (ITP). For more information, see the March 6, 2020 (85 FR 13181), notice.

We are extending the public comment period on the DEA and GCP documents (see **DATES** and **ADDRESSES**).

Authority

We issue this notice pursuant to section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32), and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

Stephen Henry,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2020–06465 Filed 3–26–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2020–N042; FXES11130500000–201–FF05E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before April 27, 2020.

ADDRESSES: Use one of the following methods to request documents or submit comments. Requests and comments should specify the applicant name(s) and application number(s) (*e.g.,* TE123456):

- *Email: permitsR5ES@fws.gov.*
- *U.S. Mail:* Abby Gelb, Ecological Services, U.S. Fish and Wildlife Service, 300 Westgate Center Dr. Hadley, MA 01035.

FOR FURTHER INFORMATION CONTACT: Abby Gelb, 413–253–8212 (phone), or *permitsR5ES@fws.gov* (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of species that are listed as endangered or threatened under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes such activities as pursuing, harassing, trapping, capturing, or collecting in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

We invite local, State, and Federal agencies; Tribes; and the public to comment on the following applications.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE69330D	Allied Whale, College of the Atlantic, Bar Harbor, ME.	Kemp's ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*), Loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*), Hawksbill sea turtle (*Eretmochelys imbricata*).	Maine	Stranding response, Necropsy, Transport.	Salvage, Capture, Collect.	New.
TE69332D	Maine Department of Marine Resources, Augusta, ME.	Atlantic salmon (*Salmo salar*).	Maine	Capture, Marine rearing, Saltwater readiness testing, Hold more than 45 days, Transport, Release, Monitor.	Trap, Capture, Collect, Wound, Kill, Salvage.	New.
TE69329D	Marine Mammals of Maine, Bath, ME.	Kemp's ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*), Loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*).	Maine	Stranding response, Necropsy, Transport.	Salvage, Capture, Collect.	New.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE69328D	New England Aquarium, Boston, MA.	Kemp's ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*), Loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*), Hawksbill sea turtle (*Eretmochelys imbricata*).	Massachusetts, New Hampshire, Maine.	Stranding Response, Rehabilitation, Necropsy, Biomedical research, Tagging, Post release monitoring, Transport, Release.	Salvage, Capture, Collect, Wound, Euthanize.	New.
TE70044D	Virginia Aquarium, Virginia Beach, VA.	Kemp's ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*), Loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*), Hawksbill sea turtle (*Eretmochelys imbricata*).	Virginia	Stranding response, Rehabilitation, Biomedical research, Necropsy, Nest monitoring and relocation, Tagging, Transport, Release.	Salvage, Capture, Collect, Wound, Euthanize.	New.
TE70311D	New York Marine Rescue Center, Riverhead, NY.	Kemp's ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*), Loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*).	New York	Stranding response, Rehabilitation, Necropsy, Nest monitoring, Transport, Biomedical research, Juvenile sex determination research, Tagging, Release.	Salvage, Capture, Collect, Wound, Euthanize.	New.
TE70312D	National Aquarium, Baltimore, MD.	Kemp's ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*), Loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*).	Maryland	Salvage, Stranding response, Rehabilitation, Necropsy, Transport, Release.	Salvage, Capture, Collect, Euthanize.	New.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martin Miller,

Chief, Division of Endangered Species, Ecological Services, Northeast Region.

[FR Doc. 2020–06383 Filed 3–26–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2020–N019; FXES11130600000–201–FF06E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments by April 27, 2020.

ADDRESSES: *Document availability and comment submission:* Use one of the following methods to request documents or submit comments. Requests and comments should specify the applicant name(s) and application number(s) (*e.g.,* TE123456):

- *Email: permitsR6ES@fws.gov.*
- *U.S. Mail:* Marjorie Nelson, Chief, Division of Ecological Services, U.S. Fish and Wildlife Service, 134 Union Blvd., Suite 670, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT: Kathy Konishi, Recovery Permits Coordinator, Ecological Services, 303–236–4224 (phone), or *permitsR6ES@fws.gov* (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA

authorizes the permittee to conduct activities with endangered species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

We invite local, State, and Federal agencies; Tribes; and the public to comment on the following applications.

Application No.	Applicant	Species	Location	Take activity	Permit action
TE12893D–2	Alisa Halpin, Lincoln, NE	• Interior least tern (*Sternula antillarum athalassos*).	NE, SD, KS, MO, IA	Pursue for presence/absence surveys, nest monitoring, habitat management.	Amend.
TE232905–2	Como Park Zoo and Conservatory, St. Paul, MN.	• Wyoming toad (*Bufo hemiophrys baxteri*).	MN	Hold in captivity for captive breeding and rearing; collect genetic samples.	Renew.
TE67251D–0	Kelly Haun, Durango, CO	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	CO	Pursue for presence/absence surveys	New.
TE183432–2	Kansas City Zoo, Kansas City, MO.	• Wyoming toad (*Bufo hemiophrys baxteri*).	MO	Hold in captivity for captive breeding and rearing; collect genetic samples.	Renew.
TE13623D–1	James Whitney, Pittsburg, KS.	• Topeka shiner (*Notropis topeka*). • Razorback sucker (*Xyrauchen texanus*). • Colorado pikeminnow (*Ptychocheilus lucius*).	KS, CO, UT, NM	Capture, handle, measure, and release for presence/absence surveys.	Amend.

Public Availability of Comments

Written comments we receive become part of the administrative 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Stephen Small,

Assistant Regional Director, U.S. Fish and Wildlife Service, Department of the Interior Unified Regions 5 and 7.

[FR Doc. 2020–06395 Filed 3–26–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/ A0A501010.999900 253G]

Agency Plan To Implement the Standards, Assessments, and Accountability System

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of consultations.

SUMMARY: The Bureau of Indian Education (BIE) will conduct consultations to obtain oral and written comments on the draft BIE Agency Plan, for implementation the Secretary of the Interior's (Secretary) responsibility to establish requirements for standards, assessments, and an accountability system for BIE-funded schools.

DATES: Comments must be received on or before May 8, 2020 at 11:59 p.m. ET. See the **SUPPLEMENTARY INFORMATION** section of this notice for dates and locations of consultation sessions.

ADDRESSES: Send comments to *consultation@bia.gov* with ''DRAFT BIE AGENCY PLAN COMMENTS'' in the email subject line.

FOR FURTHER INFORMATION CONTACT: Juanita Mendoza, Special Assistant, Bureau of Indian Education; phone (202) 208–3559 or email *Juanita.Mendoza@bie.edu.*

SUPPLEMENTARY INFORMATION: On June 10, 2019, BIE published a proposed rule to govern how the Secretary will establish requirements for standards, assessments, and accountability system for BIE-funded schools consistent with Section 1111 of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA), on a national, regional, or Tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools. *See* 84 FR 26785. The final rule published in the **Federal Register** on March 26, 2020. The Agency Plan is a Consolidated State Plan aligned to the U.S. Department of Education Consolidated State Plan Template.

BIE's Agency Plan is intended to provide details on how the BIE should implement the requirements for standards, assessments, and accountability system for BIE-funded schools. As such, during consultation BIE seeks input from Indian Tribes, school boards, parents, Indian organizations, and other interested parties regarding best practices for school improvement and support to lowest performing schools as well as the overall vision for improving outcomes for BIE-funded school students as defined in 25 CFR part 30. BIE also seeks input regarding those parts of the draft BIE Agency Plan that have not been established as requirements through the final rule.

Further, BIE would appreciate input regarding long-term goals and annual meaningful differentiation and identification of schools (comprehensive support and improvement activities and targeted support and improvement activities), and any other suggestions that would improve BIE's delivery of high-quality educational services and supports to students at BIE funded schools.

BIE will conduct five consultation sessions through telephonic webinar. Three sessions are designated for Tribal representatives or the designee, and two sessions are designated for school boards, parents, teachers, and other public stakeholders. BIE will accept both oral and written comments. The following table lists dates and consultation teleconference webinar registration information. After registering, you will receive a confirmation email containing information about joining the meeting.

For:	Dates	Time (EDT)	To join webinar:
Tribes	April 27, April 29, and May 1.	5 p.m.–7 p.m	Register in advance for this meeting: *https://zoom.us/meeting/register/u5cqcu6qqDkjJn6abe59TkT9PrgTFD2lSQ.* After registering, you will receive a confirmation email containing information about joining the meeting.
Public	April 28 and April 30	5 p.m.–7 p.m	Register in advance for this meeting: *https://zoom.us/meeting/register/vJAkfu-orj0p-N3KKnwHEc3yqPDeViMrFA.* After registering, you will receive a confirmation email containing information about joining the meeting.

The Tribal consultation presentation and background information on the U.S. Department of Education Consolidated State Plan Template is available at *www.bie.edu/tribalconsultations.* The BIE strongly recommends reviewing the BIE's web page prior to attending a consultation session or submitting written comments in order to for provide for meaningful feedback.

Public Comment Availability

Written comments, including names and addresses of respondents, will be available for public review at the location listed in the **ADDRESSES** section of this notice, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except for Federal holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, 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.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020–06550 Filed 3–26–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[19X LLNMA01400 L12320000.AL0000 LVRDNM030000]

Notice of Closure, Kasha-Katuwe Tent Rocks National Monument

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure.

SUMMARY: Notice is hereby given that under the authority of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Kasha-Katuwe Tent Rocks Resource Management Plan (RMP), Presidential Proclamation 7394, and other authorities, the Kasha-Katuwe Tent Rocks National Monument (Monument) will be temporarily closed to the public for fifteen days each year, to allow for Pueblo de Cochiti cultural observances and routine BLM maintenance.

DATES: The temporary closure will be in effect immediately. The closure will remain in effect for 24 months upon publication in the **Federal Register.** The temporary closure dates are as follows: New Year's Day (January 1); January 6; Friday before Easter; Saturday before Easter; Easter Sunday; Monday after Easter Sunday; May 3; July 13; July 14; July 25; November 1; Thanksgiving Day; Christmas Eve; Christmas Day; and New Year's Eve. These temporary closures are compliant with the Monument RMP and Presidential Proclamation 7394.

FOR FURTHER INFORMATION CONTACT: Mark Matthews, acting District Manager, Bureau of Land Management Albuquerque District Office, 100 Sun Avenue NE, Suite 330, Pan American Building, Albuquerque, New Mexico 87109; 505–761–8700.

SUPPLEMENTARY INFORMATION: The BLM will post temporary closure signs a week prior to a closure at the main entry to the Monument. In addition, a temporary closure notice with all applicable dates will be posted on the BLM website: *https://www.blm.gov/visit/kktr.*

Presidential Proclamation 7394 designated the Monument on January 17, 2001, to provide opportunities for visitors to observe, study, and experience the geologic processes and cultural and biological objects of interest found in the area, as well as to protect these resources.

Closure: During the temporary closure dates listed above, public access is prohibited.

Exceptions: The temporary closure order does not apply to members of the Pueblo de Cochiti participating in or observing religious and/or cultural practices; or persons performing authorized BLM planning, administrative, maintenance, and/or emergency or law enforcement activities.

Penalties: Any person who violates this temporary closure or these restrictions may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.07, or both. In accordance with 43 CFR 8365.17, state or local officials may also impose penalties for violations of New Mexico law.

During these closure dates only BLM planning, administrative, and maintenance activities will be authorized, and no public access will be granted.

(Authority: FLPMA, the Kasha-Katuwe Tent Rocks RMP, Presidential Proclamation 7394, 43 CFR 8364.1, and 43 U.S.C. 1701 *et seq.*)

Mark Matthews,

Acting District Manager, Albuquerque District.

[FR Doc. 2020–06399 Filed 3–26–20; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X.LLAK930100 L510100000.ER0000]

Notice of Availability of the Ambler Mining District Industrial Access Road Final Environmental Impact Statement, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM), Central Yukon Field Office, Fairbanks, Alaska, is issuing the Final Environmental Impact Statement (EIS) for the Ambler Mining District Industrial Access Road Project.

DATES: The BLM will issue a Record of Decision for the project no earlier than 30 days after the date that the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) of the Final EIS in the **Federal Register**. The EPA publishes its NOAs in the **Federal Register** weekly, usually on Fridays.

ADDRESSES: To access the Final EIS or to request an electronic or paper copy, please reach out to:

- *Website: http://www.blm.gov/alaska.*
- *Email: tmcmastergoering@blm.gov.*
- *Mail:* BLM Alaska State Office, 222 West 7th Avenue #13, Anchorage, Alaska 99513.

FOR FURTHER INFORMATION CONTACT: Tina McMaster-Goering, Ambler Road EIS Project Manager, telephone: 907–271–1310; email: *tmcmastergoering@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. McMaster-Goering during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Ambler Road Final EIS analyzes an application for a Right of Way grant for year-round industrial access road in support of mining exploration and development; and the construction, operation, and maintenance of facilities associated with that access. The road would run from the existing Dalton Highway to the Ambler Mining District. The Alaska Industrial Development and Export Authority (AIDEA), a public corporation of the State of Alaska, is the applicant.

The AIDEA estimates the creation of an annual average of 486 jobs during road construction and up to 68 full-time jobs over the life of the road.

The Final EIS discloses potential effects associated with the construction, operation, maintenance, and reclamation of the road. The analysis of the preferred alternative (Alternative A) and other alternatives was conducted based on public input gathered from the 11-month scoping period and a 60-day comment period on the Draft EIS.

In September and October of 2019, the BLM held public comment meetings on the Draft EIS in 18 affected communities as well as Anchorage, Fairbanks, and Washington, DC. Modifications to the Draft EIS were made based on public comment, cooperating agency coordination, tribal and Alaska Native Claims Settlement Act corporation consultation, and the BLM's internal review.

(Authority: 40 CFR 1506.6(b))

Chad B. Padgett,

State Director, Alaska.

[FR Doc. 2020–06428 Filed 3–26–20; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029879; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Valley Authority, Knoxville, TN, and McClung Museum of Natural History & Culture, University of Tennessee, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA) and the McClung Museum of Natural History and Culture (MM) have completed an inventory of human remains and associated funerary objects in consultation with the appropriate Federally-recognized Indian Tribes, and have determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Federally-recognized Indian Tribes. Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the TVA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Federally-recognized Indian Tribe stated in this notice may proceed.

DATES: Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the TVA at the address in this notice by April 27, 2020.

ADDRESSES: Dr. Thomas O. Maher, Tennessee Valley Authority, 400 West Summit Hill Drive, WT11C, Knoxville TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Tennessee Valley Authority, Knoxville, TN, and the McClung Museum of Natural History and Culture, University of Tennessee, Knoxville, TN. The human remains and associated funerary objects were removed from the following archeological sites in Decatur and Henry Counties, TN: 40DR62, 40HY1, 40HY4, and 40HY10.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by TVA and MM professional staff in consultation with representatives of the Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; The Chickasaw Nation; The Muscogee (Creek) Nation; The Osage Nation (previously listed as the Osage Tribe); The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

The sites listed in this notice were excavated as part of TVA's Kentucky reservoir project by the University of Tennessee, using labor and funds provided by the Works Progress Administration (WPA). Details regarding these excavations have never been published. Field reports regarding these sites can be found at the MM and TVA. The human remains and associated funerary objects listed in this notice have been in the physical custody of the University of Tennessee since excavation. Conclusive evidence

regarding which institution controls the cultural items has not been found. TVA and MM have, therefore, decided to jointly repatriate these items.

On October 6–16, 1941, human remains representing, at minimum, 18 individuals were removed from site 40DR62, in Decatur County, TN. Charles Nash and a WPA crew excavated two stone mounds at this site. One, unit 69, was two feet high and twenty feet in diameter. It had been disturbed by looting. The second, unit 70, was found along a rock ledge on the bluff terrace. Excavations were difficult, human remains were collected by excavation squares rather than specific burial features. There are no radiocarbon dates from this site, but stone mounds in this area commonly date to the Woodland period. The human remains represent two infants, four children and 12 adults. Most of the human remains were too fragmentary to identify sex. No known individuals were identified. The six associated funerary objects include one bison tooth, one bone artifact, two pieces of red ochre, and two shell beads.

From May 10 to July 7, 1939, human remains representing, at minimum, 58 individuals were removed from site 40HY1, in Henry County, TN. A field report by George Lidberg concludes that this site comprises an extensive Mississippian village, although natural erosion might have destroyed half the site. As many as 41 wall trench structures were defined at the site. The structures ranged in size from 11 x 11 feet to 20 x 25 feet. Seventeen hearths were also found in or near these structures. A section of a palisade wall 195 feet long was identified running parallel to the river. There are no known radiocarbon dates from this site. Shell-tempered and limestone/grit-tempered ceramics at the site suggest a Late Woodland through Mississippian occupation. All of the human remains from this site were either infants up to 18 months old, newborns, or fetuses. Sex could not be determined. No known individuals were identified. The 20 associated funerary objects include four animal bones, two turtle shell or bone, and 14 shell-tempered pottery sherds.

In mid-July, 1939, human remains representing, at minimum, one individual were removed from site 40HY4, in Henry County, TN. The site extended 500—600 feet along the Tennessee River and up to 250 feet from the river bank. Apparently, permission for excavations was restricted to a small area on the southern end of the site. No structures or pits were encountered. There are few details regarding the excavations at this site. The field report by George Lidberg indicates that fragments of infant remains were encountered, but only adult remains were recorded and collected. There are no known radiocarbon dates for this site. Ceramics from the site suggest a Late Woodland to early Mississippian occupation. The human remains represent a single adult female. No known individuals were identified. No associated funerary objects are present.

In August 1939, human remains representing, at minimum, two individuals were removed from site 40HY10, in Henry County, TN. This site was located near West Sandy Creek, seven miles from its confluence with the Tennessee River. A mound eight feet in height and 50 feet in diameter had been disturbed by multiple looter pits. Two individuals were placed upon the original ground surface on a prepared bed of soil. Multiple soils were placed on these burials, including a distinctive white clay derived from a nearby swamp; atop them was a layer of vegetable matter. Traces of a third burial were found two feet above the base and on top of the first phase of mound building. There are no radiocarbon dates from this site. The ceramics and the nature of the burial mound suggest that it was created during the Middle Woodland period. Both individuals from this site were adult males. No known individuals were identified. The 18 associated funerary objects include two beaver incisors, one lot of black paint, one piece of galena, two lots of metallic paint, one mica mirror, one lot of orange paint, two paint stones, one ceramic sherd, one projectile point, one piece of red ochre, one scraper, one whetstone, and three pieces of yellow ochre.

Determinations Made by the Tennessee Valley Authority and the McClung Museum of Natural History and Culture

Officials of the Tennessee Valley Authority and the McClung Museum of Natural History and Culture have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on their presence in prehistoric archeological sites and osteological analysis.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 79 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 44 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- The Treaty of October 19, 1818, indicates that the land from which the cultural items were removed is the aboriginal land of The Chickasaw Nation.
- Pursuant to 43 CFR 10.11(c)(1)(ii), the disposition of the human remains may be to The Chickasaw Nation. The Tennessee Valley Authority and the McClung Museum of Natural History and Culture have agreed to transfer control of the human remains to The Chickasaw Nation.
- Pursuant to 43 CFR 10.11(c)(4), the Tennessee Valley Authority and the McClung Museum of Natural History and Culture have agreed to transfer control of the associated funerary objects to The Chickasaw Nation.

Additional Requestors and Disposition

Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas O. Maher, Tennessee Valley Authority, 400 West Summit Hill Drive, WT11C, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov,* by April 27, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Chickasaw Nation may proceed.

The Tennessee Valley Authority is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: February 19, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–06430 Filed 3–26–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029875; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Valley Authority, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA) has completed an inventory of human remains and associated funerary object in consultation with the appropriate Federally-recognized Indian Tribes, and has determined that there is no cultural affiliation between the human remains and associated funerary object and any present-day Federally-recognized Indian Tribes. Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary object should submit a written request to the TVA. If no additional requestors come forward, transfer of control of the human remains and associated funerary object to the Federally-recognized Indian Tribe stated in this notice may proceed.

DATES: Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary object should submit a written request with information in support of the request to the TVA at the address in this notice by April 27, 2020.

ADDRESSES: Dr. Thomas O. Maher, Tennessee Valley Authority, 400 West Summit Hill Drive, WT11C, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary object under the control of the Tennessee Valley Authority, Knoxville, TN. The human remains and associated funerary object were removed from archeological site 40HS12 in Humphreys County, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary object. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary object was made by the TVA in consultation with representatives of the Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; The Chickasaw Nation; The Muscogee (Creek) Nation; The Osage Nation (previously listed as the Osage Tribe); The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

40HS12, the Patterson site, was excavated as part of TVA's Kentucky reservoir project by the University of Tennessee, using labor and funds provided by the Works Progress Administration. Details regarding these excavations have never been published. Field reports regarding this site can be found at the McClung Museum of Natural History and Culture (MM) and the TVA. The human remains and associated funerary object listed in this notice have been in the physical custody of the University of Tennessee since they were excavated. This Mississippian mound complex was divided into multiple special units by the excavators (Charles Nash and J. Joe Finkelstein). Units 71 and 74 were burial mounds located on land purchased by TVA on May 13, 1941. The pyramidal mound (unit 70), village (unit 75), and small mounds (units 72 and 73) were not on land purchased by the TVA. According to Nash, excavations on unit 70 were ''by private permission of the owners thru contract with the University of Tennessee.'' Consequently, only items from units 71 and 74 are under the control of the TVA.

The first documented excavation at this site was conducted by Clarence B. Moore during his 1914 tour of the Tennessee River Valley. Moore, who referred to this site as ''Dixie Landing,'' dug numerous pits in the large pyramidal mound and adjacent smaller mounds. Moore does not indicate whether he recovered any funerary objects.

The field report for the mound in unit 74 lacks detail. It is described as a small, ovoid mound measuring 50 x 25 feet at its base. Finkelstein reports that, ''The mound, some three feet in height at present, was built upon an old land surface. It contained the remains of four burial[s], all in the south half of the mound; the north half was pretty thoroughly disturbed by a large looter's pit.'' At present, no human remains from unit 74 have been found at the MM.

Unit 71 is a mound measuring 170 x 60 x ca.10 feet. It was heavily impacted by Moore and more recent looter pits prior to the Kentucky Reservation project. Nash indicates that the mound was made up of two phases of construction. Phase B, the lowest level of mound, ''was composed of a very dry brittle white clay . . .'' In phase B Nash identified ''four flesh burials, 1 skull, 2 open fire cremations and 1 pit cremation . . .'' Phase A, the top-most layer, was made up of sandy humic clay. Within phase A Nash identified six in-flesh burials, one pit, five skulls, three stone box burials, one stone cist cremation, two clay basin cremations, and three open fire cremations. Evidence of stone box graves was only found in this upper phase of mound construction. From January 10 to April 3, 1942, human remains representing, at minimum, 25 individuals were removed from unit 71. Adults, one adolescent and one child are distinguished. No known individuals were identified. The one associated funerary object is a flint blade.

Determinations Made by the Tennessee Valley Authority

Officials of the Tennessee Valley Authority have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on their presence in a prehistoric archeological site and osteological analysis.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 25 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and the associated funerary object and any present-day Indian Tribe.
- According to final judgements of the Indian Claims Commission or the U.S. Court of Federal Claims, the land from which the cultural items were removed is the aboriginal land of the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.
- The Treaty of September 20, 1816, indicates that the land from which the cultural items were removed is the aboriginal land of The Chickasaw Nation.
- Pursuant to 43 CFR 10.11(c)(1)(ii), the disposition of the human remains may be to the Cherokee Nation; Eastern Band of Cherokee Indians; The Chickasaw Nation; and the United

Keetoowah Band of Cherokee Indians in Oklahoma.

• The Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma have declined to accept transfer of control of the human remains. The Tennessee Valley Authority has agreed to transfer control of the human remains to The Chickasaw Nation.

• Pursuant to 43 CFR 10.11(c)(4), the Tennessee Valley Authority has agreed to transfer control of the associated funerary object to The Chickasaw Nation.

Additional Requestors and Disposition

Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas O. Maher, Tennessee Valley Authority, 400 West Summit Hill Drive, WT11C, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov,* by April 27, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary object to The Chickasaw Nation may proceed.

The Tennessee Valley Authority is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: February 19, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–06431 Filed 3–26–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029919; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Pueblo Grande Museum, Phoenix, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Pueblo Grande Museum has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Pueblo Grande Museum. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Pueblo Grande Museum at the address in this notice by April 27, 2020.

ADDRESSES: Lindsey Vogel-Teeter, Pueblo Grande Museum, 4619 E. Washington Street, Phoenix, AZ 85034, telephone (602) 534–1572, email *lindsey.vogel-teeter@phoenix.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Pueblo Grande Museum, Phoenix, AZ. The human remains were removed from Maricopa, Pinal, or Gila County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Pueblo Grande Museum professional staff in consultation with representatives of the Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona. The Ak-Chin Indian Community (previously listed as Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Apache Tribe of Oklahoma; Fort Sill Apache Tribe of Oklahoma; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tohono O'Odham Nation of Arizona; Tonto Apache Tribe of Arizona; and the White Mountain Apache Tribe of the Fort Apache Reservation, Arizona were invited to consult but did not participate. Hereafter, all Indian Tribes listed in this section are referred to as ''The Consulted and Notified Tribes.''

History and Description of the Remains

Sometime prior to 1959, human remains representing, at minimum, one individual were removed from an unidentified cave site in the Superstition Mountains in Maricopa, Pinal or Gila County, AZ. Accompanying information states that this individual was found exposed in a cave lying in a flexed position, and was likely an Apache. In March 1959, the individual was transferred to Pueblo Grande Museum by Roy Johnson. The human remains were partially on display in an exhibit case until at least 1973. They comprise a complete skeleton, and include preserved soft tissue. The human remains belong to an adult male 30–35 years old. No known individuals were identified. No funerary objects are present.

Based on the original collecting history, this individual may be culturally affiliated with the Apache Tribes. Bioarcheological markers documented in 2018 further suggest that this individual had a hunter-gatherer lifestyle consistent with Archaic or Apache affiliation. The Superstition Mountains are within the traditional lands and historic migration paths of the Apache Tribe of Oklahoma; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the Yavapai-Apache Nation of the Camp Verde Reservation, Arizona. Additionally, during consultation, a representative from the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona stated that ancestral O'Odham were interred in a flexed position in caves, and identified this individual as culturally affiliated with the Four Southern Tribes, also known as the O'Odham. They are the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-

Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'Odham Nation of Arizona. The Superstition Mountains are within the traditional lands of the O'Odham.

Determinations Made by the Pueblo Grande Museum

Officials of the Pueblo Grande Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Ak-Chin Indian Community (previously listed as Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Apache Tribe of Oklahoma; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tohono O'Odham Nation of Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the Yavapai-Apache Nation of the Camp Verde Reservation, Arizona (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Lindsey Vogel-Teeter, Pueblo Grande Museum, 4619 E. Washington Street, Phoenix, AZ 85034, telephone (602) 534–1572, email *lindsey.vogel-teeter@phoenix.gov,* by April 27, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Pueblo Grande Museum is responsible for notifying The Consulted and Notified Tribes that this notice has been published.

Dated: February 21, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–06435 Filed 3–26–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029881; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Connecticut State Museum of Natural History, University of Connecticut, Storrs, CT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Connecticut State Museum of Natural History, University of Connecticut has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Connecticut State Museum of Natural History, University of Connecticut. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Connecticut State Museum of Natural History, University of Connecticut at the address in this notice by April 27, 2020.

ADDRESSES: Dr. Jacqueline Veninger-Robert, NAGPRA Coordinator, University of Connecticut, 354 Mansfield Road, Unit 1176, Storrs, CT 06269–1176, telephone (860) 486–6953, email *jacqueline.veninger@uconn.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Connecticut State Museum of Natural History, University of Connecticut, Storrs, CT. The human remains were removed from ID.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Connecticut State Museum of Natural History, University of Connecticut professional staff in consultation with representatives of the Coeur D'Alene Tribe (previously listed as the Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho); Confederated Salish and Kootenai Tribes of the Flathead Reservation; Confederated Tribes of the Warm Springs Reservation of Oregon; Eastern Shoshone Tribe of the Wind River Reservation, Wyoming (previously listed as the Shoshone Tribe of the Wind River Reservation, Wyoming); Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; Kalispel Indian Community of the Kalispel Reservation; Kootenai Tribe of Idaho; Nez Perce Tribe (previously listed as the Nez Perce Tribe of Idaho); Northwestern Band of the Shoshone Nation (previously listed as Northwestern Band of Shoshoni Nation and the Northwestern Band of Shoshoni Nation of Utah (Washakie)); Shoshone-Bannock Tribes of the Fort Hall Reservation; and the Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown site in Idaho. This individual, represented by a cranium and mandible, was in the possession of William S. Laughlin, a professor of physical anthropology at the University of Connecticut (1969–1999). Laughlin died in 2001. In 2014, his family donated the human remains to the Connecticut State Museum of Natural History, University of Connecticut. When or how this individual came into Laughlin's possession is not known. The words ''Idaho '86'' written on the curation storage box and artifact tag are the only record accompanying the human remains.

Prior to joining the University of Connecticut, Laughlin served as faculty at the University of Oregon (1949–1955) and the University of Wisconsin (1955–1969). Predominantly known for his work in the Aleutian Islands, AK,

Laughlin also undertook excavations in Oregon.

In 2015, skeletal analysis of the human remains was done by Douglas Owsley. Owsley's analysis established that the individual is a male, 30–40 years old, of Native American ancestry. No known individuals were identified. No associated funerary objects are present.

Historically, the Nez Perce Tribe occupied a large area of what is now Idaho. While the provenience of the human remains is unknown, more likely than not they originate from the traditional territory of the Nez Perce. The Tribe's ancestral territory, which includes the land recognized by a final judgment of the Indian Claims Commission (ICC) as the Tribe's aboriginal land and the Tribe's 1855 reservation boundary, covers most of north-central Idaho, southeastern Washington and northeastern Oregon. Consequently, based on geographic location, historical documents, anthropological, and biological data, this individual is likely ancestral to the Nez Perce Tribe.

Determinations Made by the Connecticut State Museum of Natural History, University of Connecticut

Officials of the Connecticut State Museum of Natural History, University of Connecticut have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Nez Perce Tribe (previously listed as the Nez Perce Tribe of Idaho).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Jacqueline Veninger-Robert, NAGPRA Coordinator, University of Connecticut, 354 Mansfield Road, Unit 1176, Storrs, CT 06269–1176, telephone (860) 486–6953, email *jacqueline.veninger@uconn.edu,* by April 27, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Nez Perce Tribe (previously listed as the Nez Perce Tribe of Idaho) may proceed.

The Connecticut State Museum of Natural History, University of Connecticut is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: February 19, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–06434 Filed 3–26–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029884; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Department of Anthropology, Southern Methodist University, Dallas, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Department of Anthropology, Southern Methodist University has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Department of Anthropology, Southern Methodist University. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Department of Anthropology, Southern Methodist University at the address in this notice by April 27, 2020.

ADDRESSES: B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Department of Anthropology, Southern Methodist University, Dallas, TX. The human remains and associated funerary objects were removed from Jordan Farm (41CO3) in Cooke County, TX; Kirby Place (41KF9) in Kaufman County, TX; Upper Rockwall (41RW2) in Rockwall County, TX; and Lost Ridge (Tick Site; 41DT6) in Delta County, TX.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Department of Anthropology, Southern Methodist University professional staff in consultation with representatives of the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

History and Description of the Remains

The Dallas Archeological Society (DAS) was a group of avocational archeologists in the Dallas, Texas area. Their purpose was to systematically study, investigate, and publish on local archeology, paleontology, and geology. The DAS assisted on several professional excavations in North Texas, including the survey of sites in Collin, Dallas, Kaufman, and Rockwall Counties, TX, prior to their being flooded by the construction of the Forney Reservoir, now known as Lake Ray Hubbard, located on the East Fork of the Trinity River. Members of the DAS had prior knowledge of many of the sites in the area to be inundated, some of which had been extensively surface collected prior to the survey. One of the founders of the DAS, R. King Harris, was the original collections curator of SMU's Archaeological Research Collections. In 1974, Harris donated human remains from several burials to the Department of Anthropology that had been excavated during DAS-assisted projects in the Forney area.

In 1949, human remains representing, at minimum, one individual were

removed from the Jordan Farm site in Cooke County, TX. Burial 3 is a male 40+ years old. The individual was buried flexed and laying on his back, with his knees drawn up and hands placed under the chin at the neck. Only the skull is present in SMU collections. No known individuals were identified. No associated funerary objects are present.

In 1949, human remains representing, at minimum, one individual were removed from the Kirby Place site (41KF9) in Kaufman County, TX. Burial 1 is a 50+ year old man who was buried flexed. The human remains are mostly complete but fragmentary and show evidence of mild osteitis and periostitis. No known individuals were identified. The one associated funerary object is a bone bead.

In 1948, human remains representing, at minimum, one individual were removed from the Upper Rockwall site (41RW2) in Rockwall County, TX. The individual is a female 40+ years old who was buried flexed and laying on her right side, with her head to the west and her hands in front of her face. The human remains consist of the skull, femurs, and tibiae and show evidence of periostitis and osteitis. No known individuals were identified. No associated funerary objects are present.

In 1955, human remains representing, at minimum, one individual were removed from the Lost Ridge Site, also known as the Tick Site, (41DT6) in Delta County, TX. The individual is a 30–40 year old male who was tightly flexed and laying on his right side, with his head to the west and face to the south. The human remains, which are in good condition, include the skull, femurs, tibiae, and a fibula, and show evidence of periostitis and osteitis. No known individuals were identified. (Five associated funerary objects were found with the burial, but were not donated to SMU).

All four sites date to the Wylie Focus/Late Prehistoric, A.D. 1300–1600. A cultural affiliation exists between the earlier group identified at the sites and both the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

Determinations Made by the Department of Anthropology, Southern Methodist University

Officials of the Department of Anthropology, Southern Methodist University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu,* by April 27, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma may proceed.

The Department of Anthropology, Southern Methodist University is responsible for notifying the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma that this notice has been published.

Dated: February 19, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–06433 Filed 3–26–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029880; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Valley Authority, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA) has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Federally-recognized Indian Tribes, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Federally-recognized Indian Tribes. Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the TVA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Federally-recognized Indian Tribe stated in this notice may proceed.

DATES: Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the TVA at the address in this notice by April 27, 2020.

ADDRESSES: Dr. Thomas O. Maher, Tennessee Valley Authority, 400 West Summit Hill Drive, WT11C, Knoxville TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Tennessee Valley Authority, Knoxville, TN, and stored at the McClung Museum of Natural History and Culture (MM) at the University of Tennessee, Knoxville, TN. The human remains and associated funerary objects were removed from the following archeological sites in Benton County, TN: 40BN3, 40BN8, 40BN11, 40BN17, 40BN30, 40BN32, and 40BN47.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by TVA professional staff in consultation with representatives of the

Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; The Chickasaw Nation; The Muscogee (Creek) Nation; The Osage Nation (previously listed as the Osage Tribe); The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

The sites listed in this notice were excavated as part of TVA's Kentucky reservoir project by the University of Tennessee, using labor and funds provided by the Works Progress Administration. Details regarding these excavations have never been published. Field reports regarding these sites can be found at the MM and TVA. The human remains and associated funerary objects listed in this notice have been in the physical custody of the University of Tennessee since excavation, but are under the control of the TVA.

From July 26 to August 8, 1940, human remains representing, at minimum, 12 individuals were removed from site 40BN3, in Benton County, TN. Excavation commenced after TVA had acquired a permit for excavating this site on July 10, 1940. Excavation of 10 x 10-foot excavation units revealed that the latest prehistoric occupation was probably a Mississippian village, but construction of an adjacent bridge had disturbed most of these strata. A deeper Woodland occupation was noted, but there are no radiocarbon dates from this site. Five features were identified, including a flint knapping area and multiple fire pits. No structures were identified. These human remains represent three children, two adolescents, and seven adults. Most of the human remains were too fragmentary to identify sex. No known individuals were identified. The 47 associated funerary objects include two animal bones, four antler fragments, two antler tines, two antler tools, one beaver tooth, four bone awls, seven bone needles, one celt, two chipped stone tools, one drill, one perforated stone pendant, eight projectile points, one scraper, and 11 shell beads.

From December 10, 1940 to January 8, 1941, human remains representing, at minimum, one individual were removed from site 40BN8, in Benton County, TN. Excavation commenced after TVA had acquired a permit for excavating this site on October 8, 1940. Block excavations extended off of exploratory trenches, as well as isolated test squares. Six wall trench post mold patterns were identified. Only one had closed corners. There are no known radiocarbon dates from this site, but the ceramics suggest a Late Woodland to Mississippian occupation. One adult female was excavated from this site. No known individuals were identified. No associated funerary objects are present.

From August-to-December, 1940, human remains representing, at minimum, two individuals were removed from site 40BN11, in Benton County, TN. Excavation commenced after TVA had acquired the land encompassing this site on March 22, 1940. Two 3-foot wide trenches were passed through the site to evaluate its depth and stratigraphy. Archeological deposits ranged in thickness from 18 inches to two feet. A number of pits were excavated, but no patterns of post molds or wall trenches defining structures were identified. There are no known radiocarbon dates for this site. The excavators believed that it was occupied during the Mississippian period. Human remains from two adults were removed from features at the site. No known individuals were identified. No associated funerary objects are present.

From January 1 to February 20, 1941, human remains representing, at minimum, 10 individuals were removed from site 40BN17, in Benton County, TN. Excavation commenced after TVA had acquired the land encompassing this site on June 5, 1940. Excavations identified two strata. Stratum I was a sandy loam with a high organic content. Stratum II was a shell midden approximately 0.5 feet thick. There are no radiocarbon dates from this site. An Archaic occupation was followed by a Woodland occupation. These human remains represent one child, two adolescents, and seven adults. Most of the human remains were too fragmentary to identify sex. No known individuals were identified. The 33 associated funerary objects include two animal bones, one bone awl, and 30 shell beads.

From February 4 to April 16, 1941 human remains representing, at minimum, 26 individuals were removed from site 40BN30, in Benton County, TN. Excavation commenced after TVA had acquired the land encompassing this site on June 4, 1940. This site was located on a ridge between the Tennessee River and Lick Creek. Perpendicular trenches were placed on the site to identify the stratigraphy and inform further excavations. Below the plow zone a single occupational stratum was identified. This midden stratum varied in thickness from 3 to 18 inches. Approximately 56 whole or partial structures were identified from either post mold patterns or wall trenches. Most were rectangular in shape, although two were circular. There are no radiocarbon dates from this site. Ceramics indicate a Mississippian occupation. The human remains include males and females. Adults predominate, but infants, children and adolescents are also present. No known individuals were identified. The 20 associated funerary objects include four animal bones, three animal teeth, one chert blade, one stone discoidal, one iron ore discoidal, one stone hoe, five shell beads, and four pieces of pottery.

From August to September 1940, human remains representing, at minimum, two individuals were removed from site 40BN32, in Benton County, TN. Excavation commenced after TVA had purchased the land encompassing this site on June 6, 1940. Test pits, trenches and block excavations were applied to this site. One heavily plowed mound was present. There are no known radiocarbon dates from this site, but the artifacts suggest a Woodland occupation. The human remains excavated from this site represent two adults of indeterminate sex. No known individuals were identified. No associated funerary objects are present.

In September 1940, human remains representing, at minimum, one individual were removed from site 40BN47, in Benton County, TN. Excavation commenced after TVA had acquired the land encompassing this site on July 25, 1940. Site 40BN47 was not extensively excavated. The human remains identified represent the remains of an adult male encountered during exploratory excavations conducted while surveying the area. There are no known radiocarbon dates for this site. The Tennessee site form suggests Late Archaic, Early Woodland and early Mississippian occupations. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the Tennessee Valley Authority

Officials of the Tennessee Valley Authority have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on their presence in prehistoric archeological sites and osteological analysis.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 54 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 100 objects described in this notice are reasonably believed to have been

placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- The Treaty of October 19, 1818, indicates that the land from which the cultural items were removed is the aboriginal land of The Chickasaw Nation.
- Pursuant to 43 CFR 10.11(c)(1)(ii), the disposition of the cultural items may be to The Chickasaw Nation. The Tennessee Valley Authority has agreed to transfer control of the human remains to The Chickasaw Nation.
- Pursuant to 43 CFR 10.11(c)(4), the Tennessee Valley Authority has agreed to transfer control of the associated funerary objects to The Chickasaw Nation.

Additional Requestors and Disposition

Representatives of any Federally-recognized Indian Tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas O. Maher, Tennessee Valley Authority, 400 West Summit Hill Drive, WT11C, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov,* by April 27, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Chickasaw Nation may proceed.

The Tennessee Valley Authority is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: February 19, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–06432 Filed 3–26–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0006; DS63644000 DRT000000.CH7000201D1113RT; OMB Control Number 1012–0009]

Agency Information Collection Activities: Submission to the Office of Management and Budget for Review and Approval; OCS Net Profit Share Payment

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Office of Natural Resources Revenue (ONRR) is proposing to renew an information collection. Through this Information Collection Request (ICR), ONRR seeks renewed authority to collect information related to the paperwork requirements covering the net profit share lease (NPSL) program, which establishes the reporting requirements to determine the net profit share base and calculate the net profit share payments due to the Federal government.

DATES: You must submit your written comments on or before May 26, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Mr. Luis Aguilar, Regulatory Specialist, ONRR, Building 85, MS 64400B, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225, or by email to *Luis.Aguilar@onrr.gov.* Please reference Office of Management and Budget (OMB) Control Number 1012–0009 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Jonathan Swedin, Reference and Reporting Management, ONRR, at (303) 231–3028, or email to *Jonathan.Swedin@onrr.gov.* You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. ONRR may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of the continuing effort to reduce paperwork and respondent burdens, ONRR is inviting the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps ONRR assess the impact of the information collection requirements and minimize the public's reporting burden. It also helps the public understand the information collection requirements and provide the requested data in the desired format.

ONRR is especially interested in public comments addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. ONRR will include or summarize each comment when requesting OMB approval for the renewal of this ICR. 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 ONRR to withhold your personal identifying information from public review, ONRR cannot guarantee that it will be able to do so.

Abstract: The Secretary of the United States Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). Under various laws, the Secretary's responsibility is to (1) manage mineral resource production, (2) collect royalties and other mineral revenues due, and (3) disburse the funds collected. The laws pertaining to mineral leases on Federal and Indian lands and the OSC are posted at *http://www.onrr.gov/Laws_R_D/PubLaws/default.htm.*

The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. ONRR performs the minerals revenue management functions for the Secretary and assists the

Secretary in carrying out the Department's trust responsibility for Indian lands.

(a) General Information: ONRR collects and uses this information to determine (i) the allowable direct, and allocable joint, costs and credits under § 1220.011 that are incurred during the lease term, (ii) the appropriate overhead allowance related to these costs permitted under § 1220.012, and (iii) the allowances for capital recovery calculated under § 1220.020. ONRR also collects this information to ensure that royalties or net profit share payments are accurately valued and appropriately paid. This ICR only effects oil and gas leases located on submerged Federal lands on the Outer Continental Shelf (OCS).

(b) Information Collections: Title 30 CFR part 1220 covers the NPSL program and establishes reporting requirements to determine the net profit share base under § 1220.021 and calculate the net profit share payments due to the Federal government under § 1220.022.

(1) NPSL Bidding System: To encourage exploration and development of oil and gas leases on submerged Federal lands on the OCS, the Bureau of Ocean Energy Management (BOEM) promulgated regulations under 30 CFR part 260—Outer Continental Shelf Oil and Gas Leasing. BOEM also promulgated specific implementing regulations for the NPSL bidding system under § 260.110(d). BOEM established the NPSL bidding system to balance a fair market return to the Federal government for the lease of its public lands with a fair profit to companies risking their investment capital. The system provides an incentive for early, expeditious exploration and development, and provides for risk sharing between the lessee and Federal government. The NPSL bidding system incorporates a fixed capital recovery system that allows a lessee to recover exploration and development costs from production revenues, including a reasonable return on investment.

(2) NPSL Capital Account: The Federal government does not receive a profit share payment from an NPSL until the lessee shows a credit balance in its capital account; that is, cumulative revenues and other credits exceed cumulative costs. Lessees multiply the credit balance by the net profit share rate (30 to 50 percent), which determines the amount of net profit share payment due to the Federal government.

ONRR requires lessees to maintain an NPSL capital account for each lease under § 1220.010, which transfers to a new owner if sold. Following the cessation of production, ONRR also requires a lessee to provide either an annual or monthly report to the Federal government using data from the capital account until such time that the lease is terminated, expired, or relinquished.

(3) NPSL Inventories: A NPSL lessee must notify BOEM of its intent to take inventory so that BOEM's Director may be represented at the inventory taking under § 1220.032. The lessee must file a report after taking inventory, and report controllable material under § 1220.031.

(4) NPSL Audits: When a non-operator of an NPSL calls for an audit, it must notify ONRR. When ONRR calls for an audit, the lessee must notify all non-operators on the lease. These requirements are located under § 1220.033.

Title of Collection: 30 CFR part 1220, OCS Net Profit Share Payment Reporting.

OMB Control Number: 1012–0009.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses.

Total Estimated Number of Annual Respondents: 9 lessees.

All nine lessees report monthly because all current NPSLs are in producing status. Because the requirements to establish a capital account under § 1220.010(a) and the capital account annual reporting under § 1220.031(a) are necessary only during the non-producing status of a lease, ONRR included only one response annually for those requirements, in case a new NPSL is established. ONRR did not include estimates of certain requirements performed in the normal course of business that are considered usual and customary.

Total Estimated Number of Annual Responses: 180.

Estimated Completion Time per Response: 9 hours.

Total Estimated Number of Annual Burden Hours: 1,584 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: Annual, monthly, and on occasion.

Total Estimated Annual Nonhour Burden Cost: None.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kimbra G. Davis,

Director, Office of Natural Resources Revenue.

[FR Doc. 2020–06170 Filed 3–26–20; 8:45 am]

BILLING CODE 4335–30–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1143 (Second Review)]

Small Diameter Graphite Electrodes From China; Determination

On the basis of the record [1] developed in the subject five-year second review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on small diameter graphite electrodes from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on May 1, 2019 (84 FR 18580) and determined on August 5, 2019 that it would conduct a full review (84 FR 43615, August 21, 2019). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on September 23, 2019 (84 FR 51619). Subsequently, the Commission cancelled its previously-scheduled hearing following a request on behalf of the domestic interested parties, the only parties to enter an appearance in this review (85 FR 4339, January 24, 2020).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on March 23, 2020. The views of the Commission are contained in USITC Publication 5035 (March 2020), entitled *Small Diameter Graphite Electrodes from China: Investigation No. 731–TA–1143 (Second Review).*

By order of the Commission.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Issued: March 23, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–06375 Filed 3–26–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–638 and 731–TA–1473 (Preliminary)]

Corrosion Inhibitors From China; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of corrosion inhibitors from China, provided for in subheading 2933.99.82 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the government of China.[2]

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On February 5, 2020, Wincom Incorporated, Blue Ash, Ohio filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of corrosion inhibitors from China and LTFV imports of corrosion inhibitors from China. Accordingly, effective February 5, 2020, the Commission instituted countervailing duty investigation No. 701–TA–638 and antidumping duty investigation No. 731–TA–1473 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 11, 2020 (85 FR 7784). The conference was held in Washington, DC, on February 26, 2020, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on March 23, 2020. The views of the Commission are contained in USITC Publication 5039 (March 2020), entitled *Corrosion Inhibitors from China: Investigation Nos. 701–TA–638 and 731–TA–1473 (Preliminary).*

By order of the Commission.

Dated: March 23, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–06373 Filed 3–26–20; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] *Certain Corrosion Inhibitors from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 85 FR 12502 (March 3, 2020); and *Certain Corrosion Inhibitors from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 85 FR 12506 (March 3, 2020).

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; 1,3-Butadiene Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety and Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 27, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657). The 1,3 Butadiene Standard requires employers to monitor employee exposure to 1,3-Butadiene; develop and maintain compliance and exposure goal

programs if employee exposures to BD are above the standard's permissible exposure limits or action level; label respirator filter elements to indicate the date and time it is first installed on the respirator; establish medical surveillance programs to monitor employee health, and to provide employees with information about their exposures; and the health effects of exposure to BD. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 27, 2019 (84 FR 71477).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: 1,3-Butadiene Standard.

OMB Control Number: 1218–0170.

Affected Public: Private Sector: Businesses or other for-profits.

Total Estimated Number of Respondents: 57.

Total Estimated Number of Responses: 3,233.

Total Estimated Annual Time Burden: 887 hours.

Total Estimated Annual Other Costs Burden: $91,296.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: March 23, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–06417 Filed 3–26–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Regulations Containing Procedures for Handling of Retaliation Complaints

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety and Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 27, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The agency is responsible for investigating alleged violations of whistleblower provisions contained in a number of statutes. These whistleblower provisions generally prohibit retaliation by employers against employees who report alleged violations of certain laws or regulations. Accordingly, these provisions prohibit an employer from discharging or taking any other retaliatory action against an employee because the employee engages in any of the protected activities specified by the whistleblower provisions of the statutes. Collection of information contained in future regulations promulgated by the agency with respect to a whistleblower provision of any other Federal law, except those that are assigned to another DOL agency, will be added to this information collection. OSHA's whistleblower regulations specify the procedures that an employee must use to file a complaint alleging that their employer violated a whistleblower provision for which the agency has investigative responsibility. Any employee who believes that such a violation occurred may file a complaint, or have the complaint filed on their behalf. Two of these regulations, 29 CFR parts 1979 and 1981, state that complaints must be filed in writing and should include a full statement of the acts and omissions, with pertinent dates, that the employee believes constitute the violation. The other regulations, 29 CFR parts 24, 1977, 1978, 1980, 1982, 1983, 1984, 1986, 1986, 1987, and 1988 require no particular form of filing for complaints. However, it is OSHA's policy to accept complaints in any form (*i.e.,* orally or in writing) under all statutes. This policy helps ensure that employees of all circumstances and education levels will have equal access to the complaint filing process. The agency currently utilizes the OSHA Online Whistleblower Complaint Form, which includes interactive features to aid employees seeking to understand the process and requirements for filing a retaliation complaint with OSHA. The web-based form enables employees to submit whistleblower complaints directly to OSHA 24-hours a day. The electronic form also provides information about employee protections enforced by other agencies, in order to better direct complainants to the proper investigative agencies. OSHA proposes to revise this ICR to include revisions to the electronic complaint form to make the following changes and technical updates. On the landing page, before the electronic complaint form, the user will have the opportunity to click a hyperlink which will direct them to a map that identifies the OSHA regions and their respective contact information. Once in the electronic form, ''pop-ups'' will appear whenever the user attempts to click away from a required field without making an entry. Lastly, the character count for two

optional text boxes will increase from 500 to 1,000 characters. This allows the users to explain their case to OSHA. A mark-up of the proposed changes to the form is available in the docket. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 29, 2019 (84 FR 65845).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Regulations Containing Procedures for Handling of Retaliation Complaints.

OMB Control Number: 1218–0236.

Affected Public: Individuals and Households.

Total Estimated Number of Respondents: 10,126.

Total Estimated Number of Responses: 10,126.

Total Estimated Annual Time Burden: 10,126 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: March 23, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–06404 Filed 3–26–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Claim for Reimbursement of Benefits Payments and Claims Expense Under the War Hazards Compensation Act

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 27, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Information collected using Form CA–278 will allow OWCP to consider requests filed by insurance carriers and self-insured that have paid benefits to workers injured due to a war-risk hazard to be reimbursed for such benefits out of the Employees' Compensation Fund. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 14, 2020 (85 FR 2149).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Claim for Reimbursement of Benefits Payments and Claims Expense Under the War Hazards Compensation Act.

OMB Control Number: 1240–0006.

Affected Public: Private Sector, Business or other for-profits.

Total Estimated Number of Respondents: 812.

Total Estimated Number of Responses: 812.

Total Estimated Annual Time Burden: 406 hours.

Total Estimated Annual Other Costs Burden: $7,742.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: March 23, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–06418 Filed 3–26–20; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Law Enforcement Officer's Injury or Occupational Disease and Notice of Law Enforcement Officer's Death

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)—sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 27, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The CA–721 and CA–722 are used for filing claims for compensation for injury and death to non-Federal law enforcement officers under the provisions of 5 U.S.C. 8191 *et seq.* The forms provide the basic information needed to process the claims made for injury or death. The program requests clearance by the expiration date of March 31, 2020. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 24, 2020 (85 FR 4341).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Notice of Law enforcement Officer's Injury or Occupational Disease and Notice of Law Enforcement Officer's Death.

OMB Control Number: 1240–0022.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 10.

Total Estimated Number of Responses: 6.

Total Estimated Annual Time Burden: 6 hours.

Total Estimated Annual Other Costs Burden: $87.00.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: March 23, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–06405 Filed 3–26–20; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Survivor's Form for Benefits Under the Black Lung Benefits Act

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 27, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The CM–912 is used to gather information from a beneficiary's survivor to determine if the survivor is entitled to benefits or the continuation of benefits. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 3, 2019 (84 FR 66219).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Survivor's Form for Benefits Under the Black Lung Benefits Act.

OMB Control Number: 1240–0027.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 850.

Total Estimated Number of Responses: 850.

Total Estimated Annual Time Burden: 113 hours.

Total Estimated Annual Other Costs Burden: $377.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: March 23, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–06419 Filed 3–26–20; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Coal Mine Workers' Compensation Proposed Extension; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Description of Coal Mine Work and Other Employment'' (Form CM–913). This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by May 26, 2020.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov*.

Submit written comments about this ICR by mail or courier to the U.S. Department of Labor, Office of Workers' Compensation Program, Division of Coal Mine Workers' Compensation, Room S3323, 200 Constitution Avenue NW, Washington, DC 20210; by email: *suggs.anjanette@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Black Lung Benefits Act, 30 U.S.C. 901 *et seq.,* provides for the payment of benefits to coal miners who are totally disabled by black lung disease arising out of coal mine employment, and certain dependents and survivors. The employment information collected on the Form CM–913 is used along with medical information to establish whether the miner is totally disabled due to black lung disease caused by coal mine employment. The Black Lung Benefits Act, 30 U.S.C. 901 *et seq.,* and implementing regulations 20 CFR 718.204(b)(1) and 725.405(d) authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and the collection displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. This information collection is currently approved for use through August 31, 2020.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and summarized and included in the request for OMB approval of the final ICR. To help ensure appropriate consideration, comments should mention 1240–0035.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OWCP–DCMWC.

Type of Review: Extension.

Title of Collection: Description of Coal Mine Work and Other Employment.

Form: Description of Coal Mine Work and Other Employment, CM–913.

OMB Control Number: 1240–0035.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,100.

Frequency: One time.

Total Estimated Annual Responses: 6,100.

Estimated Average Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 3,050 hours.

Total Estimated Annual Other Cost Burden: $3,515.

Authority: 44 U.S.C. 3506(c)(2)(A).

Dated: March 23, 2020.

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2020–06420 Filed 3–26–20; 8:45 am]

BILLING CODE 4510–CK–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (20–038)]

NASA Advisory Council; Human Explorations and Operations Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Human Explorations and Operations Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Tuesday, April 14, 2020, 1:00 p.m. to 6:00 p.m.; and Wednesday, April 15, 2020, 8:30 a.m. to 4 p.m. All times listed are Eastern Time.

ADDRESSES: Meeting will be virtual only. See dial-in and WebEx

information below under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Dr. Bette Siegel, Designated Federal Officer, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546. Email is *bette.siegel@nasa.gov* and phone is 202–358–2245.

SUPPLEMENTARY INFORMATION: As noted above, this meeting will be available telephonically and by WebEx only. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll-free access number 1–800–593–9971 or toll access number 1–517–308–9316, and then the numeric participant passcode: 4648477 to participate in the meeting for both days. The WebEx link is *https://nasaenterprise.webex.com;* the meeting number is 906 300 446 and the password is Exploration@2020 (case sensitive) for both days.

The agenda for the meeting includes the following topics:

—Human Exploration and Operations Update
—Budget
—Advanced Exploration Systems
—Gateway
—Exploration Systems Development
—International Space Station
—Commercial Crew

It is imperative that this meeting be held on this day to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2020–06355 Filed 3–26–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (20–039)]

NASA Advisory Council; Regulatory and Policy Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Regulatory and Policy Committee of the NASA Advisory Council. This Committee reports to the NAC.

DATES: Wednesday, April 15, 2020, from 10:00 a.m.–3:00 p.m., Eastern Time.

ADDRESSES: Meeting will be virtual only. See dial-in and WebEx information below under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Rowe, Designated Federal Officer, Office of Legislative and Intergovernmental Affairs, NASA Headquarters, Washington, DC 20546. Email is *andrew.rowe@nasa.gov* and phone is 202–358–4269.

SUPPLEMENTARY INFORMATION: As noted above, this meeting will be available telephonically and by WebEx only. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll number 1–415–527–5035 and then the numeric passcode 903548068, followed by the # sign, or toll-free 1–844–467–6272 and then the numeric passcode 713620, followed by the # sign. *NOTE*: If dialing in, please ''mute'' your phone. To join via WebEx, the link is: *https://nasaenterprise.webex.com/.* The meeting number is: 906 680 261 and the meeting password is NAC–RPC-April20 (case sensitive).

The agenda for the meeting will include:

—Assuring Commercial and Governmental Payloads on Low Earth Orbit (LEO) Commercial Modules and Free Flying Habitats
—Discussion of Spectrum Issues

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2020–06357 Filed 3–26–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Grantee Reporting Requirements for National User Facilities Managed by the NSF Division of Materials Research

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to renew this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by May 26, 2020 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for National User Facilities managed by the NSF Division of Materials Research.

OMB Number: 3145–0234.

Expiration Date of Approval: June 30, 2020.

Type of Request: Revision to and extension of approval of an information collection.

Proposed Project

The NSF Division of Materials Research (DMR) supports a number of National User Facilities that provide specialized capabilities and instrumentation to the scientific community on a competitive proposal basis. In addition to the user program, these facilities support in-house research, development of new instrumentation or techniques, education, and knowledge transfer.

The facilities integrate research and education for students and post-docs involved in experiments, and support extensive K–12 outreach to foster an interest in Science Technology Engineering and Mathematics (STEM) and STEM careers. Facilities capitalize on diversity through participation in center activities and demonstrate leadership in the involvement of groups underrepresented in science and engineering.

National User Facilities will be required to submit annual reports on progress and plans, which will be used as a basis for performance review and determining the level of continued funding. User facilities will be required to develop a set of management and performance indicators for submission annually to NSF via the Research Performance Project Reporting (RPPR) module in *Research.gov.* These indicators are both quantitative and descriptive and may include, for example, lists of successful proposal and users, the characteristics of facility

personnel and students; sources of financial support and in-kind support; expenditures by operational component; research activities; education activities; knowledge transfer activities; patents, licenses; publications; degrees granted to students supported through the facility or users of the facility; descriptions of significant advances and other outcomes of this investment. Such reporting requirements are included in the cooperative agreement which is binding between the academic institution and the NSF.

Each facility's annual report will address the following categories of activities: (1) Research, (2) education and training, (3) knowledge transfer, (4) partnerships, (5) diversity, (6) management, and (7) budget issues.

For each of the categories the report will describe overall objectives and metrics for the reporting period, challenges or problems the facility has encountered in making progress towards goals, anticipated problems in the following year, and specific outputs and outcomes.

Facilities are required to file a final report through the RPPR. Final reports contain similar information and metrics as annual reports, but are retrospective and focus on the period that was not addressed in previous annual reports.

Use of the Information: NSF will use the information to continue funding of the DMR National User Facilities, and to evaluate the progress of the program.

Estimate of Burden: 200 hours per facility for three National User Facilities for a total of 600 hours.

Respondents: Non-profit institutions.

Estimated Number of Responses per Report: One (1) from each of the DMR user facilities.

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 of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 23, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–06427 Filed 3–26–20; 8:45 am]

BILLING CODE 7555–01–P

OFFICE OF PERSONNEL MANAGEMENT

Civil Service Retirement System Board of Actuaries Meeting

AGENCY: Office of Personnel Management.

ACTION: Revised notice of meeting.

SUMMARY: This notice is a revision to the notice published February 5, 2020, regarding the meeting of the Civil Service Retirement System Board of Actuaries on Thursday, April 2, 2020. Due to maximum telework procedures in place in response to the coronavirus, this meeting will be held by telephone. The meeting will start at 10:00 a.m. EDT. The purpose of the meeting is for the Board to review the actuarial methods and assumptions used in the valuations of the Civil Service Retirement and Disability Fund (CSRDF).

FOR FURTHER INFORMATION CONTACT: Gregory Kissel, Senior Actuary for Pension Programs, U.S. Office of Personnel Management, 1900 E Street NW, Room 4316, Washington, DC 20415. Phone (202) 606–0722 or email at *actuary@opm.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

1. Summary of recent legislative proposals
2. Review of actuarial assumptions
3. CSRDF Annual Report

Persons desiring to attend this meeting by telephone should contact OPM at least 1 business day in advance of the meeting date at the address shown below, to request a call-in number.

For the Board of Actuaries.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2020–06376 Filed 3–26–20; 8:45 am]

BILLING CODE 6325–63–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0187, We Need Information About Your Missing Payment, RI 38–31

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR), We Need Information About Your Missing Payment, RI 38–31.

DATES: Comments are encouraged and will be accepted until May 26, 2020.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method: *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or reached via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0187). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 38–31 is sent in response to a notification by an individual of the loss or non-receipt of a payment from the Civil Service Retirement and Disability Fund. This form requests the information needed to enable OPM to trace and/or reissue payment. Missing payments may also be reported to OPM by a telephone call.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: We Need Information About Your Missing Payment.

OMB: 3206–0187.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 8,000.

Estimated Time per Respondent: 17 minutes.

Total Burden Hours: 1,333 hours.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2020–06468 Filed 3–26–20; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2020–108; MC2020–103 and CP2020–109]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 30, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2020–108; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 8 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* March 20, 2020; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* March 30, 2020.

2. *Docket No(s).:* MC2020–103 and CP2020–109; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 144 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 20, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* March 30, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–06361 Filed 3–26–20; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–104 and CP2020–110]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 31, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or

removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–104 and CP2020–110; *Filing Title:* USPS Request to Add First-Class Package Service Contract 107 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 23, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* March 31, 2020.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–06429 Filed 3–26–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

TIME AND DATE: Wednesday, April 1, 2020, at 9:00 a.m.; Wednesday, April 1, 2020, at 12:00 p.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza SW, in the Benjamin Franklin Room.

STATUS: Wednesday, April 1, 2020, at 9:00 a.m.—Closed. Wednesday, April 1, 2020, at 12:00 p.m.—Open.

MATTERS TO BE CONSIDERED:

Wednesday, April 1, 2020, at 9:00 a.m. (Closed)

1. Strategic Issues.
2. Financial and Operational Matters.
3. Administrative Issues.

Wednesday, April 1, 2020, at 12:00 p.m. (Open)

1. Remarks of the Chairman of the Board of Governors.
2. Remarks of the Postmaster General and CEO.
3. Borrowing Resolution.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Secretary of the Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Secretary.

[FR Doc. 2020–06533 Filed 3–25–20; 11:15 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88458; File No. SR–MRX–2020–07]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Removal of Obsolete Listing Rules

March 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 10, 2020, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rules at Options 2, Options Market Participants; Options 3, Section 2, Units of Trading and Meaning of Premium Quotes and Orders; and Options 3, Section 3, Minimum Trading Increments. Additionally, the Exchange proposes to add new sections at General 9 and Options 4B and reserve those sections.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend MRX Rules at Options 2, Options Market Participants; Options 3, Section 2, Units of Trading and Meaning of Premium Quotes and Orders; and Options 3, Section 3, Minimum Trading Increments. Additionally, the Exchange proposes to add new sections at General 9 and Options 4B and reserve those sections. The various proposed changes will be discussed below.

Mini Options

The Exchange has not listed Mini Options in several years and is

proposing to delete Mini Options listing rules and other ancillary trading rules related to the listing of Mini Options. The Exchange notes that it has no open interest in Mini Options.

Specifically, the Exchange proposes to amend the following MRX Rules related to Mini Options: Options 3, Section 2(c), Units of Trading and Meaning of Premium Quotes and Orders; and Options 3, Section 3, Minimum Trading Increments, at Supplementary Material .03. The Exchange also proposes to re-letter Options 3, Section 2(b) as (c) and renumber Options 3, Section 3 at Supplementary Material .04 as .03.

Foreign Currency Index

The Exchange removed [3] prior MRX Section 22, which was titled ''Rate-Modified Foreign Currency Options Rules'' and governed the listing and trading of foreign currency options on MRX. At this time, the Exchange is a reference that is no longer necessary within Options 3, Section 3, Minimum Trading Increments, at Supplementary Material .02, because the product is not available to be listed on MRX.

Rulebook Harmonization

The Exchange recently harmonized its Rulebook in connection with other Nasdaq affiliated markets. The Exchange proposes to reserve sections General 9 and Options 4B and certain other rules [4] within the MRX Rulebook to represent the presence of rules in similar locations in other Nasdaq affiliated Rulebooks (*e.g.* Nasdaq Phlx LLC) [5]. The addition of these reserved sections will align the various Nasdaq affiliated market Rulebooks.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Mini Options

The Exchange's proposal to removal references to the listing and handling of Mini Options is consistent with the Act because Mini Options have not been listed in several years and thereby removing the references to the rules would render the rules more accurate and reduce potential investor confusion. Also, the Exchange notes that it has no open interest in Mini Options. In the event that the Exchange desires to list Mini Options in the future, it would file a rule change with the Commission to adopt rules to list Mini Options.

Foreign Currency Index

The Exchange's proposal to remove rules and references to the listing and handling of Foreign Currency Indexes is consistent with the Act because the listing rules for these products have been removed. Also, the Exchange notes that it has no open interest in Foreign Currency Indexes. In the event that the Exchange desires to list Foreign Currency Indexes in the future, it would file a rule change with the Commission.

Rulebook Harmonization

The Exchange's proposal to reserve new sections at General 9 and Options 4B within the Rulebook is a non-substantive amendment which aligns the numbering across Nasdaq affiliated Rulebooks to provide market participants with an ability to more readily locate rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Mini Options

The Exchange's proposal to removal references to the listing and handling of Mini Options does not impose an undue burden on competition. Mini Options have not been listed in several years. Also, the Exchange notes that it has no open interest in Mini Options.

Foreign Currency Index

The Exchange's proposal to removal references to the listing and handling of Foreign Currency Indexes does not impose an undue burden on competition. Foreign Currency Indexes have not been listed in several years. Also, the Exchange notes that it has no open interest in Foreign Currency Indexes.

Rulebook Harmonization

The Exchange's proposal to add reserved sections General 9 and Options 4B to the Rulebook is a non-substantive amendment which aligns the numbering across Nasdaq affiliated Rulebooks to provide market participants with an ability to more readily locate rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[3] *See* Securities Exchange Act Release No. 84790 (December 11, 2018), 83 FR 64612 (December 11, 2018) (SR–MRX–2018–38) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete MRX Section 22 of the Rulebook).

[4] The Exchange proposes to reserve Options 2, Sections 11–14 and Options 6, Section 8–13.

[5] *See* Securities Exchange Act Release No. 88213 (February 14, 2020), 85 FR 9859 (February 20, 2020) (SR–Phlx–2020–03) (''Phlx Rulebook Relocation Rule Change'').

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2020–07 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–MRX–2020–07. 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 website (*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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2020–07 and should be submitted on or before April 17, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06389 Filed 3–26–20; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release no. 33821]

Investment Company Act of 1940; Order Under Sections 6(c), 12(d)(1)(J), 17(b), 17(d) and 38(a) of the Investment Company Act of 1940 and Rule 17d–1 Thereunder Granting Exemptions From Specified Provisions of the Investment Company Act and Certain Rules Thereunder

March 23, 2020.

The current outbreak of coronavirus disease 2019 (COVID–19) has disrupted activities around the world. In light of the current situation, we are issuing this Order providing exemptions from certain requirements of the Investment Company Act. The exemptions provide additional flexibility for (1) registered open-end management investment companies other than money market funds (''open-end funds'') and (2) insurance company separate accounts registered as unit investment trusts (''separate accounts'') to obtain short-term funding.

In light of the current and potential effects of COVID–19, the Commission finds that the exemptions set forth below, as applicable:

are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Investment Company Act;

permit transactions the terms of which, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

permit transactions under the terms of which the participation of each registered investment company is consistent with the provisions, policies, and purposes of the Investment Company Act, and not on a basis different from or less advantageous than that of other participants; and

are necessary and appropriate to the exercise of the powers conferred on it by the Investment Company Act.

The necessity for prompt action of the Commission does not permit prior notice of the Commission's action.

I. Time Period for the Exemptive Relief

The relief provided in each of the following Sections of this Order is limited to the period from (and including) the date of this Order to (and including) the date to be specified in a public notice from Commission staff stating that the relief will terminate, which date will be at least two weeks from the date of the notice and no earlier than June 30, 2020.

The Commission will continue to monitor the current situation and may issue other relief as necessary or appropriate.

II. Ability of Open-End Fund or Separate Account To Borrow From an Affiliated Person; Ability of an Affiliated Person To Make Collateralized Loans

It is *ordered,* pursuant to Sections 6(c), 17(b) and 38(a) of the Investment Company Act that:

For the period specified in Section I, an open-end fund or a separate account is exempt from section 12(d)(3) of the Investment Company Act to the extent necessary to permit it to borrow money from any affiliated person, or affiliated person of such affiliated person, that is not itself a registered investment company, and an affiliated person of an open-end fund or separate account, or an affiliated person of such affiliated person, is exempt from section 17(a) to the extent necessary to permit it to make collateralized loans to such open-end fund or separate account, provided that the conditions below are satisfied.

For the period specified in Section I, an open-end fund is exempt from section 18(f)(1) of the Investment Company Act to the extent necessary to permit it to borrow money from any affiliated person, or affiliated person of such affiliated person, that is not a bank and is not itself a registered investment company, provided that the conditions below are satisfied.

Conditions

(a) The Board of Directors of the open-end fund, including a majority of the Directors who are not interested persons of the open-end fund, or the insurance company on behalf of the separate account, reasonably determines that such borrowing:

(i) Is in the best interests of the registered investment company and its shareholders or unit holders; and

(ii) will be for the purpose of satisfying shareholder redemptions.

(b) Prior to relying on the relief for the first time, the open-end fund or separate account notifies the Commission staff via email at *IM-EmergencyRelief@sec.gov* stating that it is relying on this Order.

III. Interfund Lending Arrangements for Registered Investment Companies With Existing Interfund Lending Orders

It is *ordered,* pursuant to Sections 6(c), 12(d)(1)(J), 17(b),17(d) and 38(a) of the Investment Company Act and rule 17d–1 thereunder that:

For the period specified in Section I, any registered investment company currently able to rely on a Commission order permitting an interfund lending

and borrowing facility (''existing IFL order'') may:

(a) Make loans through the facility in an aggregate amount that does not exceed 25 percent of its current net assets at the time of the loan notwithstanding any lower limitation in the existing IFL order;

(b) Borrow (if permitted under the existing IFL order to be a borrower) or make loans through the facility for any term notwithstanding any conditions limiting the term of such loans, provided that (i) the term of any interfund loan made in reliance on this Order does not extend beyond the expiration of this temporary relief, (ii) the Board of Directors of the registered investment company, including a majority of the Directors who are not interested persons of the registered investment company, reasonably determines that the maximum term for interfund loans to be made in reliance on this Order is appropriate, and (iii) the loans will remain callable and subject to early repayment on the terms described in the existing IFL order; and

(c) Avail itself of the relief provided in Section V below notwithstanding any condition of the existing IFL order that incorporates limits set forth in its fundamental restrictions. limitations or non-fundamental policies;

provided that, in each case:

(a) Any loan under the facility is otherwise made in accordance with the terms and conditions of the existing IFL order;

(b) Prior to relying on the relief for the first time, the registered investment company notifies the Commission staff via email at *IM-EmergencyRelief@sec.gov* stating that it is relying on this Order; and

(c) Prior to relying on the relief for the first time, the registered investment company discloses on its public website that it is relying on a Commission exemptive order that modifies the terms of its existing IFL order to permit additional flexibility to provide or obtain short-term funding from its interfund lending and borrowing facility.

IV. Interfund Lending Arrangements for Registered Investment Companies Without Existing Interfund Lending Orders

It is *ordered,* pursuant to Sections 6(c), 12(d)(1)(J), 17(b), 17(d) and 38(a) of the Investment Company Act and rule 17d–1 thereunder that:

For the period specified in Section I, any registered management investment company that is not currently able to rely on a Commission order permitting an interfund lending and borrowing facility may establish and participate in such a facility as set forth in an exemptive order permitting such a facility that the Commission has issued within the twelve months preceding the date of this Order (''recent IFL precedent''); *provided that:*

(a) The registered investment company must satisfy the terms and conditions for relief in the recent IFL precedent (including with respect to whether it may participate as a borrower), except:

i. It may rely on the relief provided in Section III above subject to its terms and conditions (other than the notice requirement of condition (c) in Section III);

ii. It need not satisfy the condition in the recent IFL precedent requiring prior disclosure in its registration statement or shareholder report; and

iii. Money market funds may not participate as borrowers in the interfund facility;

(b) Prior to relying on the relief for the first time, the registered investment company notifies the Commission staff via email at *IM-EmergencyRelief@sec.gov* stating that it is relying on this Order and identifying the recent IFL precedent that it is relying on; and

(c) The registered investment company:

i. Discloses on its public website, prior to relying on the relief for the first time, that it is relying on the relief to utilize an interfund lending and borrowing facility.

ii. To the extent it files a prospectus supplement, or a new or amended registration statement or shareholder report, while it is relying on this relief, updates its disclosure regarding the material facts about its participation or intended participation in the facility.

V. Ability of a Registered Open-End Investment Company To Deviate From Its Fundamental Policy With Respect To Lending or Borrrowing

It is *ordered,* pursuant to Sections 6(c) and 38(a) of the Investment Company Act:

That for the period specified in Section I, an open-end fund is exempt from sections 13(a)(2) and 13(a)(3) of the Investment Company Act to the extent necessary to permit it to enter into otherwise lawful lending or borrowing transactions that deviate from any relevant policy recited in its registration statement without prior shareholder approval; *provided that:*

(a) The Board of Directors of the open-end fund, including a majority of the Directors who are not interested persons of the investment company, reasonably determines that such lending or borrowing is in the best interests of the registered investment company and its shareholders;

(b) The open-end fund promptly notifies its shareholders of the deviation by filing a prospectus supplement and including a statement on the applicable fund's public website; and

(c) Prior to relying on the relief for the first time, the registered investment company notifies the Commission staff via email at *IM-EmergencyRelief@sec.gov* stating that it is relying on this Order.

By the Commission.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–06392 Filed 3–26–20; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16253 and #16254; Puerto Rico Disaster Number PR–00034]

Presidential Declaration Amendment of a Major Disaster for the Commonwealth of Puerto Rico

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–4473–DR), dated 01/16/2020.

Incident: Earthquakes.

Incident Period: 12/28/2019 through 02/04/2020.

DATES: Issued on 03/13/2020.

Physical Loan Application Deadline Date: 04/15/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 10/16/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the Commonwealth of PUERTO RICO, dated 01/16/2020, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 04/15/2020.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2020–06408 Filed 3–26–20; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Smith County, Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Federal notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The FHWA, on behalf of TxDOT, is issuing this notice to advise the public that an EIS will be prepared for a proposed transportation project to construct Toll 49, Segment 6 located partially within and just east of the City of Tyler in Smith County, Texas. The project is sponsored by the North East Texas Regional Mobility Authority.

FOR FURTHER INFORMATION CONTACT: Scott Ford, Project Delivery Manager, Environmental Affairs Division, Texas Department of Transportation, 125 E 11th Street, Austin, Texas 78701–2483, telephone (512) 416–2687, email: *scott.ford@txdot.gov.* TxDOT's normal business hours are 8:00 a.m. to 5 p.m. (central time), Monday through Friday.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 9, 2019, and executed by FHWA and TxDOT.

Toll 49, Segment 6 will be an extension of Toll 49 from the Toll 49, Segment 5 eastern terminus at State Highway (SH) 110 to United States (US) 271. There is no existing facility; therefore, the project is proposed on a new location. The proposed roadway will consist of an interim two-lane facility (one lane in each direction) with an intermittent single passing lane that alternates direction along the length of the corridor (Super 2) and an ultimate four-lane divided highway.

The EIS will evaluate a range of build alternatives and a no-build alternative. Possible build alternatives include three route options identified in the Toll 49, Segment 6 Feasibility Study completed in November 2019. The three route options begin at the Toll 49, Segment 5 terminus at SH 110, end at different locations on US 271, and range from 10 to 13 miles long. TxDOT will issue a single Final Environmental Impact Statement and Record of Decision document pursuant to 23 U.S.C. 139(n)(2), unless TxDOT determines statutory criteria or practicability considerations preclude issuance of a combined document.

In accordance with 23 U.S.C. 139, cooperating agencies, participating agencies, and the public will be given an opportunity for continued input on project development. A public scoping meeting is planned for Spring 2020 at a location to be determined. An agency scoping meeting will also be held with participating and cooperating agencies. The agency and public scoping meetings will provide an opportunity for the participating/cooperating agencies and public to review and comment on the draft coordination plan and schedule, the project purpose and need, the range of alternatives, and methodologies and level of detail for analyzing alternatives. In addition to the agency and public scoping meetings, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

Issued on: March 12, 2020.

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2020–05601 Filed 3–26–20; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–RSPA–2003–15122]

Pipeline Safety: Request for Special Permit; Texas Eastern Transmission, L.P.

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comment on a request from Texas Eastern Transmission L.P., (TET) to renew a previously issued special permit. TET is seeking continued relief from compliance with certain requirements in the Federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit renewal request.

DATES: Submit any comments regarding this special permit request by April 27, 2020.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) § 190.343, you may

ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and these items will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Joshua Johnson by telephone at 816–329–3825, or by email at *joshua.johnson@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit renewal request from TET, owned by Enbridge, Inc., to continue its pipeline operation as described in the special permit renewal issued on May 15, 2015. The current special permit term ends May 15, 2020. The original special permit was issued to TET by PHMSA on August 27, 2004. TET's special permit renewal request submitted to PHMSA on November 6, 2019, seeks to waive compliance from the requirements of 49 CFR 192.611, ''Change in class location: Confirmation or revision of maximum allowable operating pressure.'' TET requests a renewal of this special permit in lieu of pipe replacement or pressure reduction for 42 special permit segments. The 42 special permit segments include 22 segments containing 6.76 miles of 24-inch diameter pipe designated as Line 12 and 20 segments containing 5.86 miles of 30-inch diameter pipe designated as Line 19. The special permit segments are located in Perry, Berks, Huntingdon, Juniata, Montgomery and Bucks Counties located in Pennsylvania, and in Hunterdon County in New Jersey. The special permit renewal will allow for the continued operation of the original Class 1 pipe in the Class 2 locations.

The TET Line 12 and Line 19 pipelines have a maximum allowable operating pressure of 1,050 pounds per square inch gauge in the special permit segments.

TET's special permit renewal request and existing special permit with conditions are available for review and public comment in the Docket No. PHMSA–RSPA–2003–15122. PHMSA invites interested persons to review and submit comments on the special permit renewal request in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit renewal is granted. Comments may include relevant data.

Before issuing a decision on the special permit renewal request, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit renewal request.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2020–06378 Filed 3–26–20; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–RSPA–2000–8453]

Pipeline Safety: Request for Special Permit; Tennessee Gas Pipeline Company

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comment on a request from Tennessee Gas Pipeline Company to renew a previously issued special permit. The special permit renewal request is seeking continued relief from compliance with certain requirements in the Federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit renewal request.

DATES: Submit any comments regarding this special permit request by April 27, 2020.

ADDRESSES: Comments should reference the docket number for the specific special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of **Federal Register** (CFR) § 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise,

PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit renewal request from Tennessee Gas Pipeline Company (TGP), owned by Kinder Morgan Inc., to continue its pipeline operation as defined in the special permit renewal issued on May 15, 2015. An additional 200 feet of pipeline, where the Class location had changed from Class 1 to 3, was added to the special permit segment 3 on March 28, 2017. The present special permit term is through May 15, 2020. TGP's special permit renewal request of November 12, 2019, seeks to waive compliance from the requirements of 49 CFR 192.611, ''Change in class location: Confirmation or revision of maximum allowable operating pressure''. This special permit renewal is being requested in lieu of pipe replacement or pressure reduction for four (4) special permit segments totaling 37,731 feet of either 30-inch diameter Line 800–1, 30-inch diameter Line 500–1, 36-inch diameter Line 500–2, or 36-inch diameter Line 500–3 located in Dickson and Hickman Counties, Tennessee. The special permit renewal will allow the continued operation of the original Class 1 pipe in the Class 3 locations.

The TGP Line 800–1, Line 500–1, Line 500–2, and Line 500–3 have a maximum allowable operating pressure of 936 pounds per square inch gauge in the special permit segments.

The special permit renewal request, existing special permit with conditions, and environmental assessment (EA) for the TGP is available for review and public comment in the Docket No. PHMSA–RSPA–2000–8453. We invite interested persons to review and submit comments on the special permit renewal request and EA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit renewal is granted. Comments may include relevant data.

Before issuing a decision on the special permit renewal request, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment we receive in making our decision to grant or deny this special permit renewal request.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2020–06377 Filed 3–26–20; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2006–25803]

Pipeline Safety: Request for Special Permit; Kinder Morgan Louisiana Pipeline, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comment on a request from Kinder Morgan Louisiana Pipeline, LLC, (KMLP) to modify a previously issued special permit. KMLP requests a modification to the pipeline gas stream quality requirements that limit the amount of hydrogen sulfide (H_2S) in the gas. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit modification request.

DATES: Submit any comments regarding this special permit request by April 27, 2020.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) § 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and these items will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit modification request from KMLP, owned by Kinder Morgan, Inc., to modify special permit Condition 28(a) of the existing special permit, PHMSA–2006–25803. KMLP requests a modification of Condition 28(a) to allow an increase in the amount of H_2S in the pipeline gas stream from 0.25 grains to 0.5 grains per 100 standard cubic feet. The requested amount of H_2S in the KLMP pipeline gas stream is less than what is required in 49 CFR 192.620(d)(5)(v)(C), ''Controlling Internal Corrosion.''

The special permit was issued to KMLP on April 13, 2007, to waive compliance with 49 CFR 192.111 and 192.201(a)(2)(i) for Class 1 locations along the Leg 1 segment of the KMLP. The KMLP Leg 1 segment is a 137-mile, 42-inch diameter pipeline that is located in Calcasieu, Cameron, Jefferson Davis, Acadia, and Evangeline Parishes in Louisiana. The KMLP Leg 1 segment has a maximum allowable operating pressure of 1,440 pounds per square inch gauge in the special permit segment.

The special permit modification request and existing special permit with conditions for the KMLP are available for review and public comment in the Docket No. PHMSA–2006–25803. PHMSA invites interested persons to review and submit comments in the docket regarding the special permit modification request. Please include any comments on potential safety and environmental impacts that may result if the special permit modification is granted. Comments may include relevant data.

Before issuing a decision on the special permit modification request, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit modification request.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2020–06379 Filed 3–26–20; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple FinCEN Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before April 27, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

1. Title: Imposition of Special Measure Against Commercial Bank of Syria, Including its Subsidiary, Syrian Lebanese Commercial Bank, as a Financial Institution of Primary Money Laundering Concern.

OMB Control Number: 1506–0036.

Type of Review: Extension without change of a currently approved collection.

Description: The collection of information in the rule relates to both disclosure and recordkeeping. The information required to be disclosed by domestic financial institutions to a third-party—*i.e.,* a one-time notice to correspondent account holders—is intended to ensure cooperation from correspondent account holders in denying access to the U.S. financial system, as well as to increase awareness within the international financial community of the risks and deficiencies of Commercial Bank of Syria. The information required to be maintained by domestic financial institutions will continue to be used by federal agencies and certain self-regulatory organizations to verify compliance with the requirement that a domestic financial institution notify its correspondent account holders that they may not provide Commercial Bank of Syria with access to the correspondent account maintained at the institution.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 23.615.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 23,615.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 23,615.

2. Title: Beneficial Ownership Requirements for Legal Entity Customers.

OMB Control Number: 1506–0070.

Type of Review: Extension without change of a currently approved collection.

Description: Under 31 CFR 1010.230 covered financial institutions are required to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of new accounts opened by legal entity customers and to include such procedures in their AML programs. Covered financial institutions may obtain the required identifying information by either obtaining a prescribed certification form from the individual opening the account on behalf of a legal entity customer, or by obtaining from the individual the information required by the form by another means, provided the individual certifies the accuracy of the information. Covered financial institutions must also maintain a record of the identifying information obtained, and a description of any document relied on, of any non-documentary methods and results of any measures undertaken, and the resolutions of substantive discrepancies.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 23,615.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 8,855,625.

Estimated Time per Response: 80 minutes.

Estimated Total Annual Burden Hours: 11,884,700.

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

Dated: March 24, 2020.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2020–06472 Filed 3–26–20; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0253]

Agency Information Collection Activity: Nonsupervised Lender's Nomination and Recommendation of Credit Underwriter

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 27, 2020.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0253'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, (202) 421–1354 or email *Danny.Green2@va.gov.* Please refer to ''OMB Control No. 2900–0253'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Nonsupervised Lender's Nomination and Recommendation of Credit Underwriter (VA Form 26–8736a)

OMB Control Number: 2900–0253.

Type of Review: Extension of an approved collection.

Abstract: VA Form 26–8736a is used to gather specific information to determine if the lender's nominee is qualified to make such a determination, VA has developed VA Form 26–8736a which contains information that VA considers crucial to the evaluation of the underwriter's experience. This form will be completed by the lender and the lender's nominee for underwriter and then submitted to VA for approval. The standards established by the Secretary require that a lender have a qualified underwriter review all loans to be closed on an automatic basis to determine that the loan meets VA's credit underwriting standards.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 85 FR 3762 on January 22, 2020, pages 3762 and 3763.

Affected Public: Individuals or Households.

Estimated Annual Burden: 500 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,500.

By direction of the Secretary.

Danny S. Green,

Department Clearance Officer, Office of Quality Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–06368 Filed 3–26–20; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 85 Friday,

No. 60 March 27, 2020

Part II

Environmental Protection Agency

40 CFR Part 52

Clean Air Plans; 2006 Fine Particulate Matter Nonattainment Area Requirements; San Joaquin Valley, California; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0318; FRL–10006–40–Region 9]

Clean Air Plans; 2006 Fine Particulate Matter Nonattainment Area Requirements; San Joaquin Valley, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or ''Agency'') proposes to approve portions of two state implementation plan (SIP) revisions submitted by the State of California to meet Clean Air Act (CAA or ''Act'') requirements for the 2006 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS or ''standards'') in the San Joaquin Valley (SJV) Serious nonattainment area. Specifically, the EPA proposes to approve those portions of the ''2018 Plan for the 1997, 2006, and 2012 $PM_{2.5}$ Standards'' and the ''San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan'' that pertain to the 2006 $PM_{2.5}$ NAAQS and address CAA requirements for Serious $PM_{2.5}$ nonattainment areas. The EPA also proposes to approve inter-pollutant trading ratios for use in transportation conformity analyses for the 2006 $PM_{2.5}$ NAAQS. As part of this action, the EPA proposes to grant an extension of the Serious area attainment date for the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley from December 31, 2019, to December 31, 2024 based on a proposed determination that the State has satisfied the statutory criteria for this extension. We may, however, reconsider this proposal or deny California's request for extension of the attainment date if, based on new information or public comments, we find that the State has not satisfied the statutory criteria for this extension.

DATES: Any comments must arrive by April 27, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2019–0318, at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Rory Mays, Air Planning Office (AIR–2), EPA Region IX, (415) 972–3227, *mays.rory@epa.gov.*

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

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I. Background

On October 17, 2006, the EPA strengthened the 24-hour (daily) NAAQS for particles less than or equal to 2.5 micrometers (μm) in diameter ($PM_{2.5}$) by lowering the level from 65 micrograms (μg) per cubic meter (m^3) to 35 μg/m^3.[1] The 24-hour standards are based on a three-year average of 98th percentile 24-hour $PM_{2.5}$ concentrations. The EPA established these standards after considering substantial evidence from numerous health studies demonstrating that serious health effects are associated with exposures to $PM_{2.5}$ concentrations above these levels.

Epidemiological studies have shown statistically significant correlations between elevated $PM_{2.5}$ levels and premature mortality. Other important health effects associated with $PM_{2.5}$ exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity days), changes in lung function and increased respiratory symptoms, and new evidence for more subtle indicators of cardiovascular health. Individuals particularly sensitive to $PM_{2.5}$ exposure include older adults, people with heart and lung disease, and children.[2]

$PM_{2.5}$ can be emitted directly into the atmosphere as a solid or liquid particle (primary $PM_{2.5}$ or direct $PM_{2.5}$) or can be formed in the atmosphere as a result of various chemical reactions from precursor emissions of nitrogen oxides, sulfur oxides, volatile organic compounds, and ammonia (secondary $PM_{2.5}$).[3]

Following promulgation of a new or revised NAAQS, the EPA is required under CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. Effective December 14, 2009, the EPA finalized initial air quality designations for the 2006 $PM_{2.5}$ NAAQS, using air quality monitoring data for the three-year periods of 2005–2007 and 2006–2008.[4] The EPA designated the San Joaquin Valley as a nonattainment area for the 2006 $PM_{2.5}$ NAAQS.[5] On June 2, 2014, the EPA classified the San Joaquin Valley as a Moderate nonattainment area for these NAAQS, thereby establishing December 31, 2015 as the

[1] 71 **Federal Register** (FR) 61144 (October 17, 2006) and 40 CFR 50.13. In promulgating the 2006 $PM_{2.5}$ NAAQS, the EPA retained the level of the 1997 annual average $PM_{2.5}$ NAAQS of 15.0 μg/m^3. 62 FR 36852 (July 18, 1997) and 40 CFR 50.7. Subsequently, the EPA strengthened the primary annual $PM_{2.5}$ NAAQS by lowering the level to 12.0 μg/m^3 while retaining the secondary annual $PM_{2.5}$ NAAQS at the level of 15.0 μg/m^3. 78 FR 3086 (January 15, 2013) and 40 CFR 50.18. In this preamble, all references to the $PM_{2.5}$ NAAQS, unless otherwise specified, are to the 2006 24-hour standards (35 μg/m^3) as codified in 40 CFR 50.13.

[2] EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P–99/002aF and EPA/600/P–99/002bF, October 2004.

[3] 81 FR 58010, 58011 (August 24, 2016).

[4] 74 FR 58688 (November 13, 2009).

[5] Id. (codified at 40 CFR 81.305). The most recent 24-hour design value (2016–2018) for the San Joaquin Valley is 65 μg/m^3. EPA design value workbook dated July 18, 2019, worksheet ''Table 1b.''

latest permissible attainment date for the area under section 188(c)(1) of the CAA.[6] Effective February 19, 2016, the EPA reclassified the San Joaquin Valley as a Serious nonattainment area for these NAAQS.[7] Shortly thereafter, the EPA approved the State's demonstration that it was impracticable to attain the 2006 $PM_{2.5}$ NAAQS by the December 31, 2015 Moderate area attainment date and related plan elements addressing the Moderate area requirements for the 2006 $PM_{2.5}$ NAAQS.[8]

Upon reclassification as a Serious $PM_{2.5}$ nonattainment area, the San Joaquin Valley became subject to a new statutory attainment date no later than the end of the tenth calendar year following designation (*i.e.,* December 31, 2019) and the requirement to submit a Serious area plan satisfying the requirements of CAA Title I, part D, including the requirements of subpart 4, for the 2006 $PM_{2.5}$ NAAQS.[9] As explained in the EPA's final reclassification action, the Serious area plan for the San Joaquin Valley must include, among other things, provisions to assure that, under CAA section 189(b)(1)(B), the best available control measures (BACM) for the control of direct $PM_{2.5}$ and $PM_{2.5}$ precursors shall be implemented no later than four years after the area is reclassified and a demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable and no later than the applicable attainment date. The EPA established an August 21, 2017 deadline for California to adopt and submit a SIP submission addressing the Serious nonattainment area requirements for the 2006 $PM_{2.5}$ NAAQS.[10] The EPA also noted that California may choose to submit a request for an extension of the December 31, 2019, Serious area attainment date pursuant to CAA section 188(e) simultaneously with its submission of a Serious area plan for the area.[11]

As described further in section III.B of this preamble, CAA section 188(e) allows the EPA to extend the attainment date for a Serious area by up to five years if attainment by the Serious area attainment date is impracticable. However, before the Agency may grant an extension of the attainment date, the State must first:

(1) Apply to the EPA for an extension of the $PM_{2.5}$ attainment date beyond 2019,

(2) demonstrate that attainment by 2019 is impracticable,

(3) have complied with all requirements and commitments applying to the area in its implementation plan,

(4) demonstrate to the Administrator's satisfaction that its Serious area plan includes the most stringent measures that are achieved in practice in any state and are feasible for the area, and

(5) submit SIP revisions containing a demonstration of attainment by the most expeditious alternative date practicable.

The San Joaquin Valley $PM_{2.5}$ nonattainment area encompasses over 23,000 square miles and includes all or part of eight counties: San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, and the valley portion of Kern.[12] The area is home to four million people and is the nation's leading agricultural region. Stretching over 250 miles from north to south and averaging 80 miles wide, it is partially enclosed by the Coast Mountain range to the west, the Tehachapi Mountains to the south, and the Sierra Nevada range to the east. The San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or District) has primary responsibility for developing plans to provide for attainment of the NAAQS in this area. The District works cooperatively with the California Air Resources Board (CARB) in preparing attainment plans. Authority for regulating sources under state jurisdiction in the San Joaquin Valley is split between the District, which has responsibility for regulating stationary and most area sources, and CARB, which has responsibility for regulating most mobile sources.

On November 16, 2018, CARB submitted to the EPA substantial portions of the Serious area plan for the 2006 $PM_{2.5}$ NAAQS following CARB's adoption of one component of the plan on October 25, 2018 and the SJVUAPCD's adoption of a second component of it on November 15, 2018.[13] Because CARB had not yet adopted this submission in its entirety, the EPA determined that it did not meet the EPA's completeness requirements for SIP submissions under 40 CFR part 51, Appendix V, section 2.1.[14] The EPA's incompleteness findings became effective on January 7, 2019, and triggered clocks for the application of emissions offset sanctions for new or modified major stationary sources in the San Joaquin Valley 18 months after the effective date of the findings and highway funding sanctions six months thereafter, unless the EPA affirmatively determines that the State has submitted a complete SIP addressing the deficiency that was the basis for these findings, consistent with CAA section 179(b) and the EPA's sanctions sequencing rule in 40 CFR 52.31.[15] These findings also triggered the obligation under CAA section 110(c) on the EPA to promulgate a federal implementation plan no later than two years after the effective date of the findings, unless the State has submitted, and the EPA has approved, the required SIP submittal.[16]

II. Summary and Completeness Review of the San Joaquin Valley $PM_{2.5}$ Plan

The EPA is proposing action on portions of two SIP revisions submitted by CARB to meet the Serious nonattainment area requirements for the 2006 24-hour $PM_{2.5}$ NAAQS in the San Joaquin Valley. Specifically, the EPA is proposing to act on those portions of the following two plan submissions that pertain to the 2006 24-hour $PM_{2.5}$ NAAQS: The ''2018 Plan for the 1997, 2006, and 2012 $PM_{2.5}$ Standards,'' adopted by the SJVUAPCD on November 15, 2018, and by CARB on January 24, 2019 (''2018 $PM_{2.5}$ Plan'')[17]; and the ''San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan,'' adopted by CARB on October 25, 2018 (''Valley State SIP Strategy''). We refer to the relevant portions of these SIP submissions collectively as the ''SJV $PM_{2.5}$ Plan'' or ''Plan.'' The SJV $PM_{2.5}$ Plan addresses the Serious area attainment plan requirements for the 2006 24-hour $PM_{2.5}$ NAAQS in the San Joaquin Valley and includes a request under CAA section 188(e) for an extension of the Serious area attainment date for the area for this NAAQS. CARB submitted the SJV $PM_{2.5}$ Plan to the EPA

[6] 79 FR 31566 (June 2, 2014). The EPA promulgated these $PM_{2.5}$ nonattainment area classifications in response to a 2013 decision of the Court of Appeals for the D.C. Circuit remanding the EPA's prior implementation rule for the $PM_{2.5}$ NAAQS and directing the EPA to repromulgate implementation rules pursuant to subpart 4 of part D, title I of the Act. *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013).

[7] 81 FR 2993 (January 20, 2016).

[8] 81 FR 59876 (August 31, 2016).

[9] 81 FR 2993, 2998.

[10] Id. at 3000 and 81 FR 42263 (June 29, 2016) (codified at 40 CFR 52.247(f)).

[11] 81 FR 2993, 2998.

[12] For a precise description of the geographic boundaries of the San Joaquin Valley $PM_{2.5}$ nonattainment area, see 40 CFR 81.305.

[13] Letter dated November 16, 2018, from Kurt Karperos, Deputy Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX.

[14] 83 FR 62720 (December 6, 2018). The EPA made these findings in response to a court order issued in *Committee for a Better Arvin, et al.,* v. *Andrew Wheeler, et al.,* Case No. 18–cv–05700–RS (N.D. Cal., October 24, 2018).

[15] 83 FR 62720, 62723.

[16] Id.

[17] The 2018 $PM_{2.5}$ Plan was developed jointly by CARB and the District.

as a revision to the SIP on May 10, 2019.[18]

CAA sections 110(a)(1) and (2) and 110(l) require each state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP or SIP revision to the EPA. To meet this requirement, every SIP submission should include evidence that adequate public notice was given and that an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

CAA section 110(k)(1)(B) requires the EPA to determine whether a SIP submission is complete within 60 days of receipt. This section also provides that any plan that the EPA has not affirmatively determined to be complete or incomplete will become complete by operation of law six months after the date of submission. The EPA's SIP completeness criteria are found in 40 CFR part 51, Appendix V.

A. 2018 $PM_{2.5}$ Plan

The following portions of the 2018 $PM_{2.5}$ Plan and related support documents address the Serious area requirements for the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley: (i) Chapter 4 (''Attainment Strategy for $PM_{2.5}$''); (ii) Chapter 6 (''Demonstration of Federal Requirements for the 2006 $PM_{2.5}$ Standard: Serious Plan and Extension Request'');[19] (iii) numerous appendices to the 2018 $PM_{2.5}$ Plan; (iv) CARB's ''Staff Report, Review of the San Joaquin Valley 2018 Plan for the 1997, 2006, and 2012 $PM_{2.5}$ Standards,'' release date December 21, 2018 (''CARB Staff Report'');[20] and (v) the State's and District's board resolutions adopting the 2018 $PM_{2.5}$ Plan (CARB Resolution 19–1 and SJVUAPCD Governing Board Resolution 18–11–16).[21] The SJVUAPCD Governing Board Resolution 18–11–16 includes emission reduction commitments on which the SJV $PM_{2.5}$ Plan relies.[22]

The appendices to the 2018 $PM_{2.5}$ Plan, in order of their evaluation in this preamble, include: (i) App. B (''Emissions Inventory''); (ii) App. A (''Ambient $PM_{2.5}$ Data Analysis''); (iii) a plan precursor demonstration and clarifications, including App. G (''Precursor Demonstration'') and Attachment A (''Clarifying information for the San Joaquin Valley 2018 Plan regarding model sensitivity related to ammonia and ammonia controls'') to the CARB Staff Report; (iv) control strategy appendices, including App. C (''Stationary Source Control Measure Analyses''), App. D (''Mobile Source Control Measures Analyses''), and App. E (''Incentive-Based Strategy''); (v) modeling appendices, including App. J (''Modeling Emission Inventory''), App. K (''Modeling Attainment Demonstration''), and App. L (''Modeling Protocol''); (vi) App. H (''RFP, Quantitative Milestones, and Contingency''); and (vii) App. I (''New Source Review and Emission Reduction Credits''). The 2018 $PM_{2.5}$ Plan addresses motor vehicle emission budget (MVEB) requirements in the ''Transportation Conformity'' section of App. D (pages D–119 to D–131). The 2018 $PM_{2.5}$ Plan also includes an Executive Summary, Introduction (Ch. 1), chapters on ''Air Quality Challenges and Trends'' (Ch. 2) and ''Health Impacts and Health Risk Reduction Strategy'' (Ch. 3), and an appendix on ''Public Education and Technology Advancement'' (App. F).

The District provided public notice and opportunity for public comment prior to its November 15, 2018 public hearing on and adoption of the 2018 $PM_{2.5}$ Plan.[23] CARB also provided public notice and opportunity for public comment prior to its January 24, 2019 public hearing on and adoption of the 2018 $PM_{2.5}$ Plan.[24] The SIP submission includes proof of publication of notices for the respective public hearings. It also includes copies of the written and oral comments received during the State's and District's public review processes and the agencies' responses thereto.[25] Therefore, we find that the 2018 $PM_{2.5}$ Plan meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and 40 CFR 51.102. The 2018 $PM_{2.5}$ Plan became complete by operation of law on November 10, 2019. The sanctions clocks that were triggered by our December 6, 2018 findings that the State had failed to submit complete SIP submissions addressing the statutory requirements that apply to areas designated nonattainment for the $PM_{2.5}$ NAAQS, however, will continue to run until the EPA affirmatively determines, by letter to the Governor of California, that CARB has submitted a complete SIP submission addressing the identified deficiencies.[26]

B. Valley State SIP Strategy

CARB developed the ''Revised Proposed 2016 State Strategy for the State Implementation Plan'' (''2016 State Strategy'') to support attainment planning in the San Joaquin Valley and Los Angeles-South Coast Air Basin (''South Coast'') ozone nonattainment areas.[27] In its resolution adopting the 2016 State Strategy (CARB Resolution 17–7), the Board found that the 2016 State Strategy would achieve 6 tons per day (tpd) of NO_X emission reductions and 0.1 tpd of direct $PM_{2.5}$ emission reductions in the San Joaquin Valley by 2025 and directed CARB staff to work with the SJVUAPCD to identify additional reductions from sources under District regulatory authority as part of a comprehensive plan to attain the $PM_{2.5}$ standards for the San Joaquin Valley and to return to the Board with a commitment to achieve additional emission reductions from mobile sources.[28]

[18] Letter dated May 9, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9. The EPA is not, at this time, proposing to act on those portions of the ''2018 Plan for the 1997, 2006, and 2012 $PM_{2.5}$ Standards'' or the ''San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan'' that pertain to the 1997 $PM_{2.5}$ NAAQS, the 2012 $PM_{2.5}$ NAAQS, or Serious area contingency measures. We intend to act on these portions of the submitted SIP revisions in subsequent rulemakings.

[19] Chapter 5 (''Demonstration of Federal Requirements for the 1997 $PM_{2.5}$ Standard'') and Chapter 7 (''Demonstration of Federal Requirements for the 2012 $PM_{2.5}$ Standard'') of the 2018 $PM_{2.5}$ Plan pertain to the 1997 $PM_{2.5}$ NAAQS and 2012 $PM_{2.5}$ NAAQS, respectively. The EPA intends to act on these portions of the 2018 $PM_{2.5}$ Plan in separate rulemakings.

[20] The CARB Staff Report includes CARB's review of, among other things, the 2018 $PM_{2.5}$ Plan's control strategy and attainment demonstration. Letter dated December 11, 2019 from Richard Corey, Executive Officer, CARB to Mike Stoker, Regional Administrator, EPA Region IX, transmitting the CARB Staff Report [on the 2018 $PM_{2.5}$ Plan].

[21] CARB Resolution 19–1, ''2018 $PM_{2.5}$ State Implementation Plan for the San Joaquin Valley,'' January 24, 2019, and SJVUAPCD Governing Board Resolution 18–11–16, ''Adopting the [SJVUAPCD] 2018 Plan for the 1997, 2006, and 2012 $PM_{2.5}$ Standards,'' November 15, 2018.

[22] SJVUAPCD Governing Board Resolution 18–11–16, paragraph 6, 10–11.

[23] SJVUAPCD, ''Notice of Public Hearing for Adoption of Proposed 2018 $PM_{2.5}$ Plan for the 1997, 2006, and 2012 Standards,'' October 16, 2018, and SJVUAPCD Governing Board Resolution 18–11–16.

[24] CARB, ''Notice of Public Meeting to Consider the 2018 $PM_{2.5}$ State Implementation Plan for the San Joaquin Valley,'' December 21, 2018, and CARB Resolution 19–1.

[25] CARB, ''Board Meeting Comments Log,'' March 29, 2019; J&K Court Reporting, LLC, ''Meeting, State of California Air Resources Board,'' January 24, 2019 (transcript of CARB's public hearing), and 2018 $PM_{2.5}$ Plan, App. M (''Summary of Significant Comments and Responses'').

[26] 83 FR 62720 (citing required process for termination of sanctions clocks in 40 CFR 52.31(d)(5)).

[27] The EPA has approved certain commitments made by CARB in the 2016 State Strategy for purposes of attaining the ozone NAAQS in the San Joaquin Valley and South Coast ozone nonattainment areas. See, *e.g.,* 84 FR 3302 (February 12, 2019) and 84 FR 52005 (October 1, 2019).

[28] CARB Resolution 17–7, ''2016 State Strategy for the State Implementation Plan,'' March 23, 2017, 6–7.

CARB responded to this resolution by developing and adopting the ''San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan'' (''Valley State SIP Strategy'') to support the 2018 $PM_{2.5}$ Plan. The State's May 10, 2019 SIP submission incorporates by reference the Valley State SIP Strategy as adopted by CARB on October 25, 2018 and submitted to the EPA on November 16, 2018.[29]

The Valley State SIP Strategy includes an Introduction (Ch. 1), a chapter on ''Measures'' (Ch. 2), and a ''Supplemental State Commitment from the Proposed State Measures for the Valley'' (Ch. 3). Much of the content of the Valley State SIP Strategy is reproduced in Chapter 4 (''Attainment Strategy for $PM_{2.5}$'') of the 2018 $PM_{2.5}$ Plan.[30] The Valley State SIP Strategy also includes CARB Resolution 18–49, which, among other things, commits CARB to achieve specific amounts of NO_X and $PM_{2.5}$ emission reductions by specific years, for purposes of attaining the $PM_{2.5}$ NAAQS in the San Joaquin Valley.[31]

CARB provided the required public notice and opportunity for public comment prior to its October 25, 2018 public hearing on and adoption of the Valley State SIP Strategy.[32] The SIP submission includes proof of publication of the public notice for this public hearing. It also includes copies of the written and oral comments received during the State's public review process and CARB's responses thereto.[33] Therefore, we find that the Valley State SIP Strategy meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and 40 CFR 51.102.

The Valley State SIP Strategy became complete by operation of law on November 10, 2019. The sanctions clocks that were triggered by our December 6, 2018 findings that the State had failed to submit complete SIP submissions addressing the statutory requirements that apply to areas designated nonattainment for the $PM_{2.5}$ NAAQS, however, will continue to run until the EPA affirmatively determines, by letter to the Governor of California, that CARB has submitted a complete SIP submission addressing the identified deficiencies.[34]

III. Clean Air Act Requirements for $PM_{2.5}$ Serious Area Plans

A. Requirements for $PM_{2.5}$ Serious Area Plans

Upon reclassification of a Moderate nonattainment area as a Serious nonattainment area under subpart 4 of part D, title I of the CAA, the Act requires the state to make a SIP submission that addresses the following Serious nonattainment area requirements:[35]

(1) A comprehensive, accurate, current inventory of actual emissions from all sources of $PM_{2.5}$ and $PM_{2.5}$ precursors in the area (CAA section 172(c)(3));

(2) Provisions to assure that the best available control measures (BACM), including best available control technology (BACT), for the control of direct $PM_{2.5}$ and $PM_{2.5}$ precursors shall be implemented no later than four years after the area is reclassified (CAA section 189(b)(1)(B));

(3) A demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than the end of the tenth calendar year after designation as a nonattainment area (*i.e.,* December 31, 2019, for the San Joaquin Valley for the 2006 $PM_{2.5}$ NAAQS), or where the state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by such date is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable that is no more than five years later (CAA sections 188(c)(2) and 189(b)(1)(A));

(4) Plan provisions that require reasonable further progress (RFP) (CAA section 172(c)(2));

(5) Quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate RFP toward attainment by the applicable date (CAA section 189(c));

(6) Provisions to assure that control requirements applicable to major stationary sources of $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where the state demonstrates to the EPA's satisfaction that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the area (CAA section 189(e));

(7) Contingency measures to be implemented if the area fails to meet RFP or to attain by the applicable attainment date (CAA section 172(c)(9)); and

(8) A revision to the nonattainment new source review (NSR) program to lower the applicable ''major stationary source''[36] thresholds from 100 tons per year (tpy) to 70 tpy (CAA section 189(b)(3)).

Serious area plans must also satisfy the requirements for Moderate area plans in CAA section 189(a), to the extent the state has not already met those requirements in the Moderate area plan submitted for the area. In addition, the Serious area plan must meet the general requirements applicable to all SIP submissions under section 110 of the CAA, including the requirement to provide necessary assurances that the implementing agencies have adequate personnel, funding, and authority under section 110(a)(2)(E); and the requirements concerning enforcement provisions in section 110(a)(2)(C).

The EPA provided its preliminary views on the CAA's requirements for particulate matter plans under part D, title I of the Act in the following guidance documents: (1) ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (''General Preamble'');[37] (2) ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental'' (''General Preamble Supplement'');[38] and (3) ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (''General Preamble Addendum'').[39]

[29] Letter dated May 9, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9, 2.

[30] For example, Table 2 (proposed mobile source measures and schedule), Table 3 (emissions reductions from proposed mobile source measures), and Table 4 (summary of emission reduction measures) of the Valley State SIP Strategy correspond to Tables 4–8, 4–9, and 4–7, respectively, of the 2018 $PM_{2.5}$ Plan, Chapter 4.

[31] CARB Resolution 18–49, ''San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan,'' October 25, 2018, 5.

[32] CARB, ''Notice of Public Meeting to Consider the San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan,'' September 21, 2018, and CARB Resolution 18–49.

[33] CARB, ''Board Meeting Comments Log,'' November 2, 2018 and compilation of written comments; and J&K Court Reporting, LLC, ''Meeting, State of California Air Resources Board,'' October 25, 2018 (transcript of CARB's public hearing).

[34] 83 FR 62720 (citing required process for termination of sanctions clocks in 40 CFR 52.31(d)(5)).

[35] 81 FR 58010, 58074–58075.

[36] For any Serious area, the terms ''major source'' and ''major stationary source'' include any stationary source that emits or has the potential to emit at least 70 tons per year of $PM_{2.5}$. CAA section 189(b)(3) and 40 CFR 51.165(a)(1)(iv)(A)(*1*)(*vii*) and (*viii*) (defining ''major stationary source'' in serious $PM_{2.5}$ nonattainment areas).

[37] 57 FR 13498 (April 16, 1992).

[38] 57 FR 18070 (April 28, 1992).

[39] 59 FR 41998 (August 16, 1994).

More recently, in an August 24, 2016 final rule entitled, ''Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements'' (''$PM_{2.5}$ SIP Requirements Rule''), the EPA established regulatory requirements and provided further interpretive guidance on the statutory SIP requirements that apply to areas designated nonattainment for the $PM_{2.5}$ standards.[40] We discuss these regulatory requirements and interpretations of the Act as appropriate in our evaluation of the SJV $PM_{2.5}$ Plan below.

B. Requirements for Extension of a Serious Area Attainment Date

Under section 188(e) of the Act, a state may apply to the EPA for a single extension of the Serious area attainment date by up to five years, which the EPA may grant if the state satisfies certain conditions. Before the EPA may extend the attainment date for a Serious area under section 188(e), the state must:

(1) Apply for an extension of the attainment date beyond the statutory attainment date;

(2) demonstrate that attainment by the statutory attainment date is impracticable;

(3) demonstrate that it has complied with all requirements and commitments pertaining to the area in the implementation plan;

(4) demonstrate to the satisfaction of the Administrator that the plan for the area includes the ''most stringent measures'' that are included in the implementation plan of any state or are achieved in practice in any state, and can feasibly be implemented in the area; and

(5) submit a demonstration of attainment by the most expeditious alternative date practicable.[41]

A state must seek an extension of the Serious area attainment date at the same time it submits the Serious area attainment plan, if the state cannot demonstrate attainment by the otherwise applicable statutory attainment date.[42]

Under the $PM_{2.5}$ SIP Requirements Rule, a state seeking an extension of the Serious area attainment date under section 188(e) must submit a Serious area attainment plan that meets the following requirements:

(1) Base year and attainment projected emissions inventory requirements in 40 CFR 51.1008(b);

(2) the most stringent measure requirement in 40 CFR 51.1005(b)(1)(iii) and 51.1010(b), and best available control measures not previously submitted;

(3) attainment demonstration and modeling requirements in 40 CFR 51.1011 and 40 CFR 51.1005(b)(1)(i);

(4) reasonable further progress requirements in 40 CFR 51.1012;

(5) quantitative milestone requirements in 40 CFR 51.1013;

(6) contingency measure requirements in 40 CFR 51.1014; and

(7) nonattainment new source review plan requirements pursuant to 40 CFR 51.165.[43]

In addition to establishing specific preconditions for an extension of the Serious area attainment date, section 188(e) provides that the EPA may consider a number of factors in determining whether to grant an extension and the appropriate length of time for any such extension. These factors are: (1) The nature and extent of nonattainment in the area, (2) the types and numbers of sources or other emitting activities in the area (including the influence of uncontrollable natural sources and trans-boundary emissions from foreign countries), (3) the population exposed to concentrations in excess of the standard in the area, (4) the presence and concentrations of potentially toxic substances in the mix of particulate emissions in the area, and (5) the technological and economic feasibility of various control measures.[44] Notably, neither the statutory requirements nor the discretionary factors identified in section 188(e) include the specific ambient air quality conditions in section 188(d)(2), which must be met for an area to qualify for an extension of a Moderate area attainment date.

We evaluate the state's request for an extension of the Serious area attainment date in accordance with these statutory criteria and regulatory requirements, as described below.

Step 1: Demonstrate that attainment by the statutory Serious area attainment date is impracticable.

Section 188(e) authorizes the EPA to grant a state request for an extension of the Serious area attainment date if, among other things, attainment by the date established under section 188(c) would be impracticable. In order to demonstrate impracticability, the plan must show that the implementation of BACM and BACT (and additional feasible measures) on relevant source categories will not bring the area into attainment by the statutory Serious area attainment date.[45] For the San Joaquin Valley, the Serious area attainment date for the 2006 $PM_{2.5}$ NAAQS under section 188(c)(2) was December 31, 2019.[46] BACM, including BACT, is the required level of control for a Serious area that must be in place before the Serious area attainment date. Therefore, we interpret the Act as requiring that a state provide for at least the implementation of BACM, including BACT, before it can claim that is impracticable to attain by the statutory deadline. The statutory provision for demonstrating impracticability requires that the demonstration be based on air quality modeling.[47]

Step 2: Comply with all requirements and commitments in the applicable implementation plan.

A second precondition for an extension of the Serious area attainment under section 188(e) is a showing that the state has complied with all requirements and commitments pertaining to that area in the implementation plan. We interpret this criterion to mean that the state has implemented the control measures and commitments in the SIP revisions it has submitted to address the applicable requirements in CAA sections 172 and 189 for $PM_{2.5}$ nonattainment areas. For a Serious area attainment date extension request being submitted simultaneously with the initial Serious area attainment plan for the area, the EPA interprets section 188(e) not to require the area to have a fully approved Moderate area attainment plan, and to allow for extension of the attainment date if the area has complied with all Moderate area requirements and commitments pertaining to that area in the state's submitted Moderate area implementation plan.[48] This

[40] 81 FR 58010 (August 24, 2016).

[41] CAA section 188(e) and 40 CFR 51.1005(b). For a discussion of EPA's interpretation of the requirements of section 188(e), see the preamble to the $PM_{2.5}$ SIP Requirements Rule, 81 FR 58010, 58094–58097, and the General Preamble Addendum, 59 FR 41998, 42002.

[42] 40 CFR 51.1005(b)(2).

[43] 40 CFR 51.1005(b)(2). With respect to contingency measures and nonattainment new source review plan provisions, the EPA interprets section 51.1005(b)(2) to require submission of complete plan provisions addressing these requirements but not to require the EPA to approve such provisions before granting a section 188(e) extension request. 81 FR 58010, 58094–58095.

[44] CAA section 188(e).

[45] 81 FR 58010, 58094.

[46] Under CAA section 188(c)(2), the attainment date for a Serious area ''shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment. . . .'' The EPA designated the San Joaquin Valley as nonattainment for the 2006 $PM_{2.5}$ NAAQS effective December 14, 2009. 74 FR 58688. Therefore, the latest permissible attainment date under section 188(c)(2), for purposes of the 2006 $PM_{2.5}$ NAAQS in this area, is December 31, 2019.

[47] CAA section 189(b)(1)(A).

[48] 81 FR 58010, 58095.

interpretation is based on the plain language of section 188(e), which requires the state to comply with all requirements and commitments pertaining to the area in the implementation plan.[49]

Step 3: Demonstrate the inclusion of the most stringent measures.

A third precondition for an extension of the Serious area attainment under section 188(e) is for the state to demonstrate to the satisfaction of the Administrator that the plan for the area includes the most stringent measures that are included in the implementation plan of any state, or are achieved in practice in any state, and can feasibly be implemented in the area. The EPA has defined the term ''most stringent measure'' (MSM) as ''any permanent and enforceable control measure that achieves the most stringent emissions reductions in direct $PM_{2.5}$ emissions and/or emissions of $PM_{2.5}$ plan precursors from among those control measures which are either included in the SIP for any other NAAQS, or have been achieved in practice in any state, and that can feasibly be implemented in the relevant $PM_{2.5}$ NAAQS nonattainment area.'' [50] The Act does not specify an implementation deadline for MSM, but because the clear intent of section 188(e) is to minimize the length of any attainment date extension, the EPA has interpreted the Act to require implementation of MSM as expeditiously as practicable and no later than one year before the extended Serious area attainment date identified by the state in its extension request.[51]

An MSM demonstration must satisfy the requirements of the $PM_{2.5}$ SIP Requirements Rule as described in the preamble to the rule, as follows: [52]

(1) Update the emission inventory to identify all sources of direct $PM_{2.5}$ and all $PM_{2.5}$ precursor emissions in the nonattainment area;

(2) Identify all potential MSM to reduce emissions from sources of direct $PM_{2.5}$ and $PM_{2.5}$ plan precursors that are approved into any state implementation plan or used in practice in any state;

(3) Compare the potential MSM for each relevant source category to the measures, if any, already adopted for that source category in the nonattainment area to determine whether such potential MSM would further reduce emissions and, where the state chooses to reject a measure from further consideration, demonstrate that it is not technologically or economically feasible to implement the measure in whole or in part within five years after the applicable attainment date for the area; and

(4) Adopt and implement all potential MSM identified through this process that collectively will achieve attainment as expeditiously as practicable and no later than five years after the applicable attainment date, except those measures for which the state has provided reasoned justification for rejection, based on technological or economic feasibility.

The level of control required under the MSM standard may depend on how well other areas have chosen to control their sources. If a source category has not been well controlled in other areas, MSM could theoretically result in a low level of control. This contrasts with BACM and BACT, which represent the ''best'' level of control feasible for an area, regardless of whether it has been implemented elsewhere. Thus, in some cases the MSM requirement may result in no more controls or emission reductions than those that result from implementing BACM and BACT. However, given the strategy in the nonattainment provisions of the Act to offset longer attainment timeframes with more stringent emission control requirements, we interpret the MSM provision so as to increase the potential that it will result in additional controls beyond the set of measures adopted as BACM and BACT. Accordingly, states are required to reanalyze any measures that were rejected during the state's BACM and BACT analysis to see if they have become feasible in the area given the longer attainment date sought under CAA section 188(e) and changes that have occurred in the interim that improve the feasibility of such measures.[53] MSM may also involve increasing the coverage of measures that were previously adopted as BACM and BACT.[54]

Notably, the ''to the satisfaction of the Administrator'' qualifier on the MSM requirement indicates that Congress granted the EPA considerable discretion in determining whether a plan in fact includes MSM, recognizing that the overall intent of section 188(e) is that the Agency grant as short an extension as practicable, consistent with the objective of expeditious attainment of the NAAQS. For this reason, the EPA will apply greater scrutiny to the evaluation of MSM for source categories that contribute the most to the $PM_{2.5}$ problem in the SJV and less scrutiny to source categories that contribute less to the $PM_{2.5}$ problem.

Step 4: Demonstrate attainment by the most expeditious alternative date practicable.

Section 189(b)(1)(A) requires that the Serious area plan demonstrate attainment, using air quality modeling, by the most expeditious date practicable after the statutory Serious area attainment date.[55] Evaluation of a modeled attainment demonstration consists of two parts: Evaluation of the technical adequacy of the modeling itself and evaluation of the control measures that are relied on to demonstrate attainment. The EPA's determination of whether the plan provides for attainment by the most expeditious date practicable depends on whether the plan provides for implementation of BACM and BACT no later than the statutory implementation deadline, MSM as expeditiously as practicable and no later than one year before the extended attainment date requested by the state, and any other technologically and economically feasible measures that will result in attainment as expeditiously as practicable.

Step 5: Apply for an attainment date extension.

Finally, the state must apply in writing to the EPA for an extension of a Serious area attainment date, and this request must accompany the modeled attainment demonstration showing attainment by the most expeditious alternative date practicable. Additionally, the state must provide the public reasonable notice and opportunity for a public hearing on the attainment date extension request before submitting it to the EPA, in accordance with the requirements for SIP revisions in CAA section 110.

IV. Review of the San Joaquin Valley $PM_{2.5}$ Serious Area Plan and Extension Application

A. Emissions Inventory

1. Statutory and Regulatory Requirements

CAA section 172(c)(3) requires that each SIP include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the nonattainment area. The EPA discussed the emissions inventory requirements that apply to $PM_{2.5}$ nonattainment areas,

[49] The Ninth Circuit Court of Appeals upheld this interpretation of section 188(e) in *Vigil* v. *Leavitt,* 366 F.3d 1025, amended at 381 F.3d 826 (9th Cir. 2004).

[50] 40 CFR 51.1000 and 81 FR 58010, 58096–58097; see also General Preamble Addendum, 42010 and 65 FR 19964, 19968 (April 13, 2000).

[51] 81 FR 58010, 58097.

[52] 40 CFR 51.1010(b) and 81 FR 58010, 58095–58097.

[53] Id.

[54] Id. at 58096.

[55] Id. at 58097.

including Serious area requirements, in the $PM_{2.5}$ SIP Requirements Rule and codified these requirements in 40 CFR 51.1008.[56] The EPA has also issued guidance concerning emissions inventories for $PM_{2.5}$ nonattainment areas.[57]

The base year emissions inventory should provide a state's best estimate of actual emissions from all sources of the relevant pollutants in the area, *i.e.,* all emissions that contribute to the formation of a particular NAAQS pollutant. For the $PM_{2.5}$ NAAQS, the base year inventory must include direct $PM_{2.5}$ emissions, separately reported filterable and condensable $PM_{2.5}$ emissions,[58] and emissions of all chemical precursors to the formation of secondary $PM_{2.5}$: nitrogen oxides (NO_X), sulfur dioxide (SO_2), volatile organic compounds (VOC), and ammonia (NH_3).[59] In addition, the emissions inventory base year for a Serious $PM_{2.5}$ nonattainment area must be one of the three years for which monitored data were used to reclassify the area to Serious, or another technically appropriate year justified by the state in its Serious area SIP submission.[60]

A state's SIP submission must include documentation explaining how it calculated emissions data for the inventory. In estimating mobile source emissions, a state should use the latest emissions models and planning assumptions available at the time the SIP is developed. The latest EPA-approved version of California's mobile source emission factor model for estimating tailpipe, brake, and tire wear emissions from on-road mobile sources that was available during the State's and District's development of the SJV $PM_{2.5}$ Plan was EMFAC2014.[61] Following CARB's submission of the Plan, the EPA approved EMFAC2017, the latest revision to this mobile source emissions model, and established grace periods during which EMFAC2014 may continue to be used for transportation conformity purposes (*i.e.,* new regional emissions analyses and CO, PM_{10}, and $PM_{2.5}$ hot-spot analyses).[62] States are also required to use the EPA's ''Compilation of Air Pollutant Emission Factors'' (''AP–42'') road dust method for calculating re-entrained road dust emissions from paved roads.[63] [64]

In addition to the base year inventory submitted to meet the requirements of CAA section 172(c)(3), the state must also submit a projected attainment year inventory and emissions projections for each RFP milestone year.[65] These future emissions projections are necessary components of the attainment demonstration required under CAA section 189(a)(1) and (b)(1) and the demonstration of RFP required under section 172(c)(2).[66] Emissions projections for future years (which are referred to in the Plan as ''forecasted inventories'') should account for, among other things, the ongoing effects of economic growth and adopted emissions control requirements. The state's SIP submission should include documentation to explain how the emissions projections were calculated. Where a state chooses to allow new major stationary sources or major modifications to use emission reductions credits (ERCs) that were generated through shutdown or curtailed emissions units occuring before the base year of an attainment plan, the projected emissions inventory used to develop the attainment demonstration must explicitly include the emissions from such previously shutdown or curtailed emissions units.[67]

2. Summary of State's Submission

Summaries of the planning emissions inventories for direct $PM_{2.5}$ and $PM_{2.5}$ precursors (NO_X, SO_X,[68] VOC,[69] and ammonia) and the documentation for the inventories for the San Joaquin Valley $PM_{2.5}$ nonattainment area are located in Appendix B (''Emissions Inventory'') and Appendix I (''New Source Review and Emission Reduction Credits'') of the 2018 $PM_{2.5}$ Plan.

CARB and District staff worked together to develop the emissions inventories for the San Joaquin Valley $PM_{2.5}$ nonattainment area. The District worked with operators of the stationary facilities in the nonattainment area to develop the stationary source emissions estimates. The responsibility for developing estimates for the area sources such as agricultural burning and paved road dust was shared by the District and CARB. CARB staff developed the emissions inventories for both on-road and non-road mobile sources.[70]

The Plan includes winter (24-hour) average and annual average daily planning inventories for the 2013 base year, which were modeled from the 2012 emissions inventory, and estimated emissions for forecasted years from 2017 through 2028 for the attainment and RFP demonstrations for the 1997, 2006, and 2012 $PM_{2.5}$ NAAQS.[71] Today we are proposing action on those winter average and annual average emissions inventories necessary to support the attainment plan and section 188(e) extension

[56] 81 FR 58010, 58078–58079.

[57] ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' U.S. EPA, May 2017 (''Emissions Inventory Guidance''), available at *https://www.epa.gov/air-emissions-inventories/air-emissions-inventory-guidance-implementation-ozone-and-particulate.*

[58] The Emissions Inventory Guidance identifies the types of sources for which the EPA expects states to provide condensable PM emission inventories. Emissions Inventory Guidance, section 4.2.1 (''Condensable PM Emissions''), 63–65.

[59] 40 CFR 51.1008.

[60] 40 CFR 51.1008(b)(1).

[61] 80 FR 77337 (December 14, 2015). EMFAC is short for *EM*ission *FAC*tor. The EPA announced the availability of the EMFAC2014 model, effective on the date of publication in the **Federal Register**, for use in state implementation plan development and transportation conformity in California. Upon that action, EMFAC2014 was required to be used for all new regional emissions analyses and CO, PM_{10}, and $PM_{2.5}$ hot-spot analyses that were started on or after December 14, 2017, which was the end of the grace period for using the prior mobile source emissions model, EMFAC2011.

[62] 84 FR 41717 (August 15, 2019). The grace period for new regional emissions analyses begins on August 15, 2019 and ends on August 16, 2021, while the grace period for hot-spot analyses begins on August 15, 2019 and ends on August 17, 2020. 84 FR 41717, 41720.

[63] The EPA released an update to AP–42 in January 2011 that revised the equation for estimating paved road dust emissions based on an updated data regression that included new emission tests results. 76 FR 6328 (February 4, 2011). CARB used the revised 2011 AP–42 methodology in developing on-road mobile source emissions; see *https://www.arb.ca.gov/ei/areasrc/fullpdf/full7-9_2016.pdf.*

[64] AP–42 has been published since 1972 as the primary source of the EPA's emission factor information. *https://www.epa.gov/air-emissions-factors-and-quantification/ap-42-compilation-air-emissions-factors.* It contains emission factors and process information for more than 200 air pollution source categories. A source category is a specific industry sector or group of similar emitting sources. The emission factors have been developed and compiled from source test data, material balance studies, and engineering estimates.

[65] 40 CFR 51.1008 and 51.1012. Also, see Emissions Inventory Guidance, section 3 (''SIP Inventory Requirements and Recommendations'').

[66] 40 CFR 51.1004, 51.1008, 51.1011, and 51.1012.

[67] 40 CFR 51.165(a)(3)(ii)(C)(*1*).

[68] The SJV $PM_{2.5}$ Plan generally uses ''sulfur oxides'' or ''SO_X'' in reference to SO_2 as a precursor to the formation of $PM_{2.5}$. We use SO_X and SO_2 interchangeably throughout this notice.

[69] The SJV $PM_{2.5}$ Plan generally uses ''reactive organic gasses'' or ''ROG'' in reference to VOC as a precursor to the formation of $PM_{2.5}$. We use ROG and VOC interchangeably throughout this notice.

[70] The EPA regulations refer to ''non-road'' vehicles and engines whereas CARB regulations refer to ''Other Mobile Sources'' or ''off-road'' vehicles and engines. These terms refer to the same types of vehicles and engines. We refer herein to such vehicles and engines as ''non-road'' sources.

[71] 2018 $PM_{2.5}$ Plan, App. B, B–18 to B–19. The winter average daily planning inventory corresponds to the months of November through April, when daily, ambient $PM_{2.5}$ concentrations are typically highest. The base year inventory is from the California Emissions Inventory Development and Reporting System (CEIDARS) and future year inventories were estimated using the California Emission Projection Analysis Model (CEPAM), 2016 SIP Baseline Emission Projections, version 1.05.

request for the 2006 $PM_{2.5}$ NAAQS—*i.e.,* the 2013 base year inventory, forecasted inventories for the RFP milestone years of 2017, 2020, 2023, and 2026, and the forecasted 2024 attainment year inventory. Each inventory includes emissions from stationary, area, on-road, and non-road sources.

The base year inventories for stationary sources were developed using actual emissions reports made by facility operators. The State developed the base year emissions inventory for area sources using the most recent models and methodologies available at the time the State was developing the Plan.[72] The Plan also includes background, methodology, and inventories of condensable and filterable $PM_{2.5}$ emissions from stationary point and non-point combustion sources that are expected to generate condensable $PM_{2.5}$.[73] CARB used EMFAC2014 to estimate on-road motor vehicle emissions based on transportation activity data from the 2014 Regional Transportation Plan (2014 RTP) adopted by the transportation planning agencies in the San Joaquin Valley.[74] Re-entrained paved road dust emissions were calculated using a CARB methodology consistent with the EPA's AP–42 road dust methodology.[75]

CARB developed the emissions forecasts by applying growth and control profiles to the base year inventory. CARB's mobile source emissions projections take into account predicted activity rates and vehicle fleet turnover by vehicle model year and adopted controls.[76] In addition, the Plan states that the District is providing for use of pre-base year ERCs as offsets by accounting for such ERCs in the projected 2025 emissions inventory.[77] The 2018 $PM_{2.5}$ Plan identifies growth factors, control factors, and estimated offset use between 2013 and 2025 for direct $PM_{2.5}$, NO_X, SO_X, and VOC emissions by source category and lists all pre-base year ERCs issued by the District for PM_{10}, NO_X, SO_X, and VOC emissions, by facility.[78]

Table 1 provides a summary of the winter (24-hour) average inventories in tons per day (tpd) of direct $PM_{2.5}$ and NO_X emissions for the 2013 base year. Table 2 provides a summary of annual average inventories of direct $PM_{2.5}$ and NO_X emissions for the 2013 base year. These annual average inventories provide the basis for the control measure analysis and the RFP and attainment demonstrations in the SJV $PM_{2.5}$ Plan.

TABLE 1—SAN JOAQUIN VALLEY WINTER AVERAGE EMISSIONS INVENTORY FOR DIRECT $PM_{2.5}$ AND $PM_{2.5}$ PRECURSORS FOR THE 2013 BASE YEAR

[tpd]

Category	Direct $PM_{2.5}$	NO_X	SO_X	VOC	Ammonia
Stationary Sources	8.5	35.0	6.9	86.6	13.9
Area Sources	41.4	11.5	0.5	156.8	291.5
On-Road Mobile Sources	6.4	188.7	0.6	51.1	4.4
Non-Road Mobile Sources	4.4	65.3	0.3	27.4	0.0
Totals [a]	60.8	300.5	8.4	321.9	309.8

Source: 2018 $PM_{2.5}$ Plan, Appendix B, Tables B–1 through B–5.
[a] Totals reflect disaggregated emissions and may not add exactly as shown here due to rounding.

TABLE 2—SAN JOAQUIN VALLEY ANNUAL AVERAGE EMISSIONS INVENTORY FOR DIRECT $PM_{2.5}$ AND $PM_{2.5}$ PRECURSORS FOR THE 2013 BASE YEAR

[tpd]

Category	Direct $PM_{2.5}$	NO_X	SO_X	VOC	Ammonia
Stationary Sources	8.8	38.6	7.2	87.1	13.9
Area Sources	41.5	8.1	0.3	153.4	310.9
On-Road Mobile Sources	6.4	183.1	0.6	49.8	4.4
Non-Road Mobile Sources	5.8	87.4	0.3	33.8	0.0
Totals [a]	62.5	317.2	8.5	324.1	329.2

Source: 2018 $PM_{2.5}$ Plan, Appendix B, Tables B–1 through B–5.
[a] Totals reflect disaggregated emissions and may not add exactly as shown here due to rounding.

3. EPA's Evaluation and Proposed Action

The inventories in the 2018 $PM_{2.5}$ Plan are based on the most current and accurate information available to the State and District at the time they were developing the Plan and inventories, including the latest version of California's mobile source emissions model that had been approved by the EPA at the time, EMFAC2014. The inventories comprehensively address all source categories in the San Joaquin Valley $PM_{2.5}$ nonattainment area and are consistent with the EPA's inventory guidance.

In accordance with 40 CFR 51.1008(b)(1), the 2013 base year is one of the three years for which monitored data were used for reclassifying the San Joaquin Valley to Serious for the 2006 $PM_{2.5}$ NAAQS,[79] and it represents actual annual average emissions of all sources within the nonattainment area. Direct $PM_{2.5}$ and $PM_{2.5}$ precursors are included in the inventories, and filterable and condensable direct $PM_{2.5}$ emissions are identified separately.

With respect to future year baseline projections, we have reviewed the growth and control factors and find them acceptable and thus conclude that

[72] 2018 $PM_{2.5}$ Plan, App. B, section B.2 (''Emissions Inventory Summary and Methodology'').
[73] Id. at B–42 to B–44.
[74] Id. at B–37.
[75] Id. at B–28.
[76] Id. at B–18, B–19.
[77] 2018 $PM_{2.5}$ Plan, App. I, I–1 through I–5.
[78] Id. at App. I, Tables I–1 through I–5.
[79] 81 FR 2993, 2994.

the future baseline emissions projections in the 2018 $PM_{2.5}$ Plan reflect appropriate calculation methods and the latest planning assumptions. Also, as a general matter, the EPA will approve a SIP submission that takes emissions reduction credit for a control measure only where the EPA has approved the measure as part of the SIP. Thus, for example, to take credit for the emissions reductions from newly-adopted or amended District rules for stationary sources, the related rules must be approved by the EPA into the SIP. See the EPA's ''Technical Support Document, General Evaluation, San Joaquin Valley $PM_{2.5}$ Plan for the 2006 $PM_{2.5}$ NAAQS,'' February 2020 (''EPA's General Evaluation TSD''). Table III–A of EPA's General Evaluation TSD shows District rules with post-2013 compliance dates that are reflected in the future year baseline inventories, along with information on the EPA's approval of these rules, and shows that stationary source emissions reductions assumed by the SJV $PM_{2.5}$ Plan for future years are supported by rules approved as part of the California SIP for the San Joaquin Valley. With respect to mobile sources, the EPA has taken action in recent years to approve CARB mobile source regulations into the state-wide portion of the California SIP. We therefore find that the future year baseline projections in the 2018 $PM_{2.5}$ Plan are properly supported by SIP-approved stationary and mobile source measures.[80]

For these reasons, we are proposing to approve the 2013 base year emissions inventory in the 2018 $PM_{2.5}$ Plan as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.1008. We are also proposing to find that the forecasted inventories in the Plan provide an adequate basis for the BACM, MSM, RFP, and attainment demonstrations in the SJV $PM_{2.5}$ Plan.

B. $PM_{2.5}$ Precursors

1. Statutory and Regulatory Requirements

The composition of $PM_{2.5}$ is complex and highly variable due in part to the large contribution of secondary $PM_{2.5}$ to total fine particle mass in most locations, and to the complexity of secondary particle formation processes. A large number of possible chemical reactions, often non-linear in nature, can convert gaseous SO_2, NO_X, VOC, and ammonia to $PM_{2.5}$, making them precursors to $PM_{2.5}$.[81] Formation of secondary $PM_{2.5}$ may also depend on atmospheric conditions, including solar radiation, temperature, and relative humidity, and the interactions of precursors with preexisting particles and with cloud or fog droplets.[82]

Under subpart 4 of part D, title I of the CAA and the $PM_{2.5}$ SIP Requirements Rule, each state containing a $PM_{2.5}$ nonattainment area must evaluate all $PM_{2.5}$ precursors for regulation unless, for any given $PM_{2.5}$ precursor, the state demonstrates to the Administrator's satisfaction that such precursor does not contribute significantly to $PM_{2.5}$ levels that exceed the NAAQS in the nonattainment area.[83] The provisions of subpart 4 do not define the term ''precursor'' for purposes of $PM_{2.5}$, nor do they explicitly require the control of any specifically identified $PM_{2.5}$ precursor. The statutory definition of ''air pollutant,'' however, provides that the term ''includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term 'air pollutant' is used.'' [84] The EPA has identified SO_2, NO_X, VOC, and ammonia as precursors to the formation of $PM_{2.5}$.[85] Accordingly, the attainment plan requirements of subpart 4 apply to emissions of all four precursor pollutants and direct $PM_{2.5}$ from all types of stationary, area, and mobile sources, except as otherwise provided in the Act (*e.g.,* CAA section 189(e)).

Section 189(e) of the Act requires that the control requirements for major stationary sources of direct PM_{10} also apply to major stationary sources of PM_{10} precursors, except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels that exceed the standard in the area. Section 189(e) contains the only express exception to the control requirements under subpart 4 [*e.g.,* requirements for reasonably available control measures (RACM) and reasonably available control technology (RACT), BACM and BACT, MSM, and NSR] for sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursor emissions. Although section 189(e) explicitly addresses only major stationary sources, the EPA interprets the Act as authorizing it also to determine, under appropriate circumstances, that regulation of specific $PM_{2.5}$ precursors from other source categories in a given nonattainment area is not necessary.[86] For example, under the EPA's longstanding interpretation of the control requirements that apply to stationary, area, and mobile sources of PM_{10} precursors in the nonattainment area under CAA section 172(c)(1) and subpart 4,[87] a state may demonstrate in a SIP submission that control of a certain precursor pollutant is not necessary in light of its insignificant contribution to ambient PM_{10} levels in the nonattainment area.[88]

Under the $PM_{2.5}$ SIP Requirements Rule, a state may elect to submit to the EPA a ''comprehensive precursor demonstration'' for a specific nonattainment area to show that emissions of a particular precursor from all existing sources located in the nonattainment area do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the area.[89] If the EPA determines that the contribution of the precursor to $PM_{2.5}$ levels in the area is not significant and approves the demonstration, the state is not required to control emissions of the relevant precursor from existing sources in the attainment plan.[90]

In addition, in May 2019, the EPA issued the ''$PM_{2.5}$ Precursor Demonstration Guidance'' (''$PM_{2.5}$ Precursor Guidance''), which provides recommendations to states for analyzing nonattainment area $PM_{2.5}$ emissions and developing such optional precursor demonstrations, consistent with the $PM_{2.5}$ SIP Requirements Rule.[91] The

[80] The future year emissions projections in the SJV $PM_{2.5}$ Plan assume implementation of CARB's Zero Emissions Vehicle (ZEV) sales mandate and greenhouse gas (GHG) standards. On September 27, 2019, the U.S. Department of Transportation and the EPA issued a notice of final rulemaking for the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program that, among other things, withdrew the EPA's 2013 waiver of preemption for the ZEV sales mandate and GHG standards. 84 FR 51310. See also proposed SAFE rule at 83 FR 42986 (August 24, 2018). However, the agencies' final rule withdrawing the 2013 waiver did not include final action on the federal fuel economy and GHG vehicle emissions standards from the SAFE proposal. If the fuel economy and GHG standards are finalized prior to our final rulemaking on the SJV $PM_{2.5}$ Plan, we will evaluate and address, as appropriate, the impact of the SAFE action on our proposed action.

[81] ''Air Quality Criteria for Particulate Matter'' (EPA/600/P–99/002aF), EPA, October 2004, Ch. 3.

[82] ''Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter'' (EPA/452/R–12–005), EPA, December 2012), 2–1.

[83] 81 FR 58010, 58017–58020.

[84] CAA section 302(g).

[85] 81 FR 58010, 58015.

[86] Id. at 58018–58019.

[87] General Preamble, 57 FR 13498, 13539–42.

[88] Courts have upheld this approach to the requirements of subpart 4 for PM_{10}. See, *e.g., Assoc. of Irritated Residents* v. *EPA, et al.,* 423 F.3d 989 (9th Cir. 2005).

[89] 40 CFR 51.1006(a)(1).

[90] Id.

[91] ''$PM_{2.5}$ Precursor Demonstration Guidance,'' EPA–454/R–19–004, May 2019, including Memo dated May 30, 2019 from Scott Mathias, Acting Director, Air Quality Policy Division and Richard Wayland, Director, Air Quality Assessment Division, Office of Air Quality Planning and

$PM_{2.5}$ Precursor Guidance builds upon the draft version of the guidance, released on November 17, 2016 (''Draft $PM_{2.5}$ Precursor Guidance''), which CARB referenced in developing its precursor demonstration in the SJV $PM_{2.5}$ Plan.[92] The EPA's recommendations in the $PM_{2.5}$ Precursor Guidance are generally consistent with those in the Draft $PM_{2.5}$ Precursor Guidance, with some exceptions, including that the EPA's recommended contribution threshold for the 24-hour $PM_{2.5}$ NAAQS changed from 1.3 μg/m³ in the draft guidance to 1.5 μg/m³ in the final guidance.

We are evaluating the SJV $PM_{2.5}$ Plan in accordance with the presumption embodied within subpart 4 that all $PM_{2.5}$ precursors must be addressed in the State's evaluation of potential control measures, unless the State adequately demonstrates that emissions of a particular precursor or precursors do not contribute significantly to ambient $PM_{2.5}$ levels that exceed the $PM_{2.5}$ NAAQS in the nonattainment area. In reviewing any determination by the State to exclude a $PM_{2.5}$ precursor from the required evaluation of potential control measures, we consider both the magnitude of the precursor's contribution to ambient $PM_{2.5}$ concentrations in the nonattainment area and the sensitivity of ambient $PM_{2.5}$ concentrations in the area to reductions in emissions of that precursor.[93]

2. Summary of State's Submission

The State presents a brief summary of its $PM_{2.5}$ precursor analysis in Chapter 6 of the 2018 $PM_{2.5}$ Plan and the full precursor demonstration in Appendix G of the 2018 $PM_{2.5}$ Plan.[94] CARB also provided clarifying information on its precursor assessment, including an Attachment A to its letter transmitting the SJV $PM_{2.5}$ Plan to the EPA [95] and further clarifications in three email transmittals.[96]

The Plan provides both concentration-based and sensitivity-based analyses of precursor contributions to ambient $PM_{2.5}$ concentrations in the San Joaquin Valley. These analyses led the State to conclude that direct $PM_{2.5}$ and NO_X emissions contribute significantly to ambient $PM_{2.5}$ levels that exceed the $PM_{2.5}$ NAAQS in the San Joaquin Valley while ammonia, SO_X, and VOC do not contribute significantly to such exceedances, as discussed below.[97] We summarize the State's analysis and conclusions below. For a more detailed summary of the precursor demonstration in the Plan, please refer to the EPA's ''Technical Support Document, EPA Evaluation of $PM_{2.5}$ Precursor Demonstration, San Joaquin Valley $PM_{2.5}$ Plan for the 2006 $PM_{2.5}$ NAAQS,'' February 2020 (''EPA's $PM_{2.5}$ Precursor TSD'').

For direct $PM_{2.5}$ and NO_X, the State modeled the sensitivity of ambient $PM_{2.5}$ in the San Joaquin Valley to a 30 percent (%) reduction in anthropogenic emissions of each pollutant in 2013, 2020, and 2024.[98] The State concluded that direct $PM_{2.5}$ and NO_X emissions reductions will continue to have a significant impact on annual and 24-hour $PM_{2.5}$ design values in the San Joaquin Valley, with NO_X reductions being particularly important.[99] Consistent with this conclusion, the State focused the control strategy and attainment demonstration on these two pollutants, as described in section IV.D of this preamble.

For ammonia, SO_X, and VOC, CARB assessed the 2015 annual average concentration of each precursor in ambient $PM_{2.5}$ at Bakersfield, for which the necessary speciated $PM_{2.5}$ data is available and where the highest $PM_{2.5}$ design values have been recorded in most years, and compared those concentrations to the recommended annual average contribution threshold of 0.2 μg/m³ from the Draft $PM_{2.5}$ Precursor Guidance, which was available at the time the State developed the SIP.[100] The contributions of ammonia, SO_X, and VOC were 5.2 μg/m³, 1.6 μg/m³ and 6.2 μg/m³, respectively.

Given that these levels are well above the EPA's recommended contribution threshold in the Draft $PM_{2.5}$ Precursor Guidance, CARB then modeled the sensitivity of ambient $PM_{2.5}$ in the San Joaquin Valley to 30% and 70% reductions in anthropogenic emissions of each precursor pollutant in 2013 (the Plan's base year), 2020 (the modeled attainment year for the 1997 $PM_{2.5}$ NAAQS), and 2024 (the modeled attainment year for the 2006 $PM_{2.5}$ NAAQS).[101] CARB supplemented the sensitivity analysis with consideration of additional information, including factors identified in the Draft $PM_{2.5}$ Precursor Guidance, such as emission trends, the appropriateness of future year versus base year sensitivity, available emission controls, and the severity of nonattainment.[102] The final version of the $PM_{2.5}$ Precursor Guidance confirms the relevance of these factors in a sensitivity analysis.[103]

The State's sensitivity-based analysis used the same modeling platform as that used for the Plan's attainment demonstration. The State modeled the sensitivity of ambient $PM_{2.5}$ concentrations in San Joaquin Valley to 30% and 70% emission reductions in 2013, 2020, and 2024 for each of ammonia, SO_X, and VOC. The State estimated base case (2013, 2020, and 2024) design values for $PM_{2.5}$ using Relative Response Factors and

Standards (OAQPS), EPA to Regional Air Division Directors, Regions 1–10, EPA.

[92] ''$PM_{2.5}$ Precursor Demonstration Guidance, Draft for Public Review and Comments,'' EPA–454/P–16–001, November 17, 2016, including Memo dated November 17, 2016 from Stephen D. Page, Director, OAQPS, EPA to Regional Air Division Directors, Regions 1–10, EPA.

[93] 40 CFR 51.1006(a)(1)(i) and (ii).

[94] A copy of the contents of App. G appears in the CARB Staff Report, App. C4 (''Precursor Demonstrations for Ammonia, SO_X, and ROG'').

[95] Letter dated May 9, 2019, from Richard Corey, Executive Officer, CARB, to Michael Stoker, Regional Administrator, EPA Region IX, Attachment A (''Clarifying information for the San Joaquin Valley 2018 Plan regarding model sensitivity related to ammonia and ammonia controls'').

[96] Email dated June 20, 2019, ''RE: SJV model disbenefit from SO_X reduction,'' from Jeremy Avise, CARB, to Scott Bohning, EPA Region IX, with attachment (''CARB's June 2019 Precursor Clarification''); email dated September 19, 2019, ''FW: SJV species responses,'' from Jeremy Avise, CARB, to Scott Bohning, EPA Region IX, with attachments (''CARB's September 2019 Precursor Clarification''); and email dated October 18, 2019, from Laura Carr, CARB to Scott Bohning, Jeanhee Hong, and Rory Mays, EPA Region IX, with attachment ''Clarifying Information on Ammonia'' (''CARB's October 2019 Precursor Clarification'').

[97] Direct $PM_{2.5}$ emissions are considered a primary source of ambient $PM_{2.5}$ (*i.e.,* no further formation in the atmosphere is required), and therefore is not considered a precursor pollutant under subpart 4, which may differ from a more generalized understanding of what contributes to ambient $PM_{2.5}$.

[98] SJV $PM_{2.5}$ Plan, Ch. 6, 6–11 to 6–12. CARB modeled the impacts of both NO_X reductions and direct $PM_{2.5}$ reductions but the direct $PM_{2.5}$ results were used only as a point of comparison, as direct $PM_{2.5}$ emissions must be regulated in all $PM_{2.5}$ nonattainment areas.

[99] Id. Ch. 6, 6–12; and 2018 $PM_{2.5}$ Plan, App. G, 2. CARB presents its sensitivity analysis for emission reductions in direct $PM_{2.5}$ and NO_X in the Plan's attainment demonstration appendix. 2018 $PM_{2.5}$ Plan, App. K, Table 46 (annual average design values) and Table 50 (24-hour average design values).

[100] SJV $PM_{2.5}$ Plan, App. G, 3. The Plan does not present a concentration-based analysis for the 24-hour average concentrations in the San Joaquin Valley. Instead, CARB relied on the annual average concentration based analysis as an interim step to the sensitivity-based analysis, for which CARB assessed the sensitivity of both 24-hour average and annual average ambient $PM_{2.5}$ concentrations to precursor emission reductions. Separately, the Plan presents a graphical representation of annual average ambient $PM_{2.5}$ components (*i.e.,* crustal particulate matter, elemental carbon, organic matter, ammonium sulfate, and ammonium nitrate) for 2011–2013 for Bakersfield, Fresno, and Modesto. SJV $PM_{2.5}$ Plan, Ch. 3, 3–3 to 3–4.

[101] SJV $PM_{2.5}$ Plan, Ch. 6, 6–11 to 6–12.

[102] Id. at App. G, 5.

[103] $PM_{2.5}$ Precursor Guidance, 18–19 (consideration of additional information), 31 (available emission controls), and 35–36 (appropriateness of future year versus base year sensitivity).

calculated the ammonia precursor contribution for a given year and for each sensitivity scenario (30% and 70% emissions reductions) as the difference between its base case design value and the design value for each sensitivity scenario.[104]

We summarize the State's sensitivity-based analysis and additional information in the sections that follow for ammonia, SO_X, and VOC.

a. Ammonia

For ammonia, the State compared the 24-hour precursor contributions to 1.3 μg/m³, the recommended contribution threshold in the Draft $PM_{2.5}$ Precursor Guidance. For a modeled 30% ammonia emission reduction, the ambient $PM_{2.5}$ responses in 2013 ranged from 0.9 to 3.3 μg/m³ across 15 monitoring sites, with a majority of sites above the 1.3 μg/m³ contribution threshold (and also above the 1.5 μg/m³ contribution threshold in the final $PM_{2.5}$ Precursor Guidance), whereas the $PM_{2.5}$ responses in 2024 were all below both recommended thresholds. For a modeled 70% ammonia emission reduction, the ambient $PM_{2.5}$ responses in 2013 ranged from 3.5 to 12.4 μg/m³, with all monitoring sites above the 1.3 μg/m³ threshold (and above the 1.5 μg/m³ threshold), and the $PM_{2.5}$ responses in 2024 ranged from 1.2 to 3.0 μg/m³, with most sites above both recommended thresholds. For further detail, please see the EPA's $PM_{2.5}$ Precursor TSD, Table 2, and the 2018 $PM_{2.5}$ Plan, Appendix G, Tables 2, 3, 5, and 7.

The State bases its ammonia precursor determination on the sensitivity analysis for the 2024 attainment year with a 30% ammonia emission reduction. These respectively reflect its assessment of research studies and the Plan's projected emission reductions, and on its assessment of available emission controls. As explained in the $PM_{2.5}$ Precursor Guidance, precursor responses may be above the recommend contribution threshold and yet not contribute significantly to levels that exceed the standard in the area. Therefore, as recommended by the EPA, the State considered additional information to consider whether its identified $PM_{2.5}$ responses constituted a significant contribution to ambient $PM_{2.5}$ in the San Joaquin Valley. The additional information included research studies, emission trends, and information to support the State's conclusion that a 30% ammonia emission reduction represented a reasonable upper bound on the ammonia emission reductions to model in estimating its contribution to ambient $PM_{2.5}$ levels. We summarize this additional information below and provide a more detailed evaluation in the EPA's $PM_{2.5}$ Precursor TSD.

The State describes previous research that supports its finding that ammonium nitrate $PM_{2.5}$ formation in the San Joaquin Valley is NO_X-limited rather than ammonia-limited.[105] Essentially, ammonia is so abundant that even with large ammonia emission reductions there would still be enough ammonia to combine with the available NO_X to readily form particulate ammonium nitrate. Therefore, ammonia emissions reductions would lead to only small decreases in $PM_{2.5}$ concentrations. In contrast, because emissions of NO_X are less abundant (*i.e.,* more limited relative to emissions of ammonia after normalizing for their differing molecular weights), the $PM_{2.5}$ concentrations in the atmosphere are more responsive to reductions in NO_X than to reductions of ammonia. Hence, the area is considered NO_X-limited. The State points to the conclusions of Lurmann et al. based on ambient measurements during the winter 2000–2001 CRPAQS (California Regional Particulate Air Quality Study) intensive field study.[106] That study found that most areas of the San Joaquin Valley were NO_X-limited with respect to ammonium nitrate formation. And since that time, large additional NO_X emission reductions have occurred, which would increase the degree to which ammonium nitrate formation in the San Joaquin Valley is NO_X-limited. Based on more recent aircraft-borne measurements during the 2013 DISCOVER–AQ campaign,[107] the State similarly concluded that ammonium nitrate formation is NO_X-limited based on the large amount of ''excess ammonia,'' which is defined as the amount of measured ammonia left over if all the nitrate and sulfate present were to combine with available ammonia to form particulate.[108] The CARB Staff Report describes these conclusions in more detail and lists results from multiple other recent studies with similar conclusions.[109]

Regarding emission trends, the CARB Staff Report presents an emission inventory-based argument on the relative insensitivity of $PM_{2.5}$ to ammonia reductions.[110] CARB compared the size of the ammonia and NO_X emission inventories in tons per day, after normalizing for their differing molecular weights, and found that ammonia was roughly three times as abundant as NO_X in 2013 and is projected to be about six times as abundant in 2025, due to the continuing decline in NO_X emissions (while ammonia emissions are generally constant into the future).[111] While the State recognized that this is only a ''first-level assessment,'' it provides additional support for the State's conclusion that NO_X, and not ammonia, is the limiting precursor for ammonium nitrate formation, and that the ammonium nitrate portion of ambient $PM_{2.5}$ would be expected to be relatively insensitive to ammonia emission reductions. This is also consistent with the ammonia sensitivity modeling for the San Joaquin Valley, which showed that $PM_{2.5}$ concentrations will be less sensitive to ammonia reductions as NO_X emissions go down in the future (*i.e.,* the $PM_{2.5}$ impacts were much smaller in the 2024 future modeled case compared to the 2013 base year).

The State finds that NO_X emissions in the San Joaquin Valley are projected to decrease by 53% from 2013 to 2024 while ammonia emissions are projected to remain relatively flat, thereby increasing the relative abundance of ammonia.[112] Based on the Plan's emission reduction projections combined with the research study conclusions, the State relies on the modeled responses for the 2024 future year, rather than the 2013 base year, stating that the future year NO_X emissions are more representative of San Joaquin Valley emission conditions.[113] The State references the Draft $PM_{2.5}$ Precursor Guidance, which notes that it may be appropriate to model future conditions that are more representative of current atmospheric conditions and those conditions expected closer to the attainment date. The State concludes states that this in

[104] This procedure is the procedure recommended by the EPA. $PM_{2.5}$ Precursor Guidance, 37.

[105] 2018 $PM_{2.5}$ Plan, App. G, G–9 to G–10; CARB Staff Report, App. C, 12–15; and Attachment A to CARB's submittal letter of May 9, 2019.

[106] Frederick W. Lurmann, Steven G. Brown, Michael C. McCarthy, and Paul T. Roberts, ''Processes Influencing Secondary Aerosol Formation in the San Joaquin Valley during Winter,'' Journal of the Air & Waste Management Association, (2006), 56:12, 1679–1693, DOI: 10.1080/10473289.2006.10464573.

[107] ''Deriving Information on Surface conditions from COlumn and VERtically Resolved Observations Relevant to Air Quality'', *https://www.nasa.gov/mission_pages/discover-aq/index.html.*

[108] 2018 $PM_{2.5}$ Plan, App. G, Figure 2.

[109] CARB Staff Report, App. C, 12.

[110] Id. App. C, 15.

[111] Annual average ammonia emissions are projected to decrease 4.6 tpd (1.4%) from 2013 to 2024. 2018 $PM_{2.5}$ Plan, App. B, Table B–5.

[112] 2018 $PM_{2.5}$ Plan, App. G, 8–9.

[113] Id. App. G, 9.

fact applies to the San Joaquin Valley.[114]

With respect to the State's selection of 30% as an upper bound on the ammonia reductions to model, the State described its review of the most important ammonia source categories in the San Joaquin Valley, existing control measures that affect ammonia emissions from these sources, additional mitigation options for these sources, and information provided in the $PM_{2.5}$ Precursor Guidance about ammonia reductions achieved nationwide from 2011 to 2017.[115] The primary sources of ammonia emissions identified in the 2018 $PM_{2.5}$ Plan are: (1) Confined animal facilities (CAFs), (2) agricultural fertilizer, (3) biosolids, animal manure, and poultry litter operations, and (4) organic material composting operations.[116] CAFs are subject to District Rule 4570; biosolids, animal manure, and poultry litter operations are subject to District Rule 4565; and organic material composting operations are subject to District Rule 4566. Although these District rules explicitly apply only to VOC emissions from these sources, the State concludes that these rules also reduce ammonia emissions. Appendix C of the 2018 $PM_{2.5}$ Plan cites a number of scientific studies that address the correlation between VOC and ammonia emissions from these emission sources.[117] Based on these evaluations, the State concludes that ammonia control measures achieving even the low end of the range (30%) are not feasible for implementation in the San Joaquin Valley and that it is therefore reasonable to treat a 30% ammonia reduction as an upper bound for modeling in the precursor demonstration.

In sum, the State's sensitivity analysis presents a range of $PM_{2.5}$ responses to ammonia emission reductions depending on base year versus future year and depending on the scale of emission reductions that may be possible. The Plan provides the State's bases for finding that the sensitivity result for 2024 better represents conditions in the San Joaquin Valley than the 2013 base year and for finding a 30% ammonia reduction to be a reasonable upper bound for modeled ammonia emission reductions in assessing the ammonia contribution. Based on these analyses, the State concludes that ammonia does not contribute significantly to levels above the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley.

b. SO_X

For SO_X, the State compared the 24-hour precursor contributions to the recommended draft contribution threshold of 1.3 μg/m³ in the Draft $PM_{2.5}$ Precursor Guidance. For modeled SO_X emission reductions of 30% and 70%, the ambient $PM_{2.5}$ responses in 2013 ranged from −1.4 to +0.5 μg/m³ across 15 monitoring sites, which all fall below the 1.3 μg/m³ draft contribution threshold, and hence also below the contribution threshold of 1.5 μg/m³ in the final version of the $PM_{2.5}$ Precursor Guidance. The response was below zero at most monitoring sites, indicating an increase, rather than decrease, in ambient $PM_{2.5}$ in response to SO_X emission reductions (*i.e.,* a disbenefit). Only the Stockton and Manteca sites had slightly positive responses to 30 and 70% emission reductions, and the Tranquillity site also had a slightly positive response only to a 30% reduction. For 2024, the response ranged from −0.3 μg/m³ to +0.3 μg/m³; these are also all below the contribution threshold, with most sites showing a disbenefit from SO_X reductions. For further detail, please see EPA's $PM_{2.5}$ Precursor TSD, Table 3, and the 2018 $PM_{2.5}$ Plan, Appendix G, Tables 8 and 9.

CARB also included additional information regarding emission trends and an evaluation of the SO_X emission reduction disbenefit. We summarize this additional information below and provide a more detailed evaluation in the EPA's $PM_{2.5}$ Precursor TSD.

In terms of emission trends, the State found that SO_X emissions decreased from 2013 to 2014 and then very gradually rise to 8.0 tpd in 2024.[118] On the basis of SO_X emissions being very similar in 2020 and 2024 (7.8 tpd and 8.0 tpd, respectively), the State concluded that the 2020 and 2024 sensitivity results were redundant. Comparing the ambient responses in 2013 and 2024, the State found that the responses were slightly less negative or, for a small number of sites, slightly more positive in 2024, but still no more than 0.6 μg/m³ in response to a 70% SO_X emission reduction. This supports the State's conclusion as to the overall disbenefit of reducing SO_X emissions.

To explain the SO_X emission reduction disbenefit, CARB refers to the non-linearity of inorganic aerosol thermodynamics, as described in a study by West et al.[119] That paper discusses how, under certain conditions, reducing SO_X could free ammonia to combine with nitrate, increasing overall $PM_{2.5}$ mass. To investigate this issue further, CARB conducted simulations with the ISORROPIA inorganic aerosol thermodynamic equilibrium model used within the Community Multiscale Air Quality (CMAQ) model and provided clarifications to the EPA.[120] In essence, CARB states that for some conditions typical of San Joaquin Valley, ISORROPIA switches to a different chemical regime in which the disbenefit occurs. CARB states that it is not known how well this model behavior reflects the actual atmosphere, but CARB accepts the results because is it a well-known and widely used chemical model.

Based on the small and mostly negative modeled response of ambient $PM_{2.5}$ to SO_X emission reductions, and based on its scientific understanding of sulfate interactions with other molecules in the air, the State concludes that SO_X does not contribute significantly to ambient $PM_{2.5}$ levels that exceed the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley.

c. VOC

For VOC, CARB compared the 24-hour precursor contributions to the EPA's recommended draft contribution threshold of 1.3 μg/m³. For a modeled 30% VOC emission reduction, the ambient $PM_{2.5}$ responses in 2013 ranged from 0.1 to 1.9 μg/m³ across 15 monitoring sites, with two sites above the 1.3 μg/m³ draft contribution threshold.[121] The $PM_{2.5}$ responses to a 70% VOC emission reduction in 2013 ranged from 0.2 μg/m³ to 4.8 μg/m³, including responses above the 1.3 μg/m³ draft contribution threshold at a majority of sites. For a modeled 30% VOC emission reduction, the ambient $PM_{2.5}$ responses in 2024 ranged from −0.4 to 0.0 μg/m³, with all monitoring sites below the 1.3 μg/m³ draft

[114] Id (referencing Draft $PM_{2.5}$ Precursor Guidance, 33). See also $PM_{2.5}$ Precursor Guidance, 35.

[115] 2018 $PM_{2.5}$ Plan, App. G, 13 and App. C, section C–25 and email dated October 18, 2019, from Laura Carr, CARB to Scott Bohning, EPA Region IX, attaching document entitled ''Clarifying Information on Ammonia.''

[116] 2018 $PM_{2.5}$ Plan, App. C, section C–25.

[117] Id. at C–314 and following.

[118] 2018 $PM_{2.5}$ Plan, App. G, Figure 4.

[119] 2018 $PM_{2.5}$ Plan, App. K, section 5.6 (''$PM_{2.5}$ Precursor Sensitivity Analysis''); and West, J.J., Ansari, A.S., Pandis, S.N., 1999, Marginal $PM_{2.5}$: Nonlinear aerosol mass response to sulfate reductions in the eastern United States, *Journal of the Air & Waste Management Association,* 49, 1415–1424. *https://doi.org/10.1080/10473289.1999.10463973.*

[120] CARB's June 2019 Precursor Clarification.

[121] We note that one site (Visalia) has a modeled response above the EPA's final recommended contribution threshold of 1.5 μg/m³ and one additional site (Bakersfield-California Avenue) has a modeled response below the 1.5 μg/m³ threshold but above the EPA's draft threshold of 1.3 μg/m³.

contribution threshold, and hence also below the contribution threshold of 1.5 μg/m³ that was finalized the $PM_{2.5}$ SIP Requirements Rule. The $PM_{2.5}$ responses to a 70% VOC emission reduction in 2024 ranged from −1.0 to 0.0 μg/m³, with all monitoring sites below the 1.3 μg/m³ draft contribution threshold. In other words, CARB models a decrease in ambient $PM_{2.5}$ levels in 2013 in response to either a 30% or 70% VOC emission reduction, whereas CARB models an increase in ambient $PM_{2.5}$ levels in 2024 in response to either a 30% or 70% reduction in VOC emissions, *i.e.,* a disbenefit. For further detail, please see EPA's $PM_{2.5}$ Precursor TSD, Table 4, and the 2018 $PM_{2.5}$ Plan, Appendix G, Tables 10, 11, 13, and 15.

CARB then considered additional information to consider whether these $PM_{2.5}$ responses constituted a significant contribution to ambient $PM_{2.5}$ in the San Joaquin Valley, including emission trends and an assessment of the modeled disbenefit of VOC emission reductions in 2024. CARB bases its precursor determination on sensitivity analysis for the 2024 attainment year, reflecting its assessment of the Plan's projected emission reductions. We summarize this additional information below and present greater detail in the EPA's $PM_{2.5}$ Precursor TSD.

Regarding emission trends, CARB found that VOC emissions would decrease approximately 30 tpd (or 9%) from 2013 to 2024.[122] The State concludes that the formation of ambient $PM_{2.5}$ from VOC may therefore differ in base and future years and that the sensitivity analysis for 2013 is not representative of current or future conditions.

CARB explained the modeled disbenefit of VOC reductions as follows: Emissions of VOC and NO_X react in the atmosphere to form organic nitrate species, such as peroxyacetyl nitrate (PAN), meaning that some portion of the NO_X emissions is not available to react with ammonia to form ammonium nitrate. In other words, VOC emissions are a ''sink'' for NO_X emissions. Reducing VOC emissions therefore reduces the formation of organic nitrates, so the sink is smaller and nitrate molecules are freed to react with ammonia to form particulate ammonium nitrate.[123] The State further explored the VOC disbenefit based on a 2016 CARB modeling assessment provided in Appendix A (''Air Quality Modeling'') of the ''2016 Moderate Area Plan for the 2012 $PM_{2.5}$ Standard'' for the San Joaquin Valley (''2016 $PM_{2.5}$ Plan''), which CARB submitted to the EPA as a SIP revision on May 10, 2019.[124]

Based on its sensitivity-based analysis of VOC emission reductions in the 2013 base and 2024 future years, VOC emission trends, and the scientific understanding of atmospheric VOC chemistry in the San Joaquin Valley, CARB concludes that VOC emissions do not contribute significantly to $PM_{2.5}$ levels that exceed the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley.

3. EPA's Evaluation and Proposed Action

The EPA has evaluated the State's precursor demonstration consistent with the $PM_{2.5}$ SIP Requirements Rule and the recommendations in the $PM_{2.5}$ Precursor Guidance. Based on this evaluation, the EPA agrees that NO_X emissions contribute significantly to ambient $PM_{2.5}$ levels that exceed the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley and that NO_X emission sources, therefore, remain subject to control requirements under subparts 1 and 4 of part D, title I of the Act. For the reasons provided below, the EPA proposes to approve the State's demonstration that ammonia, SO_X, and VOC emissions do not contribute significantly to ambient $PM_{2.5}$ levels that exceed the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley.

Regarding the State's analytical approach, the EPA finds that the State based its analyses on the latest available data and studies concerning ambient $PM_{2.5}$ formation in the San Joaquin Valley from precursor emissions. Regarding the required concentration-based analysis, the EPA finds that the State assessed the absolute annual average contribution of each precursor in ambient $PM_{2.5}$ (*i.e.,* in 2015). On the basis of the absolute concentrations being well above the EPA's recommended contribution thresholds for both the 24-hour and annual average NAAQS, the State proceeded with its sensitivity-based analysis, which is an acceptable progression of analyses under the $PM_{2.5}$ SIP Requirements Rule.[125]

With respect to the sensitivity-based analysis, we find that the State performed its analyses in a straightforward application of the EPA's recommended approach—*i.e.,* for each modeled year and percent precursor emission reduction, the State estimated the ambient $PM_{2.5}$ response using the procedure recommended in the $PM_{2.5}$ Precursor Guidance, and compared the result to the recommended contribution threshold. The EPA also finds that the performance of the photochemical model was adequate for use in estimating the ambient $PM_{2.5}$ responses, as discussed in section J (''Air Quality Model Performance'') of the EPA's ''Technical Support Document, EPA Evaluation of Air Quality Modeling, San Joaquin Valley $PM_{2.5}$ Plan for the 2006 $PM_{2.5}$ NAAQS,'' February 2020 (''EPA's Modeling TSD''). The State considered the EPA's recommended range of emission reductions (30% to 70%) for the 2013 base year, an interim year (2020), and the projected 2024 attainment year for the 2006 $PM_{2.5}$ NAAQS, and quantified the estimated response of ambient $PM_{2.5}$ concentrations to precursor emission changes for the first time in a $PM_{2.5}$ SIP submission for the San Joaquin Valley. The EPA finds that such quantification and CARB's consideration of additional information provide an informed basis on which to make a determination as to whether ammonia, SO_X, and VOC do or do not contribute significantly to ambient $PM_{2.5}$ levels that exceed the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley. Therefore, we turn to our evaluation of the State's determination for each of these three precursor pollutants.

a. Ammonia

For ammonia, as detailed above, CARB estimated the ambient $PM_{2.5}$ response to both a 30% and a 70% emission reduction. We find that it was appropriate for the State to consider additional information to interpret those results to determine whether the ammonia contribution is significant. We have evaluated CARB's determination that the projected 2024 attainment year is more representative of conditions in the San Joaquin Valley for sensitivity-based analyses and that 30% is a reasonable upper bound for ammonia emission reductions to assess the precursor contribution, as discussed below.

The State provided ample information from scientific studies based on ambient measurements to help assess the estimated sensitivity of ambient $PM_{2.5}$ to ammonia reductions. Conclusions based on ambient data are particularly relevant because they provide direct evidence of the chemical state of the atmosphere, and are not dependent on modeled estimates of emissions or

[122] 2018 $PM_{2.5}$ Plan, App. G, 19 and Figure 5.

[123] 2018 $PM_{2.5}$ Plan, App. K, 72 (citing Meng, Z., D. Dabdub, D., Seinfeld, J.H., Chemical Coupling Between Atmospheric Ozone and Particulate Matter, *Science* 277, 116 (1997). DOI: 10.1126/science.277.5322.116).

[124] 2016 $PM_{2.5}$ Plan, App. A, A–57. See also 2018 $PM_{2.5}$ Plan, App. K, section 5.6 (''$PM_{2.5}$ Precursor Sensitivity Analysis''), 71–72.

[125] For further discussion of the EPA's evaluation of the State's concentration-based analysis, see EPA's $PM_{2.5}$ Precursor TSD, sections entitled ''Concentration-based analysis'' within the EPA's evaluation for each of ammonia, SO_X, and VOC.

ambient $PM_{2.5}$ concentrations. Measurements represent the ''real world'' result of the pollutants' differing geographic distributions, the various meteorological and chemical factors influencing their conversion to particulate, and their removal from the atmosphere by deposition and other processes. The observed abundance of ammonia relative to nitric acid, and the positive amount of chemically excess ammonia, both provide strong evidence that ammonia is not the limiting pollutant for particulate ammonium nitrate formation. They also support the State's conclusion that $PM_{2.5}$ is likely to be insensitive to ammonia emission reductions.

We note that the model response to precursor reductions may be unrealistically large. There is some evidence that ammonia emissions may be underestimated based on direct measurements of ammonia emissions flux during two measurement campaigns, as discussed in the EPA's $PM_{2.5}$ Precursor TSD. If ammonia emissions were higher in the modeling, then ammonia would be more abundant relative to nitrate and particulate nitrate formation would be more NO_X-limited, and less sensitive to ammonia reductions. This would make the model response more consistent with the ambient measurement studies, which suggest a very low sensitivity to ammonia. The ammonia contribution to $PM_{2.5}$ levels above the standard may therefore be less than estimated by the State modeling. The 2024 year modeling incorporates lower NO_X emissions and so has a larger abundance of ammonia relative to nitrate, more similar to the studies' ambient measurements. The 2024 response to ammonia reductions may thus be more reliable than the 2013 and 2020 responses, and may be more representative of current atmospheric conditions despite its use of emission projections for a future year.

The relative sizes of the ammonia and NO_X precursor emission inventories after accounting for their differing molecular weights are a rough indicator of which is the limiting pollutant for production of ammonium nitrate, because it forms from a one-to-one ratio of molecules derived from each precursor (*i.e.,* one ammonium nitrate forms from one ammonium and one nitrate). However, unlike measurements and photochemical modeling, a simple emissions ratio does not account for the various processes mentioned above; it just assumes all the emitted molecules find each other and fully react. The State found ammonia to be roughly three times as abundant as NO_X currently after accounting for their differing molecular weights, and even more so in the future. The EPA repeated the exercise to account for SO_X as well, and found that the ratio of total ammonia to that needed to react with both nitrate and sulfate ranged from 2.7 in 2013 to 5.6 in 2028. These are about the same as the CARB NO_X-only results, because SO_X emissions are very small relative to those of NO_X and ammonia (*e.g.,* in 2013, winter daily emissions were 8.4 tpd SO_X, vs. 300.5 tpd for NO_X and 309.8 tpd for ammonia).[126] These observations support the State's finding that $PM_{2.5}$ is expected to be relatively insensitive to ammonia reductions, though it is not definitive.

The State also concludes that there are continuing large decreases in NO_X emissions in the San Joaquin Valley from 2013 to 2024, including 53% reductions from baseline measures and 10–11% reductions from additional new measures, while ammonia emissions are projected to remain roughly constant (*i.e.,* decreasing 1–2%).[127] In conjunction with the ambient evidence that ammonia is already chemically overabundant relative to NO_X in the San Joaquin Valley, this shows that in the future the overabundance will become even greater, and thus ambient $PM_{2.5}$ would be even less responsive to ammonia reductions. This adds conservatism to the State's conclusions about ammonia insensitivity based on the scientific studies.

While the base year for an attainment plan for a given nonattainment area is generally more representative of current conditions, the EPA believes that either a base year or a future year may be used for modeling an ambient $PM_{2.5}$ response to precursor emission reductions, provided the state explains how the choice of analysis year and associated assumptions are appropriate.[128] The State relied on 2024 model responses mainly on the grounds that large NO_X emissions reductions will occur during 2013–2024, so that the 2024 results will continue to be representative, unlike earlier model years. These reductions are the result of regulations put in place by past air quality planning decisions, and they will occur regardless of decisions about additional NO_X or ammonia controls in the SJV $PM_{2.5}$ Plan. In assessing the effect of potential ammonia reductions, the EPA believes it is reasonable to account for these NO_X reductions and the effect that ammonia reductions would have in the attainment year and after. In addition, as noted above, the greater abundance of ammonia relative to NO_X in the 2024 year modeling is more consistent with recent ambient measurements, and may make the 2024 responses more representative of current atmospheric conditions than the other model years for assessing sensitivity to ammonia reductions. Therefore, in consideration of the scientific studies and emission trends, including the projected large amount of NO_X emission reductions through the attainment period, the EPA agrees that the modeled 2024 year is acceptable and representative of conditions in the San Joaquin Valley.

In the context of interpreting the full set of modeling results for ammonia emissions reductions, the EPA also considered the State's conclusion that the absence of available ammonia controls for sources in the San Joaquin Valley supports its decision to treat a 30% reduction as a reasonable upper bound on the ammonia emission reductions to model in estimating the precursor contribution. As the State correctly notes, the 30% to 70% range recommended by the EPA is based on historical NO_X and SO_X emission reductions, and changes in ammonia emission levels nationally from 2011 to 2017 ranged from a 9% decrease to a 6% increase.[129] The State's descriptions of both the past research relied upon to develop existing rules that apply to ammonia emission sources and ongoing research show that it has considered the availability of ammonia controls both in the past and in the present context, and that the State has a basis for its conclusion that 30% is a reasonable upper bound on achievable reductions for ammonia.

In sum, we find that the State quantified the sensitivity of ambient $PM_{2.5}$ levels to reductions in ammonia using appropriate modeling techniques, which performed well, and that the State's choice of 2024 as the reference point for purposes of evaluating the sensitivity of ambient $PM_{2.5}$ levels to ammonia emission reductions is well-supported. We also find that the State adequately documented its bases for using a 30% reduction in ammonia emissions as an upper bound in the modeling to assess ambient sensitivity to ammonia emission reductions. Based on all of these considerations, the EPA proposes to approve the State's demonstration that ammonia emissions do not contribute significantly to ambient $PM_{2.5}$ levels that exceed the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley.

[126] 2018 $PM_{2.5}$ Plan, App. B, Tables B–2, B–3, and B–4.

[127] For further discussion of the SJV $PM_{2.5}$ Plan's control strategy, see section IV.D.4.b of this preamble.

[128] $PM_{2.5}$ Precursor Guidance, 35–36.

[129] $PM_{2.5}$ Precursor Guidance, Table 2, page 30.

b. SO_X

For SO_X, the State found that the ambient $PM_{2.5}$ responses to SO_X emission reductions were below the EPA's recommended contribution threshold of 1.3 μg/m³ in the Draft $PM_{2.5}$ Precursor Guidance (and below the EPA's recommended threshold of 1.5 μg/m³ in the (final) $PM_{2.5}$ Precursor Guidance) and, indeed, that for most sites there would be an increase in ambient $PM_{2.5}$ levels in response to such reductions (*i.e.,* a disbenefit). The EPA has evaluated the State's determination as to this disbenefit and the State's resulting conclusion as to the precursor's significance.

Because the results of the sensitivity analysis were all below the EPA's recommended 24-hour contribution thresholds at both the 30% and 70% emission reductions, and in both the 2013 base year and 2024 attainment year, it is not necessary to distinguish between the timing and scale of emission reductions with respect to the response of ambient $PM_{2.5}$ levels, as in the ammonia evaluation where the results diverged according to scale and timing of modeled emission reductions. The EPA's $PM_{2.5}$ Precursor TSD contains additional detail on the EPA's evaluation of SO_X as a $PM_{2.5}$ precursor, including the unexpected disbenefit of reducing SO_X emissions. Accordingly, we find that the State's decision to rely on the 2013 sensitivity modeling results for a 30% SO_X reduction is acceptable.

Therefore, on the basis of the modeled ambient $PM_{2.5}$ response to both a 30% and 70% reduction in SO_X emissions in 2013, and the facts and circumstances of the area, the EPA proposes to approve the State's demonstration that SO_X emissions do not contribute significantly to ambient $PM_{2.5}$ levels that exceed the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley.

c. VOC

For VOC, the State found that the ambient $PM_{2.5}$ response to VOC emission reductions were generally below the EPA's recommended contribution threshold of 1.3 μg/m³ in the Draft $PM_{2.5}$ Precursor Guidance (and below the EPA's recommended threshold of 1.5 μg/m³ in the final $PM_{2.5}$ Precursor Guidance), and often predicted an increase in ambient $PM_{2.5}$ levels in response to such reductions (*i.e.,* a disbenefit), except for a 70% emission reduction for the 2013 base year, where the State predicted the ambient $PM_{2.5}$ response to be above both recommended thresholds at a majority of sites. The EPA has evaluated and agrees with the State's determination that the projected 2024 attainment year is more representative of conditions in the San Joaquin Valley for sensitivity-based analyses and that VOC reductions in 2024 would mostly result in a disbenefit to ambient $PM_{2.5}$ levels, as well as the State's resulting conclusion as to whether VOC's contribution is significant.

Regarding emission trends, the EPA agrees that the 9% VOC emissions decrease from 2013 to 2024 favors reliance on the 2024 modeling results. Furthermore, there is a large decrease in NO_X emissions over this period, as discussed in the EPA's evaluation of ammonia in section IV.B.3.a of this preamble, which affects the atmospheric chemistry with respect to ambient $PM_{2.5}$ formation from VOC emissions. The 9% VOC emission reductions and the vast majority of NO_X emissions will result from baseline measures that are projected to occur, even absent any further action by the State. We therefore find it reasonable to rely on future year 2024 modeled responses to VOC reductions. The EPA also finds that the State provided a reasonable explanation for the VOC reduction disbenefit and evidence that it occurs in the San Joaquin Valley.

For all of these reasons, we propose to approve the State's demonstration that VOC emissions do not contribute significantly to ambient $PM_{2.5}$ levels that exceed the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley.

C. Best Available Control Measures and Most Stringent Measures

1. Statutory and Regulatory Requirements

Section 189(b)(1)(B) of the Act requires for any serious $PM_{2.5}$ nonattainment area that the state submit provisions to assure that the best available control measures (BACM) for the control of $PM_{2.5}$ and $PM_{2.5}$ precursors shall be implemented no later than four years after the date the area is reclassified as a serious area. The EPA has defined BACM in the $PM_{2.5}$ SIP Requirements Rule to mean ''any technologically and economically feasible control measure that can be implemented in whole or in part within 4 years after the date of reclassification of a Moderate $PM_{2.5}$ nonattainment area to Serious and that generally can achieve greater permanent and enforceable emissions reductions in direct $PM_{2.5}$ emissions and/or emissions of $PM_{2.5}$ plan precursors from sources in the area than can be achieved through the implementation of RACM on the same source(s). BACM includes best available control technology (BACT).'' [130]

The EPA generally considers BACM a control level that goes beyond existing RACM-level controls, for example by expanding the use of RACM controls or by requiring preventative measures instead of remediation.[131] Indeed, as implementation of BACM and BACT is required when a Moderate nonattainment area is reclassified as Serious due to its inability to attain the NAAQS through implementation of ''reasonable'' measures, it is logical that ''best'' control measures should represent a more stringent and potentially more costly level of control.[132] If RACM and RACT level controls of emissions have been insufficient to reach attainment, the CAA contemplates the implementation of more stringent controls, controls on more sources, or other adjustments to the control strategy necessary to attain the NAAQS in the area.

Consistent with longstanding guidance provided in the General Preamble Addendum, the preamble to the $PM_{2.5}$ SIP Requirements Rule discusses the following steps for determining BACM and BACT:

(1) Develop a comprehensive emission inventory of the sources of $PM_{2.5}$ and $PM_{2.5}$ precursors;

(2) Identify potential control measures;

(3) Determine whether an available control measure or technology is technologically feasible;

(4) Determine whether an available control measure or technology is economically feasible; and

(5) Determine the earliest date by which a control measure or technology can be implemented in whole or in part.[133]

The EPA allows consideration of factors such as physical plant layout, energy requirements, needed infrastructure, and workforce type and habits when considering technological feasibility. For purposes of evaluating economic feasibility, the EPA allows consideration of factors such as the capital costs, operating and maintenance costs, and cost effectiveness (*i.e.,* cost per ton of

[130] 40 CFR 51.1000 (definitions). In longstanding guidance, the EPA has similarly defined BACM to mean, ''among other things, the maximum degree of emissions reduction achievable for a source or source category, which is determined on a case-by-case basis considering energy, environmental, and economic impacts.'' General Preamble Addendum, 42010, 42013.

[131] 81 FR 58010, 58081 and General Preamble Addendum, 42011, 42013.

[132] Id. and General Preamble Addendum, 42009–42010.

[133] 81 FR 58010, 58083–58085.

pollutant reduced by a measure or technology) associated with the measure or control.[134]

Once these analyses are complete, the state must use this information to develop enforceable control measures and submit them to the EPA for evaluation as SIP provisions to meet the basic requirements of CAA section 110 and any other applicable substantive provisions of the Act. The EPA is using these steps as guidelines in the evaluation of the BACM and BACT measures and related analyses in the SJV $PM_{2.5}$ Plan.

Because the EPA reclassified the San Joaquin Valley as Serious nonattainment for the 2006 $PM_{2.5}$ NAAQS effective February 19, 2016,[135] the date four years after reclassification is February 19, 2020. In this case, however, the Serious area attainment date for the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley under section 188(c) is no later than December 31, 2019, and to qualify for an extension of this date under section 188(e), the state must, among other things, demonstrate that implementation of BACM and BACT for relevant source categories will not bring the area into attainment by this date. Given these circumstances, the EPA is evaluating the Plan's control strategy for implementation of BACM and BACT as expeditiously as practicable and no later than December 31, 2019.[136]

In addition, before the EPA may extend the attainment date for a Serious nonattainment area under CAA section 188(e), the state must, among other things, demonstrate to the satisfaction of the Administrator that the plan for the area includes the most stringent measures (MSM) that are included in the implementation plan of any state or are achieved in practice in any state, and can feasibly be implemented in the area. The state must implement MSM as expeditiously as practicable and no later than the beginning of the year containing the attainment date identified by the state in its extension request, *i.e.,* in this case, by January 1, 2024, because the State is seeking an extension of the attainment date to December 31, 2024, under section 188(e).[137] Section III.B of this preamble contains a more detailed discussion of the MSM requirement in CAA section 188(e).

2. Summary of State's Submission

As discussed in section IV.A of this proposed rule, Appendix B of the 2018 $PM_{2.5}$ Plan contains the planning inventories for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors (NO_X, SO_X, VOC, and ammonia) for the San Joaquin Valley nonattainment area together with documentation to support these inventories. Each inventory includes emissions from stationary, area, on-road, and non-road emission sources, and the State specifically identifies the condensable component of direct $PM_{2.5}$ for relevant stationary and area source categories. As discussed in section IV.B of this preamble, the State's analysis indicates that the Plan should control emissions of $PM_{2.5}$ and NO_X in order to reach attainment. Accordingly, the Plan evaluates potential controls for those pollutants in the analysis of what is necessary to meet the BACM (including BACT) and MSM requirements.

For stationary and area sources, the District identifies the sources of direct $PM_{2.5}$ and NO_X in the San Joaquin Valley that are subject to District emission control measures and provides its evaluation of these regulations for compliance with BACM and MSM requirements in Appendix C of the 2018 $PM_{2.5}$ Plan. As part of its process for identifying candidate BACM and MSM and considering the technical and economic feasibility of additional control measures, the District reviewed the EPA's guidance documents on BACM, additional guidance documents on control measures for direct $PM_{2.5}$ and NO_X emission sources, and control measures implemented in other ozone and $PM_{2.5}$ nonattainment areas in California and other states.[138]

For mobile sources, CARB identifies the sources of direct $PM_{2.5}$ and NO_X in the San Joaquin Valley that are subject to the State's emission control measures and provides its evaluation of these regulations for compliance with BACM and MSM requirements in Appendix D of the 2018 $PM_{2.5}$ Plan. Appendix D describes CARB's process for determining BACM and MSM, including identification of the sources of direct $PM_{2.5}$ and NO_X in the San Joaquin Valley, identification of potential control measures for such sources, assessment of the stringency and feasibility of the potential control measures, and adoption and implementation of feasible control measures.[139] CARB further discusses its current mobile source control program and additional mobile source measures in the Valley State SIP Strategy. Appendix D of the 2018 $PM_{2.5}$ Plan also describes the current efforts of the eight local jurisdiction metropolitan planning organizations (MPOs) to implement cost-effective transportation control measures (TCMs) in the San Joaquin Valley.[140]

3. EPA's Evaluation and Proposed Action

As discussed in sections III.B and IV.D of this preamble, the EPA has established a process for evaluating potential BACM (including BACT) in serious area plans and a similar process for evaluating MSM. Because of the substantial overlap in the source categories and controls evaluated for BACM and those evaluated for MSM, we present our evaluation of the SJV $PM_{2.5}$ Plan's provisions for including MSM alongside our evaluation of the Plan's provisions for implementing BACM and BACT for each identified source category.

The first step in determining BACM and MSM is to develop a comprehensive emissions inventory of the sources of direct $PM_{2.5}$ and relevant $PM_{2.5}$ precursors that can be used with modeling to determine the effects of these sources on ambient $PM_{2.5}$ levels. Based on our review of the emission inventories provided in Appendix B of the 2018 $PM_{2.5}$ Plan and the State's and District's identification of the sources subject to control in Appendix C and Appendix D, the EPA is proposing to find that the Plan appropriately identifies all sources of direct $PM_{2.5}$ and NO_X that are subject to evaluation for potential control consistent with the requirements of subpart 4 of part D, title I of the Act.

The remaining steps are to identify potential control measures for each source category, determine whether available control measures or technologies are technologically and economically feasible for implementation in the area, and determine the earliest date by which those control measures or technologies found to be feasible can be implemented, in whole or in part.[141]

We discuss below key components of the BACM and MSM evaluations provided by the District, CARB, and the

[134] 40 CFR 51.1010(a)(3) and 81 FR 58010, 58041–58042.

[135] 81 FR 2993.

[136] CAA section 189(b)(1)(B) establishes an outermost deadline (''no later than four years after the date the area is reclassified'') and does not preclude an earlier implementation deadline for BACM where necessary to satisfy the attainment requirements of the Act.

[137] 40 CFR 51.1011(b)(5) (requiring implementation of all control measures needed for attainment as expeditiously as practicable and no later than the beginning of the year containing the applicable attainment date).

[138] 2018 $PM_{2.5}$ Plan, Chapter 4, section 4.3.1.

[139] Id. at App. D, Ch. II.

[140] Id. at App. D, D–127 and D–128.

[141] 81 FR 58010, 58083–58085. The EPA's recommended steps for a BACM demonstration are substantively similar to the required steps for an MSM demonstration in 40 CFR 51.1010(b).

local jurisdiction MPOs in the SJV $PM_{2.5}$ Plan in accordance with these steps. We provide a more detailed evaluation of many of the District's control measures for stationary and area sources in the EPA's ''Technical Support Document, EPA Evaluation of BACM/MSM, San Joaquin Valley $PM_{2.5}$ Plan for the 2006 $PM_{2.5}$ NAAQS,'' February 2020 (''EPA's BACM/MSM TSD''), together with recommendations for possible future improvements to these rules.

a. District Measures for Stationary and Area Sources

Open Burning

SJVUAPCD Rule 4103 (''Open Burning''), as amended April 15, 2010, is designed to minimize impacts of smoke and other air pollutants from open burning of agricultural waste and other materials.[142] The rule restricts the type of materials that may be burned and establishes other conditions and procedures for open burning in conjunction with the District's Smoke Management Program.[143] The EPA approved Rule 4103 into the California SIP on January 4, 2012.[144]

The District compared Rule 4103 to several other open burning rules implemented in other parts of California and found that no other rules are more stringent, as a whole, than Rule 4103. According to the information provided, although the South Coast Air Quality Management District (SCAQMD) implements a rule that restricts burning on residential wood combustion (RWC) curtailment days (Rule 444) and District Rule 4103 does not contain the same restriction, in practice the District generally limits burning on RWC curtailment days through implementation of its Smoke Management Program, which specifically allocates allowable burn acreage for 97 geographic zones based on local meteorology. We note that a restriction on burning on RWC curtailment days by itself may not consistently reduce wintertime $PM_{2.5}$ emission levels as it could shift more waste burning activity to days with more favorable meteorology. On balance we find that Rule 4103's general prohibitions on the burning of specific agricultural crops and burn permitting program are more effective means for reducing $PM_{2.5}$ emissions than targeted restrictions on RWC curtailment days.

Sections 41855.5 and 41855.6 of the California Health and Safety Code require the District to prohibit open burning of specific crop categories unless the District determines either that there is no economically feasible alternative means of eliminating the waste or that there is no long-term federal or state funding commitment for the continued operation of biomass facilities in the San Joaquin Valley or for the development of alternatives to burning.[145] The District has considered the technical and economic feasibility of alternatives to burning several times in the last several years and concluded that such alternatives are not feasible for selected crop categories at this time.[146]

Boilers, Steam Generators, and Process Heaters Greater Than 5.0 Million British Thermal Units per Hour (MMBtu/hr)

SJVUAPCD Rule 4306 (''Boilers, Steam Generators, and Process Heaters—Phase 3''), as amended October 16, 2008, establishes NO_X emission limits ranging from 5 to 30 parts per million (ppm) and related operational requirements for gaseous fuel- or liquid fuel-fired boilers, steam generators, and process heaters with total rated heat input greater than 5 MMBtu/hr.[147] The EPA approved Rule 4306 into the California SIP on January 13, 2010.[148] SJVUAPCD Rule 4320 (''Advanced Emission Reduction Options for Boilers, Steam Generators, and Process Heaters Greater Than 5.0 MMBtu/hr''), as adopted October 16, 2008, establishes more stringent NO_X emission limits (5 to 12 ppm) and related operational requirements for these units but allows sources to pay an emission fee in lieu of compliance with the NO_X emission limits.[149] The EPA approved Rule 4320 into the California SIP on March 25, 2011, but determined that this rule, as approved, may not be credited for attainment planning purposes because the fee provision renders the NO_X emission limits unenforceable.[150]

The District compared both Rule 4306 and Rule 4320 to several other analogous rules implemented in other parts of California, including the Sacramento Metro area, the South Coast, and the Bay Area.[151] According to the information provided in Appendix C of the 2018 $PM_{2.5}$ Plan, the NO_X emission limits in Rule 4306 are generally within the same range as, and in some cases are more stringent than, those contained in analogous rules implemented by these other California agencies, except that the SCAQMD implements a rule containing NO_X emission limits that are potentially more stringent for units of certain sizes (SCAQMD Rule 1146, as amended November 1, 2013).[152]

SCAQMD Rule 1146 establishes a 5 ppm NO_X emission limit for larger units (*i.e.,* those with heat rate inputs above 75 MMBtu/hr), whereas Rule 4320 establishes a 7 ppm limit and Rule 4306 establishes a 9 ppm limit for such units.[153] SCAQMD Regulation XX (''Regional Clean Air Incentives Market'' or ''RECLAIM'') also applies to units within the same range of sizes as Rule 4320 but allows sources to comply with emission caps by purchasing RECLAIM Trading Credits.[154] Because SCAQMD Rule 1146 allows individual units with rated heat inputs above 75 MMBtu/hr to comply with RECLAIM in lieu of compliance with the 5 ppm emission limit in the rule,[155] the SIP-approved NO_X emission limit for these units in the South Coast is either the applicable limit in SCAQMD Rule 1146 or the applicable provision of the RECLAIM program, which may allow for emission levels higher than 5 ppm at individual units.[156] We do not have information

[142] SJVUAPCD Rule 4103, as amended April 15, 2010.

[143] Id.

[144] 77 FR 214 (January 4, 2012).

[145] California Health & Safety Code, sections 41855.5 and 41855.6.

[146] 2018 $PM_{2.5}$ Plan, App. C, C–18 and C–23 to C–29.

[147] SJVUAPCD Rule 4306, as amended October 16, 2008.

[148] 75 FR 1715 (January 13, 2010).

[149] SJVUAPCD Rule 4320, as adopted October 16, 2008.

[150] 76 FR 16696 (March 25, 2011).

[151] 2018 $PM_{2.5}$ Plan, App. C, C–71 to C–79.

[152] Id. and 79 FR 57442 (September 25, 2014) (final action approving Rule 1146 into California SIP). The SCAQMD amended Rule 1146 on December 8, 2018 and CARB submitted the amended rule to the EPA on February 6, 2020. The amended rule is available at *http://www.aqmd.gov/docs/default-source/rule-book/reg-xi/rule-1146.pdf?sfvrsn=4.*

[153] Compare SCAQMD Rule 1146 (as amended November 1, 2013) at section (c)(1)(F) to SJVUAPCD Rule 4320 at Table 1, category B.a and SJVUAPCD Rule 4306 at Table 1, category B; see also 2018 $PM_{2.5}$ Plan, App. C, C–73. The SCAQMD's December 8, 2018 amendments to Rule 1146 did not alter the provisions of section (c)(1)(F).

[154] RECLAIM is a market incentive program designed to allow facilities flexibility in achieving emission reduction requirements for NO_X and SO_X through, among other things, add-on controls, equipment modifications, reformulated products, operational changes, shutdowns, and the purchase of excess emission reductions. SCAQMD Rule 2000, section (a). The SCAQMD is currently transitioning the RECLAIM program to a command-and-control regulatory structure requiring ''best available retrofit control technology'' as soon as practicable. See, *e.g.,* SCAQMD, Draft Staff Report, ''Proposed Amended Rule 1110.2—Emissions from Gaseous- and Liquid-Fueled Engines, Proposed Amended Rule 1100—Implementation Schedule for NO_X Facilities,'' September 2019, Chapter 1.

[155] SCAQMD Rule 1146, ''Emissions of NO_X from Industrial, Institutional, and Commercial Boilers and Steam Generators, and Process Heaters'' (amended November 1, 2013), Table 1146–1, section (a)(4) and SCAQMD Rule 2001, ''Applicability'' (amended May 6, 2005), section (j) and Table 1.

[156] The EPA's most recent action approving revisions to the RECLAIM program into the California SIP published on September 14, 2017. 82 FR 43176.

about the rated heat input of the units subject to RECLAIM in the South Coast and, therefore, have no information confirming that any unit with a rated heat input above 75 MMBtu/hr has achieved the 5 ppm NO_X emission limit in Rule 1146.

The District also considered the technical and economic feasibility of alternative NO_X and $PM_{2.5}$ control techniques for this source category, such as low temperature oxidation and EM_X system for NO_X control, and alternative fuels, electrostatic precipitators (ESP) and wet scrubbers for direct $PM_{2.5}$ control.[157] Based on its consideration of the technical constraints and costs associated with each of these control options, as explained in Appendix C of the 2018 $PM_{2.5}$ Plan, the District concluded that these additional controls are not feasible for implementation in the San Joaquin Valley at this time.[158]

Although the NO_X emission limits in Rule 4320 do not satisfy the Act's enforceability requirements because of the option to pay an emission fee, we note that the requirement to pay the emission fee itself is an enforceable requirement and that the fee provision appears to function effectively as a pollution deterrent.[159]

Flares

SJVUAPCD Rule 4311 (''Flares''), as amended June 18, 2009, establishes specific operational and administrative requirements to limit emissions of NO_X, SO_X, and VOCs from the operation of flares.[160] Under Rule 4311, for each refinery flare and other flare with a capacity above 5 MMBtu/hr, the operator must submit a flare minimization plan (FMP) to the District describing relevant equipment and preventative measures and demonstrating that the operator appropriately minimized flaring activity.[161] The EPA approved Rule 4311 into the California SIP on November 3, 2011.[162]

The District compared Rule 4311 with several other analogous rules implemented in other parts of California, including the South Coast, Bay Area, and Santa Barbara, all of which require regulated sources to submit FMPs to the local air districts.[163] The District also compared Rule 4311 with North Dakota's Century Code 38–08–06.4, which requires, among other things, that after one year of uncontrolled operations each oil well be equipped with a control system that captures at least 75% of the gas (*i.e.,* allowing up to 25% of the gas to be flared).[164] According to the information provided, the average volume of gas flared at facilities in the San Joaquin Valley between 2009 and 2013 was 3.8%, well below both the amount of flaring allowed under the North Dakota rule and the amount allowed in the Santa Barbara Air Pollution Control District's Rule 359, which requires that each FMP list a targeted maximum monthly flared gas volume of 5% of the average monthly gas handled/produced/treated, with limited exceptions.[165] As described in Appendix C of the 2018 $PM_{2.5}$ Plan, the District concluded that, because of wide variation in flaring operations in the San Joaquin Valley, requirements to submit detailed FMPs, as in Rule 4311, are the most effective means of reducing NO_X emissions from flaring and that additional control techniques are not technologically and economically feasible for implementation in the San Joaquin Valley at this time.[166]

Consistent with a commitment in a prior $PM_{2.5}$ attainment plan to evaluate the technological and economic feasibility of additional flare minimization practices, the District recently conducted a comprehensive evaluation of the most effective flare minimization practices included in approved FMPs and additional NO_X control information and published two reports containing its findings and recommendations.[167] As part of its final report in 2016, the District identified flare minimization practices in use at certain facilities that could be employed at other facilities to reduce flaring and stated its intent to propose potential rule amendments to require use of these practices where technologically and economically feasible.[168] Additionally, the District found that ultra-low NO_X control technologies have recently become available and stated its intent to thoroughly evaluate this control option and to then propose potential rule amendments to require use of these controls where technologically and economically feasible.[169] In the 2018 $PM_{2.5}$ Plan, the District provided a summary economic analysis indicating that the annualized cost-effectiveness of ultra-low NO_X control technology would range from $23,000 to $1 million per ton of NO_X reduced.[170] Finally, the District considered a number of alternatives to flaring, preventative maintenance measures, procedures to reduce flaring during maintenance and shutdowns, and procedures to prevent or mitigate effects of power outages that would further reduce NO_X emissions from this source category.[171]

Solid Fuel-Fired Boilers

SJVUAPCD Rule 4352 (''Solid Fuel-Fired Boilers, Steam Generators, and Process Heaters''), as amended December 15, 2011, establishes NO_X emission limits and related operational requirements for boilers, steam generators, and process heaters that burn municipal solid waste (MSW), biomass, and other solid fuels.[172] Specifically, the rule establishes NO_X emission limits of 165 parts per million volume (ppmv) for units burning MSW, 90 ppmv for units burning biomass, and 65 ppmv for units burning other solid fuels.[173] The EPA approved the District's 2011 amendments to this rule into the California SIP on November 6, 2012.[174]

As described in Appendix C of the 2018 $PM_{2.5}$ Plan, the NO_X emission limits in Rule 4352 have been lowered significantly over time and are at least as stringent as analogous requirements implemented in other parts of California. The District compared the provisions of Rule 4352 to potentially more stringent rules implemented in the South Coast Air Quality Management District (SCAQMD) (Rule 1146), Bay Area Air Quality Management District (BAAQMD) (Regulation 9 Rule 7) and Sacramento Metropolitan Air Quality Management District (SMAQMD) (Rule 411) and found that the lower NO_X emission limits in these rules are not comparable to the provisions of Rule 4352. According to the District, all of remaining solid fuel-fired boilers operating in the San Joaquin Valley are used by electric utilities to generate electricity, a category that is specifically exempted from the requirements of SCAQMD Rule 1146, BAAQMD Regulation 9 Rule 7, and SMAQMD

[157] 2018 $PM_{2.5}$ Plan, App. C, C–88 to C–92.

[158] Id.

[159] EPA's BACM/MSM TSD at section 3.b.5.

[160] SJVUAPCD Rule 4311, as amended June 18, 2009.

[161] Id.

[162] 76 FR 68106 (November 3, 2011).

[163] 2018 $PM_{2.5}$ Plan, App. C, C–150 to C–156.

[164] Id. at C–155 and North Dakota Century Code 38–08–06.4, section 2.d (as in effect February 13, 2015), available at *https://www.legis.nd.gov/cencode/t38c08.pdf?20150213153521.*

[165] 2018 $PM_{2.5}$ Plan, C–154 and C–155.

[166] Id. at C–147 to C–148 and C–156 to C–161.

[167] SJVUAPCD, ''Rule 4311 (Flares) Further Study, 2014,'' September 16, 2014 and SJVUAPCD, ''Further Study, Rule 4311 Flare Minimization Plans, 2015,'' March 31, 2016.

[168] SJVUAPCD, ''Further Study, Rule 4311 Flare Minimization Plans, 2015,'' March 31, 2016, 16–17.

[169] Id.

[170] 2018 $PM_{2.5}$ Plan, C–156 and C–157.

[171] Id. at C–157 to C–161.

[172] SJVUAPCD Rule 4352, as amended December 15, 2011.

[173] Id.

[174] 77 FR 66548 (November 6, 2012).

Rule 411.[175] The District also compared Rule 4352 to analogous rules implemented by three other California air districts that apply to active biomass-fueled units, the Yolo-Solano Air Quality Management District (YSAQMD), El Dorado County Air Quality Management District (EDAQMD), and Placer County Air Pollution Control District (PCAPCD), and found that the NO_X emission limits for biomass-fueled units in these regulations are all within the same range as the limits in SJVUAPCD Rule 4352.[176]

The District also considered the technological and economic feasibility of alternative control techniques for this source category, such as selective catalytic reduction (SCR) and ''Covanta LN'' technology for NO_X control and catalytic baghouse filter bags (''Gore De-NO_X systems'') for direct $PM_{2.5}$ control.[177] Based primarily on its consideration of the costs associated with retrofitting these controls onto existing MSW-fired or biomass-fired units, the District concluded in the 2018 $PM_{2.5}$ Plan that none of these control options is economically feasible for sources in the San Joaquin Valley at this time.[178] The District noted, however, that in May 2018 it issued a construction permit requiring installation of Covanta LN technology to limit NO_X emissions from certain MSW-fired units and that it would continue to monitor the implementation of this control technology to determine whether it is feasible for implementation on a continuous basis.[179]

We have reviewed the relevant provisions of BAAQMD Regulation 9–7, SCAQMD Rule 1146 and SMAQMD Rule 411 and agree with the District's conclusion that these SIP-approved regulations exempt from their NO_X emission limits boilers used at electric utilities to generate electricity.[180]

Glass Melting Furnaces

SJVUAPCD Rule 4354 (''Glass Melting Furnaces''), as amended May 19, 2011, establishes NO_X, VOC, SO_X, and PM_{10} emission limits and related operational requirements for glass melting furnaces.[181] Specifically, the rule establishes NO_X emission limits of 1.5 to 3.7 lb. NO_X/ton glass, depending on glass product and averaging time, and SO_X emission limits of 0.9 to 1.7 lb. SO_X/ton glass.[182] The EPA approved the District's 2011 amendments to Rule 4354 into the California SIP on January 31, 2013.[183]

According to information provided in Appendix C of the 2018 $PM_{2.5}$ Plan, the NO_X emission limits in Rule 4354 require implementation of oxy-fuel firing or SCR systems, which are the best available NO_X control techniques for this source category and are at least as stringent as analogous requirements implemented in the South Coast and Bay Area.[184] We are not aware of prohibitory rules for glass melting furnaces in other areas that are more stringent than Rule 4354.

As part of our review of a previous $PM_{2.5}$ attainment plan submitted for the San Joaquin Valley, we also considered whether NO_X emission levels lower than the limits in Rule 4354 may be feasible for container glass manufacturing facilities. Specifically, under the SCAQMD's RECLAIM Program, the SCAQMD determined in 2000 that a NO_X limit of 1.2 lbs NO_X/ton of glass pulled represented Best Available Retrofit Control Technology (BARCT),[185] and in 2015 the SCAQMD determined that a lower NO_X limit of 0.24 lbs NO_X/ton of glass pulled represents BARCT for this source category based on use of SCR or the ''Ultra Cat ceramic filter system,'' which has been installed or is under construction at a number of glass manufacturing locations worldwide.[186] The EPA obtained information from the SCAQMD indicating that the Owens-Brockway Container Glass facility in the South Coast (now operated by Owens-Illinois Glass Company) operated at 90% production capacity in February 2015 and consistently emitted below 0.72 lbs NO_X/ton of glass pulled during that month, using oxyfuel firing to control NO_X emissions.[187]

Given this information, the EPA requested additional information from the District about the technological and economic feasibility of additional NO_X control techniques for container glass manufacturing facilities, and on January 28, 2020, the District submitted a document entitled ''Further Information for EPA Regarding the MSM Analysis for District Rule 4354 (Glass Melting Furnaces)'' (referred to herein as the ''Rule 4354 Additional Analysis'').[188] The information provided by the District indicates that, because the costs due to lost production can be significant if a glass melting furnace is taken off-line during the middle of its campaign, retrofits to install additional combustion controls are generally performed only when a furnace is shut down for rebricking, which occurs once every 10 to 15 years.[189] Because of wide variations in the costs and technical difficulties associated with installation of NO_X controls depending on the physical layout of each furnace and the time of its last re-bricking, the District concluded that generic economic feasibility analyses are not possible and that extensive facility-specific evaluations would be necessary to determine whether additional control technologies are feasible for implementation at the three container glass melting facilities currently operating in the San Joaquin Valley.[190]

Further, the District also stated in Appendix C of the 2018 $PM_{2.5}$ Plan that the Owens-Brockway (now Owens-Illinois) facility in the South Coast has experienced wide-ranging spikes in the NO_X emissions from its glass furnaces while operating its new control systems and that it is not known at this time whether the facility will be able to consistently achieve emission rates as low as 0.20 lbs of NO_X/ton of glass produced as shown by the facility's preliminary source test data from 2018.[191]

We agree with the District's conclusion that the feasibility of retrofits to install additional NO_X controls at the existing glass melting facilities in the San Joaquin Valley is

[175] 2018 $PM_{2.5}$ Plan, App. C, C–165 to C–167.

[176] Id. at C–168 to C–169.

[177] Id. at C–170 to C–179.

[178] Id.

[179] Id. at C–179. The permitted source had not yet begun construction at the time the District adopted the 2018 $PM_{2.5}$ Plan.

[180] BAAQMD Regulation 9–7, section 110.4, SCAQMD Rule 1146, section 110, and SMAQMD Rule 41, section (f)(1).

[181] SJVUAPCD Rule 4354, as amended May 19, 2011.

[182] Id. at 5, 7.

[183] 78 FR 6740 (January 31, 2013).

[184] 2018 $PM_{2.5}$ Plan, App. C, C–189 to C–194.

[185] BARCT is defined as ''an emission limitation that is based on the maximum degree of reduction achievable taking into account environmental, energy, and economic impacts by each class or category of source.'' California Health & Safety Code Section 40406.

[186] SCAQMD, Draft Final Staff Report, ''Proposed Amendments to Regulation XX, Regional Clean Air Incentives Market (RECLAIM), NO_X RECLAIM,'' December 4, 2015, 170–171. The RECLAIM program requires that container glass melting facilities achieve NO_X reductions consistent with the 2015 BARCT determination (0.24 lbs NO_X/ton of glass pulled) by 2022. SCAQMD Rule 2002 (as amended October 5, 2018), subparagraph (f)(1)(K) and Table 6 (''RECLAIM NO_X 2022 Ending Emission Factors'').

[187] 81 FR 69396, 69399 (October 6, 2016) (citing email dated April 13, 2016, from Kevin Orellana, SCAQMD to Idalia Perez, EPA Region IX).

[188] Email dated January 28, 2020, from John Klassen, SJVUAPCD to Doris Lo, EPA Region IX, Subject: ''RE: Follow up questions on glass melting and IC engines for MSM analysis,'' attaching ''Further Information for EPA Regarding the MSM Analysis for District Rule 4354 (Glass Melting Furnaces)'' (''Rule 4354 Additional Analysis'').

[189] Rule 4354 Additional Analysis, 5–7.

[190] Id.

[191] 2018 $PM_{2.5}$ Plan, App. C, C–195.

highly dependent on timing and site-specific factors, as the real costs of installing post-combustion controls or oxy-fuel firing retrofits and the lost revenue resulting from early furnace shutdowns may vary significantly from facility to facility.

Stationary Internal Combustion Engines

SJVUAPCD Rule 4702 (''Internal Combustion Engines''), as amended November 14, 2013, establishes NO_X, CO, VOC, and SO_X emission limits and related operational requirements for internal combustion (IC) engines.[192] The rule contains separate emission limits for spark-ignited IC engines used in agricultural operations (SI AO engines), spark-ignited IC engines used in non-agricultural operations (SI non-AO engines), and compression-ignited IC engines.[193] The EPA approved the District's 2013 amendments to this rule into the California SIP on April 25, 2016.[194]

For SI non-AO engines, Rule 4702 establishes NO_X emission limits ranging from 11 to 75 ppmv, depending on the type of engine.[195] According to Appendix C of the 2018 $PM_{2.5}$ Plan, these NO_X emission limits are at least as stringent as many analogous control requirements implemented in the Bay Area, Sacramento Metro, and Ventura County areas.[196] We also note that the Rule 4702 limits for these engines are at least as stringent as analogous requirements in the Feather River, Placer County, Mojave Desert, and San Diego areas.[197]

Some of the emission limits for specific types of SI non-AO engines in Rule 4702 are, however, less stringent than those implemented in the South Coast, El Dorado, and Antelope Valley areas for similar engines. Specifically, the SCAQMD has adopted an 11 ppmv limit for all IC engines;[198] El Dorado has adopted a 25 ppmv limit for SI ''rich-burn'' engines and a 65 ppmv limit for SI ''lean-burn'' engines (except those used exclusively in agricultural operations);[199] and Antelope Valley has adopted a 36 ppmv limit for IC engines (except those used exclusively in agricultural operations).[200] As explained in Appendix C of the 2018 $PM_{2.5}$ Plan, the District considered the technical and economic feasibility of alternative control techniques for certain SI non-AO engines (*e.g.,* waste gas engines, cyclic loaded field gas-fueled engines, limited use engines, two-stroke gaseous fueled engines, and lean-burn engines used in gas compression) that would lower the emission levels for these engines to 11 ppmv but found that these NO_X controls are not feasible for implementation in the San Joaquin Valley at this time.[201]

For SI AO engines, Rule 4702 establishes NO_X emission limits ranging from 90 to 150 ppmv.[202] These NO_X emission limits are more stringent than analogous control requirements implemented in the Sacramento Metro, Placer County, El Dorado, and Antelope Valley areas, which exempt AO engines from control requirements altogether, and are equivalent to analogous control requirements implemented in the Mojave Desert area.[203] The SCAQMD, however, has adopted an 11 ppmv NO_X emission limit for all stationary SI and CI engines rated over 50 bhp, effective July 1, 2011, with limited exceptions for agricultural engines that meet certain conditions.[204] Additionally, the Feather River Air Quality Management District (FRAQMD) Rule 3.22, as amended October 6, 2014, establishes NO_X emission limits of 25 parts per million (ppm) and 65 ppm for rich-burn and lean-burn agricultural engines in southern FRAQMD, respectively, except for engines located at agricultural sources that emit less than 50% of the major source thresholds for regulated air pollutants and/or hazardous air pollutants.[205] These NO_X emission limits in SCAQMD Rule 1110.2 and FRAQMD Rule 3.22 thus appear to be more stringent in some respects than the 90 ppmv and 150 ppmv limits applicable to agricultural engines in SJVUAPCD Rule 4702. As of June 2016, staff at the FRAQMD were unaware of any stationary SI engines currently operating at agricultural facilities in the Feather River area that have demonstrated compliance with the 25 ppm or 65 ppm NO_X emission limits in FRAQMD Rule 3.22.[206] Nonetheless, because these NO_X emission limits are approved into the California SIP,[207] they are required as MSM if they can feasibly be implemented in the San Joaquin Valley.

The District considered the technical and economic feasibility of alternative control techniques for SI AO engines that would lower the emission levels for certain engines to 11 ppmv but found that these NO_X controls are not feasible for implementation within San Joaquin Valley's agricultural industry at this time.[208] Based on our understanding that three natural gas-fired SI AO engines in the South Coast are currently subject to the 11 ppmv NO_X emission limit in SCAQMD Rule 1110.2 and use nonselective catalytic reduction (NSCR, also called ''three-way catalysts'') control technology to comply with this emission limit,[209] the EPA requested additional information from the District regarding the technological and economic feasibility of additional NO_X control techniques for SI AO engines, and on October 7, 2019, the District submitted a document entitled ''Further Information for EPA Regarding the MSM Analysis for Agricultural Operation Engines'' (referred to herein as the ''AO Engine Additional Analysis'').[210]

[192] SJVUAPCD Rule 4702, as amended November 14, 2013.

[193] Id.

[194] 81 FR 24029 (April 25, 2016).

[195] SJVUAPCD Rule 4702, as amended November 14, 2013, section 5.2.2 and tables 1 and 2.

[196] 2018 $PM_{2.5}$ Plan, App. C, C–214 to C–221.

[197] Feather River AQMD Rule 3.22; Placer County APCD Rule 242; Mojave Desert AQMD Rule 1160; and San Diego APCD Rule 69.4.1.

[198] SCAQMD Rule 1110.2, as amended February 1, 2008.

[199] El Dorado County AQMD Rule 233, as amended June 2, 2006.

[200] Antelope Valley AQMD Rule 1110.2, as amended January 21, 2003.

[201] 2018 $PM_{2.5}$ Plan, App. C, C–221 to C–227.

[202] SJVUAPCD Rule 4702, as amended November 14, 2013, section 5.2.3 and Table 3.

[203] SMAQMD Rule 412, as amended June 1, 1995; Placer County APCD Rule 242, as adopted April 10, 2003; El Dorado County AQMD Rule 233, as amended June 2, 2006; Antelope Valley AQMD Rule 1110.2, as amended January 21, 2003; and Mojave Desert AQMD Rule 1160.1, as adopted January 23, 2012.

[204] SCAQMD Rule 1110.2, as amended February 1, 2008, section (d)(1) (referencing Tables I and II). Rule 1110.2 provides an exemption from the 11 ppmv emission limit for agricultural engines that meet EPA Tier 4 emission standards and either of two additional conditions: (1) The engine operator submits documentation to the SCAQMD, by the deadline for a permit application, that the applicable electric utility has rejected an application for an electrical line extension to the location of the engines, or (2) the SCAQMD determines that the operator does not qualify for funding under California Health and Safety Code Section 44229 to replace, retrofit or repower the engine. SCAQMD Rule 1110.2 at section (h)(9).

[205] FRAQMD Rule 3.22, as amended October 6, 2014, section D.1, Table 2 (South FRAQMD Emission Limits) and section B.1.e (Exemptions).

[206] Email dated June 2, 2016, from Alamjit Mangat, FRAQMD to Nicole Law, EPA Region IX, regarding ''Engines in FRAQMD'' (stating that all 423 agricultural engines currently operating in the Feather River area qualify for an exemption from the NO_X emission limits in FRAQMD Rule 3.22). The 25 ppm and 65 ppm NO_X emission limits in SIP-approved Rule 3.22 apply only to engines located at agricultural sources that emit at least 50% of the major source thresholds for regulated air pollutants and/or hazardous air pollutants. FRAQMD Rule 3.22, as amended October 6, 2014, section D.1, Table 2 (South FRAQMD Emission Limits) and section B.1.e (Exemptions).

[207] 80 FR 22646 (April 23, 2015) (final rule approving FRAQMD Rule 3.22 into California SIP).

[208] 2018 $PM_{2.5}$ Plan, App. C, C–231 to C–238.

[209] 81 FR 69396, 69398 (October 6, 2016) (citing email dated May 3, 2016, from Kevin Orellana, SCAQMD to Nicole Law, EPA Region IX).

[210] Email dated October 7, 2019, from John Klassen, SJVUAPCD to Doris Lo, EPA Region IX,

Continued

According to the District, the NO_X controls that would be necessary to achieve a 11 ppmv emission limit at SI AO engines in the San Joaquin Valley are not economically feasible because of factors such as increased fuel costs, increased engine maintenance costs, and the costs of engine overhaul/replacement,[211] and installation of control equipment on an SI AO engine generally is not technologically feasible without substantial and costly engine retrofits.[212] The AO Engine Additional Analysis explains the District's cost-effectiveness calculations.[213] The District also provided information regarding technical feasibility challenges related to the specific type of workforce, and physical size and location of agricultural operations in the San Joaquin Valley.

We note that the SCAQMD, like SJVUAPCD, has provided economic incentive grants for agricultural engine retrofits and replacement in recognition of unique economic and technical circumstances in the agricultural industry.[214]

Finally, for compression-ignited IC engines (both those used in agricultural operations and those used in non-agricultural operations), Rule 4702 requires compliance by specified dates with EPA Tier 3 or Tier 4 NO_X emission standards for non-road CI engines in 40 CFR part 89 or part 1039, as applicable, or an 80 ppmv NO_X emission limit, depending on engine type.[215]

Conservation Management Practices

SJVUAPCD Rule 4550 (''Conservation Management Practices''), as adopted August 19, 2004, establishes requirements for owners and operators of agricultural sites to implement conservation management practices (CMPs) to control PM_{10} emissions from on-field crop and animal feeding operations.[216] Under the rule, each owner/operator of an agricultural site must select and implement a CMP for each category of operations, including unpaved roads and unpaved vehicle/equipment traffic areas, and submit a CMP application to the District for its review and approval.[217] The EPA approved this rule into the California SIP on February 14, 2006.[218]

According to Appendix C of the 2018 $PM_{2.5}$ Plan, Rule 4550 was the first rule of its kind in the nation to reduce fugitive particulate emissions from agricultural operations through implementation of conservation practices.[219] The District compared the provisions of Rule 4550 to analogous regulations implemented by air agencies in other parts of California (Imperial County and South Coast) and in Arizona, and found that Rule 4550 is at least as stringent as each of these other regulations.[220] We note that it is difficult to directly compare the requirements among these rules because of the widely varying rule structures and operations of the affected agricultural sites.

The 2018 $PM_{2.5}$ Plan states that additional CMPs and other controls for windblown dust would not substantially impact $PM_{2.5}$ design values in the San Joaquin Valley because windblown dust events typically do not coincide with the winter period during which $PM_{2.5}$ concentrations in the San Joaquin Valley are the highest.[221] According to the District, $PM_{2.5}$ design values in the San Joaquin Valley are driven primarily by high winter-time concentrations, mostly due to organic carbon and the secondary formation of ammonium nitrate, while the geologic component of peak $PM_{2.5}$ concentrations is a fraction (less than 6%) of the mass formed by secondary processes and other sources.[222] Additionally, the District states that $PM_{2.5}$ comprises a small fraction (approximately 6% to 12%) of total PM_{10} emissions from agricultural field operations in the San Joaquin Valley.[223]

Commercial Charbroiling

SJVUAPCD Rule 4692 (''Commercial Charbroiling''), as amended September 17, 2009, establishes control requirements to reduce PM_{10} (including $PM_{2.5}$) and VOC emissions from chain-driven charbroilers.[224] Specifically, the rule requires that chain-driven charbroilers be equipped and operated with a catalytic oxidizer with a control efficiency of at least 83% for PM_{10} emissions and 86% for VOC emissions.[225] The rule does not require controls for under-fired charbroilers (UFCs). The EPA approved the District's 2009 amendments to Rule 4692 into the California SIP on November 3, 2011.[226]

Appendix C of the 2018 $PM_{2.5}$ Plan includes a comparison of the requirements in Rule 4692 to analogous requirements for chain-driven charbroilers implemented by the SCAQMD, Ventura County Air Pollution Control District (VCAPCD), BAAQMD, and New York Department of Environmental Protection (NYDEP) and found no requirements for chain-driven charbroilers in these rules that are more stringent than those contained in Rule 4692.[227] With respect to UFCs, the District noted that two regulations, the BAAQMD's Regulation 6 Rule 2 and title 24, section 24–149.4 of the New York City Administrative Code, contain control requirements for UFCs. According to the District, however, the majority of the UFCs in the Bay Area are not subject to the requirements for UFCs in BAAQMD Regulation 6 Rule 2 because they fall below the rule's applicability thresholds, and the BAAQMD has not enforced its UFC requirements because no control technologies have yet been certified.[228] Similarly, the District states in Appendix C of the 2018 $PM_{2.5}$ Plan that NYDEP staff are in the introductory stages of establishing an inventory and planning for inspections at charbroiling facilities, and that installation of controls for new UFCs is not yet required under title 24, section 24–149.4 of the New York City Administrative Code.[229] The SJVUAPCD therefore concluded that control requirements for UFCs are not technologically and economically feasible at this time.

We are not aware of requirements for chain-driven charbroilers in other areas that are more stringent than the requirements of Rule 4692. Although the BAAQMD and NYDEP implement rules that require controls for UFCs, neither agency has yet confirmed that any regulated sources have successfully installed and operated certified UFC control technologies.[230] Staff at the

Subject: ''RE: Follow up questions on glass melting and IC engines for MSM analysis,'' attaching ''Further Information for EPA Regarding the MSM Analysis for Agricultural Operation Engines'' (''AO Engine Additional Analysis'').

[211] AO Engine Additional Analysis, 9–12.

[212] Id. at 10–11.

[213] Id. at 9–11.

[214] SCAQMD Final Staff Report for Rule 1110.2, May 2005, App. B (''Incentive Funding Available for Agricultural Engine Emission Reductions'').

[215] SJVUAPCD Rule 4702, as amended November 14, 2013, section 5.2.4, Table 4, and section 3.37 (defining Tier 1, Tier 2, Tier 3, and Tier 4 engines).

[216] SJVUAPCD Rule 4550, as adopted August 19, 2004.

[217] Id.

[218] 71 FR 7683 (February 14, 2006).

[219] 2018 $PM_{2.5}$ Plan, App. C, C–196.

[220] Id. at C–202, C–203.

[221] Id. at C–200, C–201.

[222] Id. at C–201.

[223] Id. at C–200.

[224] SJVUAPCD Rule 4692, as amended September 17, 2009.

[225] Id.

[226] 76 FR 68103.

[227] 2018 $PM_{2.5}$ Plan, App. C, C–205 to C–208.

[228] Id. at C–206. We note that the BAAQMD and NYDEP charbroiler rules have not been approved into the California SIP and New York SIP, respectively.

[229] Id.

[230] Email dated July 11, 2019, from Stanley Tong, EPA Region IX to Krishnan Balakrishnan, BAAQMD, Subject: ''Underfired charbroiler updates'' and email dated June 17, 2019, from Ronald Vaughn, NYDEP to Stanley Tong, EPA Region IX, Subject: ''RE New Charbroiler Registrations NYC.''

BAAQMD recently noted that electrostatic precipitators (ESPs) have been installed in commercial kitchens in San Francisco and San Jose but that the BAAQMD has not yet enforced control requirements for UFCs.[231] We note that the 2018 $PM_{2.5}$ Plan identifies several restaurants inside and outside of the San Joaquin Valley that have installed UFC control technologies, and that these installations may inform the District's ongoing feasibility analyses.[232] For example, the District has implemented a first-of-its-kind pilot project to install and assess the feasibility of UFC controls at an operating restaurant.[233] We encourage the District to continue monitoring the operation of these control technologies to determine whether they can feasibly be implemented at other charbroiling sources in the San Joaquin Valley.

The District revised Rule 4692 on June 21, 2018, to require owners and operators of commercial cooking operations with UFCs to submit, by January 1, 2019, a one-time informational report providing information about the UFC and its operations—including, *e.g.,* information about the cooking surface area, type and quantity of meat cooked on the UFC on a weekly basis during the previous 12-month period, daily operating hours, and the manufacturer and model number of any installed pollution control device designed to reduce particulates, kitchen smoke, or odor.[234] The revisions to Rule 4692 also require such owners and operators to register with the District and keep weekly records relating to the quantity of meat cooked, but exempt from the registration and recordkeeping requirements UFCs that cook quantities of meat below certain thresholds provided the owner or operator complied with the one-time informational reporting requirement. CARB submitted the amended rule to the EPA on November 21, 2018, via a letter dated November 16, 2018.[235]

Stationary Gas Turbines

SJVUAPCD Rule 4703 (''Stationary Gas Turbines''), as amended September 20, 2007, establishes NO_X emission limits and related operational requirements for stationary gas turbines with greater than 0.3 MW capacity or a maximum heat input rating of more than 3 million Btu/hr.[236] The NO_X emission limits in the rule range from 3 to 25 ppm for gas-fired operations and from 25 to 42 ppm for liquid-fired operations.[237] These units operate primarily in the oil and gas production and utility industries, with some also operating in manufacturing and government facilities.[238] The EPA approved this rule into the California SIP on October 21, 2009.[239]

According to information provided in Appendix C of the 2018 $PM_{2.5}$ Plan, the NO_X emission limits in Rule 4703 are at least as stringent as analogous control requirements implemented in the Bay Area, South Coast, and Ventura County.[240] We note that the SCAQMD recently revised its rule for stationary gas turbines (Rule 1134) to establish, among other things, a NO_X emission limit of 2 ppmv for natural gas-fired combined cycle turbines, which is more stringent than the 3 ppmv limit in SJVUAPCD Rule 4703 for these units.[241] Because the compliance date for this requirement in SCAQMD Rule 1134 is December 31, 2023, however, it is not clear that the controls necessary to achieve a 2 ppmv emission level are technologically and economically feasible at this time.

Wood Burning Fireplaces and Wood Burning Heaters

SJVUAPCD Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters''), as amended June 20, 2019, is designed to limit emissions of PM, including $PM_{2.5}$ and PM_{10}, and other pollutants generated by the use of wood burning fireplaces, wood burning heaters, and outdoor wood burning devices. The rule establishes requirements for the sale/transfer, operation, and installation of wood burning devices and on the advertising of wood for sale within the San Joaquin Valley. The EPA proposed to approve the District's 2019 amendments to the rule into the SIP on January 9, 2020.[242]

As part of the evaluation supporting our proposed approval,[243] we found that Rule 4901 and the related Check Before You Burn program (*http://valleyair.org/rule4901*) implemented by the District provide for a comprehensive residential wood smoke program that incorporates all of the elements outlined in EPA's ''Strategies for Reducing Wood Smoke.''[244] Among the key elements of the rule are a wood burning curtailment program (triggered by forecasted $PM_{2.5}$ concentrations for the next day), opacity and visible emission limits, requirements regarding wood moisture content, removal of uncertified wood burning stoves upon home resale, restrictions on installation of wood burning devices, requirement that all wood burning stoves sold or transferred within the District meet New Source Performance Standards (NSPS), a wood burning change-out program and education and outreach. In the Technical Support Document to support our separate proposal on Rule 4901, we compare this rule to analogous rules implemented elsewhere and conclude that Rule 4901, as a whole, is as or more stringent than analogous local, state, and federal rules and guidance.[245]

Of particular relevance for reducing $PM_{2.5}$ emissions, Rule 4901 includes a tiered mandatory curtailment program that establishes different curtailment thresholds based on the type of device and county. During a level one episodic woodburning curtailment, operation of wood burning fireplaces and unregistered wood burning heaters is prohibited, but properly operated, registered[246] wood burning devices may be used. During a level two episodic woodburning curtailment, operation of any wood burning device is prohibited. However, the rule includes an exemption from the curtailment provisions for (1) locations where natural gas service is not available and (2) residences for which a wood burning

[231] Email dated January 9, 2020, from Virginia Lau, BAAQMD to Stanley Tong, EPA Region IX, Subject: ''RE: Underfired charbroiler—Q: SJ discussion about BA rule'' (noting that the BAAQMD has conducted enforcement inspections concerning food throughput and grill size).

[232] 2018 $PM_{2.5}$ Plan, App. C, C–209.

[233] Id. at App. E, E–20.

[234] SJVUAPCD Rule 4692, as amended June 21, 2018. The revisions to Rule 4692 provide that commercial cooking operations with UFCs that are operated outdoors and are not connected to an exhaust hood or other form of ventilation system are exempt from the requirements of the rule. Id. at sections 3.9 and 4.3.

[235] Letter dated November 16, 2018, from Richard W. Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX (transmitting amended Rule 4692).

[236] SJVUAPCD Rule 4703, as amended September 20, 2007.

[237] Id. at Table 5–3.

[238] 2018 $PM_{2.5}$ Plan, App. C, C–243 to C–247.

[239] 74 FR 53888 (October 21, 2009).

[240] 2018 $PM_{2.5}$ Plan, App. C, C–243 to C–247.

[241] SCAQMD Rule 1134, as amended April 5, 2019, section (d) and table I (''Emission Limits for Stationary Gas Turbines'').

[242] 85 FR 1131 (January 9, 2020).

[243] Technical Support Document for the EPA's Proposed Rulemaking for the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters''), December 2019.

[244] Strategies for Reducing Wood Smoke, EPA–456/B–13–01, March 2013.

[245] Id. The SJVUAPCD provides its comparisons of Rule 4901 to analogous rules implemented elsewhere in Appendix C of the Plan. 2018 $PM_{2.5}$ Plan, App. C, C–259 to C–280.

[246] In order to be registered, a device must either be certified under the NSPS at time of purchase or installation and at least as stringent as Phase II requirements or be a pellet-fueled wood burning heater exempt from EPA certification requirements at the time of purchase or installation. The rule includes requirements for documentation and inspection to verify compliance with these standards.

fireplace or wood burning heater is the sole available source of heat. In the ''hot spot'' counties of Madera, Fresno, and Kern, the level one $PM_{2.5}$ threshold is 12 μg/m³, and the level two $PM_{2.5}$ threshold is 35 μg/m³. In the remaining counties in the District (San Joaquin, Stanislaus, Merced, Kings, and Tulare), the level one $PM_{2.5}$ threshold is 20 μg/m³, and the level two $PM_{2.5}$ threshold is 65 μg/m³. These curtailment thresholds in Rule 4901 are collectively as stringent as or more stringent than those in any other rule.

b. State Measures for Mobile Sources

Mobile source categories for which CARB has primary responsibility for reducing emissions in California include most new and existing on- and non-road engines and vehicles and motor vehicle fuels. The 2018 $PM_{2.5}$ Plan's BACM and MSM demonstration provides a general description of CARB's key mobile source programs and regulations and a comprehensive table listing on-road and non-road mobile source regulatory actions taken by CARB since 1985.[247] Given the need for substantial emissions reductions from mobile sources to meet the NAAQS in California's nonattainment areas, CARB has established stringent control measures for on-road and non-road mobile sources and the fuels that power them. California has unique authority under CAA section 209 (subject to a waiver by the EPA) to adopt and implement new emission standards for many categories of on-road vehicles and engines, and new and in-use non-road vehicles and engines. The EPA has approved such mobile source regulations for which waiver authorizations have been issued as revisions to the California SIP.[248]

CARB's mobile source program extends beyond regulations that are subject to the waiver or authorization process set forth in CAA section 209 to include standards and other requirements to control emissions from in-use heavy-duty trucks and buses, gasoline and diesel fuel specifications, and many other types of mobile sources. Generally, these regulations have also been submitted and approved as revisions to the California SIP.[249]

During its development of the Valley State SIP Strategy, CARB identified measures that would achieve additional NO_X and direct $PM_{2.5}$ emissions reductions from sources under CARB jurisdiction, including more stringent in-use performance standards for heavy-duty vehicles, a low-NO_X engine standard for vehicles with new heavy-duty engines, and a low-emission diesel fuel requirement.[250] The Valley State SIP Strategy includes a commitment by CARB to bring a list of defined measures to the Board for action according to the schedule provided in Table 7 of the Valley State SIP Strategy.[251]

We find that the process conducted by CARB to develop the Valley State SIP Strategy was reasonably designed to identify additional available measures within CARB's jurisdiction, and that CARB's programs constitute the most stringent emission control programs currently available for the mobile source and fuels categories, taking into account economic and technological feasibility.

c. Local Jurisdiction Transportation Control Measures (TCMs)

TCMs are projects that reduce air pollutants from transportation sources by reducing vehicle use, traffic congestion, or vehicle miles traveled. TCMs are currently being implemented in the San Joaquin Valley as part of the Congestion Mitigation and Air Quality cost effectiveness policy adopted by the eight local jurisdiction MPOs and in the development of each Regional Transportation Plan (RTP). The Congestion Mitigation and Air Quality policy, which is included in a number of the District's prior attainment plan submissions for the ozone and $PM_{2.5}$ NAAQS, provides a standardized process for distributing 20 percent of the Congestion Mitigation and Air Quality funds to projects that meet a minimum cost effectiveness threshold beginning in fiscal year 2011. The MPOs revisited the minimum cost effectiveness standard during the development of their 2018 RTPs and 2019 Federal Transportation Improvement Program and concluded that they were implementing all reasonable transportation control measures.[252] Appendix D of the District's ''2016 Ozone Plan for 2008 8-Hour Ozone Standard,'' adopted June 16, 2016, contains a listing of adopted TCMs for the San Joaquin Valley.[253]

d. Conclusion and Proposed Action

We find that the evaluation process followed by CARB and the District in the SJV $PM_{2.5}$ Plan to identify potential BACM and MSM were generally consistent with the requirements of the $PM_{2.5}$ SIP Requirements Rule, the State's and District's evaluation of potential measures is appropriate, and the State and District have provided reasoned justifications for their rejection of potential measures based on technological or economic infeasibility. We also agree with the District's conclusion that all reasonable TCMs are being implemented in the San Joaquin Valley and propose to find that these TCMs implement BACM and MSM for transportation sources.

For the foregoing reasons, we propose to find that the SJV $PM_{2.5}$ Plan provides for the implementation of BACM for sources of direct $PM_{2.5}$ and NO_X as expeditiously as practicable and no later than December 31, 2019, and for the implementation of MSM for such sources as expeditiously as practicable and no later than December 31, 2023, in accordance with the requirements of CAA sections 189(b)(1)(B) and 188(e).

D. Extension of Serious Area Attainment Date Under CAA Section 188(e)

In this section of the preamble, we present our evaluation of the State's request to extend the Serious area attainment date from December 31, 2019, to December 31, 2024, under CAA section 188(e) and, given the section 188(e) requirement to demonstrate expeditious attainment of the NAAQS, our evaluation of the SJV $PM_{2.5}$ Plan's attainment demonstration, including the Plan's air quality modeling approach and results and control strategy.

1. Demonstration That Attainment by Serious Area Attainment Date Is Impracticable

a. Summary of State's Impracticability Demonstration

The SJV $PM_{2.5}$ Plan includes a demonstration, based on air quality modeling, that even with the implementation of BACM and BACT for all appropriate sources, attainment by December 31, 2019, is not practicable. The impracticability demonstration is included in Appendix K of the 2018 $PM_{2.5}$ Plan.

[247] 2018 $PM_{2.5}$ Plan, App. D, Table 17.

[248] See, *e.g.,* 81 FR 39424 (June 16, 2016), 82 FR 14447 (March 21, 2017), and 83 FR 23232 (May 18, 2018).

[249] See, *e.g.,* the EPA's approval of standards and other requirements to control emissions from in-use heavy-duty diesel-powered trucks, at 77 FR 20308 (April 4, 2012), revisions to the California on-road reformulated gasoline and diesel fuel regulations at 75 FR 26653 (May 12, 2010), and revisions to the California motor vehicle inspection and maintenance program at 75 FR 38023 (July 1, 2010).

[250] Valley State SIP Strategy, Chapter 2 (''Measures''), 2018 $PM_{2.5}$ Plan, section 4.4 and App. D, Chapter IV (''Identification and Evaluation of Potential Measures'').

[251] CARB Resolution 18–49 (October 25, 2018), 5.

[252] 2018 $PM_{2.5}$ Plan, App. D, D–127.

[253] Id. and SJVUAPCD, ''2016 Ozone Plan for 2008 8-Hour Ozone Standard'' (adopted June 16, 2016), App. D, Attachment D, tables D–10 through D–17.

Table 26 in Appendix K presents base year and modeled 2020 future year 24-hour average $PM_{2.5}$ concentrations at 15 $PM_{2.5}$ monitoring sites in the San Joaquin Valley nonattainment area. The demonstration is summarized in Table 3.

TABLE 3—IMPRACTICABILITY DEMONSTRATION, 24-HOUR AVERAGE $PM_{2.5}$ DESIGN VALUE CONCENTRATIONS

[μg/m³]

Monitoring Site	2013 (base year)	2020 (projected future year)
Bakersfield—California	64.1	47.6
Fresno—Garland	60.0	44.3
Hanford	60.0	43.7
Fresno—Hamilton & Winery	59.3	45.6
Clovis	55.8	41.1
Visalia	55.5	42.8
Bakersfield—Planz	55.5	41.2
Madera	51.0	38.9
Turlock	50.7	37.8
Modesto	47.9	35.8
Merced—Main Street	46.9	32.9
Stockton	42.0	33.5
Merced—S Coffee	41.1	30.0
Manteca	36.9	30.1
Tranquility	29.5	21.5

Source: 2018 $PM_{2.5}$ Plan, Appendix K, Table 26.

b. EPA's Evaluation and Proposed Action

The impracticability demonstration in the SJV $PM_{2.5}$ Plan is based on air quality modeling that is generally consistent with applicable EPA guidance. We find the modeling, described in section IV.D.4.a of this preamble, adequate to support the impracticability demonstration in the Plan. We note that the modeled year of the impracticability demonstration is 2020, the year following the December 31, 2019 attainment date. However, as the projected 24-hour average concentration in 2020 is 48 μg/m³, well above the 35 μg/m³ level of the 2006 24-hour $PM_{2.5}$ NAAQS, we find it reasonable to conclude based on this evaluation that attainment by the end of 2019 is impracticable.

In addition to the information in the 2018 $PM_{2.5}$ Plan, we have reviewed recent $PM_{2.5}$ monitoring data from the San Joaquin Valley. These data show that 24-hour average $PM_{2.5}$ levels in the San Joaquin Valley, with a 2016–2018 design value of 65 μg/m³, continue to be above the 35 μg/m³ level of the 2006 24-hour $PM_{2.5}$ standard. Recent trends in annual $PM_{2.5}$ levels in the San Joaquin Valley are not consistent with a projection of attainment by the end of 2019. A more detailed analysis, including 24-hour $PM_{2.5}$ trend data in the San Joaquin Valley for years 2004–2018, is contained in section II of the EPA's General Evaluation TSD.[254]

We discuss in section IV.C of this proposed rule our evaluation of the BACM and BACT demonstration and the bases for our proposal to find that the SJV $PM_{2.5}$ Plan provides for the implementation of all BACM and BACT by the statutory implementation deadline. Based on our evaluation of the State's impracticability demonstration, including the demonstration concerning BACM and BACT, and our review of the available ambient air quality data, we propose to approve the State's demonstration in the 2018 $PM_{2.5}$ Plan that attainment of the 2006 24-hour $PM_{2.5}$ NAAQS in the San Joaquin Valley by the Serious area attainment date of December 31, 2019, is impracticable.

2. Compliance With All Requirements and Commitments in the Implementation Plan

We interpret this criterion to mean that the State has implemented the control measures and commitments in the plan revisions it has submitted to address the applicable requirements in CAA sections 172 and 189 for $PM_{2.5}$ nonattainment areas. For the San Joaquin Valley, the EPA has approved the control measure requirements and commitments of the 2008 $PM_{2.5}$ Plan (for the 1997 $PM_{2.5}$ NAAQS) and the 2012 $PM_{2.5}$ Plan and Supplement (for the 2006 $PM_{2.5}$ NAAQS) into the California SIP. The EPA has not yet taken action on the State's SIP revisions for the 2012 $PM_{2.5}$ NAAQS. Therefore, we describe below the State's and District's implementation of the control measures and commitments for the 1997 $PM_{2.5}$ NAAQS and 2006 $PM_{2.5}$ NAAQS. For more detail on our evaluation for the 1997 $PM_{2.5}$ NAAQS, please refer to section III of the EPA's General Evaluation TSD.

a. Requirements and Commitments for the 1997 $PM_{2.5}$ NAAQS

Between 2007 and 2011, California made six SIP submissions to address nonattainment area planning requirements for the 1997 $PM_{2.5}$ NAAQS in the SJV,[255] which we refer to collectively as the ''2008 $PM_{2.5}$ Plan.'' On November 9, 2011, the EPA approved most elements of the 2008 $PM_{2.5}$ Plan, including commitments by CARB and the SJVUAPCD to take specific actions with respect to identified control measures and to achieve specific amounts of direct $PM_{2.5}$, NO_X, and SO_X emission reductions by 2014.[256]

The specific State and District commitments that the EPA approved into the California SIP as part of the 2008 $PM_{2.5}$ Plan are as follows:

(1) A commitment by CARB to propose specific measures identified in Appendix B of the ''Progress Report on Implementation of $PM_{2.5}$ State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions,'' dated April 28, 2011 (''2011 Progress

[254] See also, Attachment A to the EPA's General Evaluation TSD, ''Practicability of San Joaquin Valley Attaining 2006 24-hour $PM_{2.5}$ NAAQS by December 31, 2019,'' October 9, 2019.

[255] 76 FR 69896, n. 2 (November 9, 2011).

[256] Id. at 69926 (codified at 40 CFR 52.220(c)(356)(ii)(B)(*2*), 52.220(c)(392)(ii)(A)(*2*), and 52.220(c)(395)(ii)(A)(*2*).

Report''), in accordance with the timetable specified therein;[257]

(2) A commitment by the District to ''adopt and implement the rules and measures in the 2008 $PM_{2.5}$ Plan'' in accordance with the timetable specified in Table 6–2 of the 2008 $PM_{2.5}$ Plan, as amended June 17, 2010, and to submit these rules and measures to CARB for transmittal to EPA as SIP revisions;[258]

(3) A commitment by CARB to achieve a total of 17.1 tons per day (tpd) of NO_X emission reductions and 2.3 tpd of direct $PM_{2.5}$ emission reductions by 2014 as described in CARB Resolution No. 07–28, Attachment B, as amended in 2009 and 2011;[259] and

(4) A commitment by the District to achieve a total of 8.97 tpd of NO_X emission reductions, 6.7 tpd of direct $PM_{2.5}$ emission reductions, and 0.92 tpd of SO_X emission reductions by 2014 as described in Table 6–3a, Table 6–3b, and Table 6–3c, respectively, of the 2008 $PM_{2.5}$ Plan.[260]

As of November 9, 2011, the date of the EPA's final action on the 2008 $PM_{2.5}$ Plan, CARB and the District had each satisfied substantial portions of these control measure and emission reduction commitments. Specifically, CARB had proposed action on six of the seven measures it had committed to propose for Board consideration, leaving one additional measure that was scheduled for proposal in 2013 (''New Emissions Standards for Recreational Boats'').[261] The District had adopted 12 of the 13 measures it had committed to adopt and implement, leaving one additional measure that was scheduled for adoption in 2014, amendments to Rule 4905 (''Natural Gas-Fired, Fan-Type Central Furnaces'').[262] Finally, together CARB and the SJVUAPCD had achieved all of the SO_X emission reduction commitments and substantial portions of the direct $PM_{2.5}$ and NO_X emission reduction commitments through implementation of State and District control strategy measures, leaving 3.0 tpd of direct $PM_{2.5}$ emission reductions and 12.9 tpd of NO_X emission reductions yet to be achieved by the beginning of 2014.[263]

Subsequently, CARB submitted a staff report, entitled ''Review of San Joaquin Valley $PM_{2.5}$ State Implementation Plan'' (''2015 CARB Compliance Demonstration''), that contains CARB's demonstration that both CARB and the District have satisfied the commitments in the 2008 $PM_{2.5}$ Plan that remained outstanding as of November 9, 2011, as follows.[264] First, on January 22, 2015, the District adopted amendments to Rule 4905 and on April 7, 2015, CARB submitted this rule to the EPA as a revision to the California SIP.[265] Second, on February 19, 2015, CARB proposed for Board consideration, and the Board adopted, new emission standards for recreational boats entitled ''Evaporative Emissions Control Requirements for Spark-Ignition Marine Watercraft.''[266] These State and District rulemaking actions satisfied the last remaining control measure commitments in the 2008 $PM_{2.5}$ Plan. All of these measures have been submitted to the EPA and approved into the California SIP, as summarized in Table III–A of EPA's General Evaluation TSD.

With respect to the remaining emission reduction commitments (also called ''aggregate tonnage commitments''), the 2015 CARB Compliance Demonstration, as amended by CARB's ''Technical Clarifications to the 2015 San Joaquin Valley $PM_{2.5}$ State Implementation Plan'' (''Technical Clarifications''), identifies nine State and District control measures that, according to CARB, achieved emission reductions beyond those already credited towards the 2008 $PM_{2.5}$ Plan and satisfy the State's remaining 2014 emission reduction obligations.[267] We have reviewed the State's demonstration with respect to each of these nine measures and propose to find that all but one achieved emission reductions that may be credited towards the remaining 2014 emission reduction obligation, because the State has adequately documented its bases for concluding that each measure either contains enforceable, SIP-approved requirements or otherwise achieved specified amounts of emission reductions by January 1, 2014. The one measure identified in the 2015 CARB Compliance Demonstration that did not achieve any SIP-creditable emission reductions is the District's Rule 9510 (''Indirect Source Review'').[268] The EPA's General Evaluation TSD contains a more detailed evaluation of each of the eight measures that we are proposing to credit toward the emission reduction commitments in the 2008 $PM_{2.5}$ Plan.

According to the 2015 CARB Compliance Demonstration and Technical Clarifications, implementation of these control measures achieved, by the beginning of 2014, 26.4 tpd of additional NO_X emission reductions and 2.1 tpd of direct $PM_{2.5}$ emission reductions beyond those already credited toward the 2008 $PM_{2.5}$ Plan.[269] These NO_X emission reductions exceeded the State's outstanding NO_X commitment (12.9 tpd) by 13.9 tpd, and the direct $PM_{2.5}$ emission reductions fell short of the State's outstanding $PM_{2.5}$ commitment (3.0 tpd) by 0.9 tpd.[270] Citing air quality modeling conducted as part of the 2008 $PM_{2.5}$ Plan, CARB stated that a reduction of 9 tpd of NO_X emissions provides an air quality improvement equivalent to a 1 tpd reduction in directly emitted $PM_{2.5}$. On this basis, CARB concluded that the approximately 13 tpd of surplus NO_X reductions achieved through implementation of the identified State and District measures would adequately cover the 0.9 tpd shortfall in required reductions of direct $PM_{2.5}$.[271]

We find the technical bases for a 9:1 NO_X for direct $PM_{2.5}$ trading ratio are generally sound and therefore propose to use this trading ratio to credit the State with an additional 1.07 tpd of $PM_{2.5}$ emission reduction, rounding to

[257] 40 CFR 52.220(c)(395)(ii)(A)(*2*), CARB Resolution No. 07–28, Attachment B (September 27, 2007), CARB Resolution No. 09–34 (April 24, 2009), and CARB Resolution No. 11–24 (April 28, 2011); see also 76 FR 69896 at 69921–69922, Table 2.

[258] 40 CFR 52.220(c)(392)(ii)(A)(*2*), SJVUAPCD Governing Board Resolution No. 08–04–10 (April 30, 2008), and SJVUAPCD Governing Board Resolution No. 10–06–18 (June 17, 2010); see also 76 FR 69896 at 69921, Table 1.

[259] 40 CFR 52.220(c)(356)(ii)(B)(*2*).

[260] 40 CFR 52.220(c)(392)(ii)(A)(*2*).

[261] 76 FR 69896, 69922, Table 2 (''2007 State Strategy Defined Measures Schedule for Consideration and Current Status'').

[262] Id. at 69921, Table 1 (''San Joaquin Valley Air Pollution Control District 2008 $PM_{2.5}$ Plan Specific Rule Commitments'').

[263] Id. at 69923, Table 4 (''Reductions Needed for Attainment Remaining as Commitments Based on SIP-Creditable Measures'').

[264] CARB, ''Review of San Joaquin Valley $PM_{2.5}$ State Implementation Plan,'' released April 20, 2015 (''2015 CARB Compliance Demonstration''), transmitted by email dated February 5, 2020, from Michael Benjamin, CARB to Meredith Kurpius, EPA Region IX, 17–22 and App. B.

[265] 2015 CARB Compliance Demonstration at 19, Table 7 and letter dated April 7, 2015, from Richard Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region 9 (transmitting air district regulations to the EPA as California SIP revisions).

[266] 2015 CARB Compliance Demonstration at 20, Table 8 and CARB, Resolution 15–3, ''Evaporative Emissions Control Requirements for Spark-Ignition Marine Watercraft,'' February 19, 2015, available at *http://www.arb.ca.gov/regact/2015/simw2015/simw2015.htm.*

[267] 2015 CARB Compliance Demonstration at 21–22 and CARB, ''Technical Clarifications to the 2015 San Joaquin Valley $PM_{2.5}$ State Implementation Plan,'' transmitted by email dated February 5, 2020, from Michael Benjamin, CARB to Meredith Kurpius, EPA Region IX, 1–4.

[268] The EPA approved SJVUAPCD Rule 9510, as adopted December 15, 2005, into the California SIP on May 9, 2011 but identified a number of concerns about the enforceability of the rule's provisions that the District would need to resolve before relying on this rule for credit in an attainment plan. 76 FR 26609 (May 9, 2011).

[269] 2015 CARB Compliance Demonstration at 21–22 and Technical Clarifications at 1–4.

[270] Id.

[271] Id.

the nearest hundredth (based on 9.63 tpd of ''excess'' NO_X emission reductions) toward its outstanding 2014 commitment.[272]

TABLE 4—2008 $PM_{2.5}$ PLAN AGGREGATE COMMITMENT—EPA PROPOSED EMISSION REDUCTION CREDIT FOR MEASURES IN THE 2015 CARB COMPLIANCE DEMONSTRATION

	Measure	2014 Emission reductions (annual average tpd)	
		NO_X	Direct $PM_{2.5}$
A	Rule 4320 (''Advanced Emission Reduction Options for Boilers, Steam Generators, and Process Heaters Greater than 5.0 MMBtu/hr'').	1.8	0.0
B	Rule 9510 (''Indirect Source Review'')	0.0	0.0
C	Woodstove Replacements	0.0	0.1
D	District Funded Incentive-Based Emission Reduction Measures	1.5	0.1
E	Rule 9410 (''Employer Based Trip Reduction'')	0.3	0.0
F	Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters'')	0.0	1.3
G	State Funded Incentive-Based Emission Reduction Measures [a]	5.0	0.13
H	CARB Cleaner In-Use Heavy Duty Trucks Measure	11.5	0.1
I	CARB Portable Equipment Registration Program (PERP) and Portable Engine ATCM	2.5	0.2
J	TOTAL SIP-Creditable Emission Reductions from State and District Measures (Sum of A through I).	22.6	1.93
K	NO_X to $PM_{2.5}$ Emissions Equivalence at 9:1 Ratio	−9.63	1.07
L	TOTAL Emission Reductions Achieved (J+K)	12.97	3.0

[a] On August 12, 2016, the EPA finalized a limited approval and limited disapproval of CARB's demonstration concerning the emission reductions achieved by the State-Funded Emission Reduction Measure (also referred to as the ''Emission Reduction Report''). 81 FR 53300. As part of that action, the EPA determined that the incentive projects identified in the Emission Reduction Report achieved a total of 4.971 tpd of NO_X emission reductions and 0.134 tpd of direct $PM_{2.5}$ emission reductions by the beginning of 2014, slightly less than the 7.8 tpd of NO_X emission reductions and 0.2 tpd of direct $PM_{2.5}$ emission reductions that CARB had identified in this submission. Id. at 53306.

In sum, the CARB Compliance Demonstration and Technical Clarifications demonstrate that implementation of State and District measures achieved a total of 12.97 tpd of NO_X emission reductions and 3.0 tpd of direct $PM_{2.5}$ emission reductions that have not previously been credited as part of the attainment demonstration in the 2008 $PM_{2.5}$ Plan and that may, therefore, be credited toward the State's outstanding obligation to achieve 12.9 tpd of NO_X emission reductions and 3.0 tpd of direct $PM_{2.5}$ emission reductions by the beginning of 2014.

Based on these evaluations, we propose to find that the State has complied with all requirements and commitments pertaining to the San Joaquin Valley nonattainment area in the implementation plan for the 1997 $PM_{2.5}$ NAAQS.

b. Requirements and Commitments for the 2006 $PM_{2.5}$ NAAQS

In 2013 and 2014, California made two SIP submissions to address nonattainment area planning requirements for the 2006 $PM_{2.5}$ NAAQS in the SJV, which we refer to collectively herein as the ''2012 $PM_{2.5}$ Plan and Supplement.'' [273] On August 31, 2016, the EPA approved most elements of the 2012 $PM_{2.5}$ Plan and Supplement into the California SIP.[274] As part of this action, the EPA approved, among other things, commitments by the District to take specific actions with respect to identified control measures and to achieve specific amounts of direct $PM_{2.5}$ emission reductions from these or substitute measures by 2017.[275] The specific District commitments that the EPA approved into the California SIP as part of the 2012 $PM_{2.5}$ Plan and Supplement are as follows:

(1) A commitment by the District to ''adopt and implement the rules and measures in the Plan by the dates specified in Chapter 5'' of the 2012 $PM_{2.5}$ Plan and to submit these rules and measures to CARB within 30 days of adoption for transmittal to the EPA as SIP revisions; and

(2) A commitment by the District to ''achieve the emission reductions shown in Chapter 5'' of the 2012 $PM_{2.5}$ Plan, which are 1.9 tpd of direct $PM_{2.5}$ by 2017, through the rules and measures identified in Chapter 5 of the 2012 $PM_{2.5}$ Plan or through substitute measures.[276]

In Chapter 6, section 6.2 of the 2018 $PM_{2.5}$ Plan (''Compliance with the Applicable SIP''), the District discusses its compliance with these rulemaking and emission reduction commitments as of October 16, 2018, when the Plan was made available for public review.

Table 5 provides the current status of the District's compliance with its rulemaking commitments in the Moderate area plan for the 2006 $PM_{2.5}$ NAAQS. We note that although Table 5 includes specific projected emission reductions associated with two rules, Rule 4692 (''Commercial Charbroiling'') and Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters''), the District's emissions reduction commitment was an aggregate commitment that could be met through the identified measures or substitute measures.[277]

[272] For further discussion of our evaluation of the 9:1 NO_X to direct $PM_{2.5}$ trading ratio for purposes of the aggregate commitment, please see section IV of the EPA's General Evaluation TSD.

[273] SJVUAPCD, ''2012 $PM_{2.5}$ Plan,'' December 20, 2012 (''2012 $PM_{2.5}$ Plan'') and SJVUAPCD, ''Supplemental Document, Clean Air Act Subpart 4: The 2012 $PM_{2.5}$ Plan for the 2006 $PM_{2.5}$ Standard and District Rule 2201 (New and Modified Stationary Source Review),'' September 18, 2014 (''Supplement'').

[274] 81 FR 59876 (August 31, 2016).

[275] 40 CFR 52.220(c)(478)(ii)(A)(*3*) and SJVUAPCD Governing Board Resolution 2012–12–19 (December 20, 2012). See also 81 FR 59876, 59893, Table 5. CARB did not make any separate commitments in this SIP submission. CARB Resolution 13–2 (adopting the 2012 $PM_{2.5}$ Plan) and CARB Resolution 14–37 (adopting the Supplement).

[276] Id.

[277] 40 CFR 52.220(c)(478)(ii)(A)(*3*).

TABLE 5—EPA REVIEW OF THE SAN JOAQUIN VALLEY 2012 $PM_{2.5}$ PLAN'S SPECIFIC SJVUAPCD COMMITMENTS TO ADOPT OR AMEND RULES

Rule Number (Title)	District Commitment			District Action	
	Amendment year	Compliance year	Emission reductions	Amendment date	Notes
Rule 4308 ("Boilers, Steam Generators, and Process Heaters 0.075 to <2 MMBtu/hr").	2013	2015	TBD	November 14, 2013	EPA approval, 80 FR 7803 (February 12, 2015).
Rule 4692 ("Commercial Charbroiling").	2016	2017	0.4 tpd direct $PM_{2.5}$.	June 21, 2018	Submitted to the EPA November 21, 2018; Amended rule does not establish control requirement for under-fired commercial charbroilers.
Rule 4901 ("Wood Burning Fireplaces and Wood Burning Heaters").	2016	2016/2017	1.5 tpd direct $PM_{2.5}$.	September 18, 2014	EPA approval, 81 FR 69393 (October 6, 2016).
Rule 4905 ("Natural Gas-Fired, Fan-Type Residential Central Furnaces").	2014	2015	TBD	January 22, 2015	EPA approval, 81 FR 17390 (March 29, 2016).
Rule 9610 ("SIP-creditability of Incentives").	2013	2013	TBD	June 20, 2013	EPA limited approval and limited disapproval, 80 FR 19020 (April 9, 2015).

Source: 2012 $PM_{2.5}$ Plan (for the 2006 $PM_{2.5}$ NAAQS), Chapter 5, Table 5–3 ("Regulatory Control Measure Commitments").

In sum, the District has adopted and submitted to the EPA all five of the regulatory measures specified in Chapter 5 of the 2012 $PM_{2.5}$ Plan that it had committed to adopt and implement by specified dates. Based on our review of this information, we propose to find that the District has satisfied all of its rulemaking commitments in the 2012 $PM_{2.5}$ Plan and Supplement.

With respect to the District's aggregate tonnage commitment to achieve 1.9 tpd of direct $PM_{2.5}$ by 2017, the District states that measures adopted after the State's adoption of the 2012 $PM_{2.5}$ Plan achieved emission reductions in excess of those committed to in the 2012 $PM_{2.5}$ Plan and Supplement.[278] Specifically, the District states that its commitment has been achieved through amendments to Rule 4901 ("Wood Burning Fireplaces and Wood Burning Heaters").[279] We have reviewed the District's and CARB's explanations of how the District fulfilled this commitment through implementation of revisions to its residential wood burning rule during the relevant time period.[280]

The District has amended Rule 4901 several times since its original adoption in 2003. As of the date the District adopted the 2012 $PM_{2.5}$ Plan, the October 16, 2008 amendment to Rule 4901 applied and the District committed to further amend the rule. The District further amended the rule on September 18, 2014, and the amended rule took effect in the November 2014–February 2015 period. The District's staff report for the 2014 amendment to Rule 4901 projected that the amendment would achieve 24-hour winter-season average emission reductions by 2018 of 2.2 tpd of direct $PM_{2.5}$.[281] The EPA approved this rule into the SIP on October 6, 2016.[282] In our final action, we noted that the District had projected that the rule revision would achieve 3.27 tpd of direct $PM_{2.5}$ reductions during November through February (120-day) (equivalent to a winter-season average reduction of 2.2 tpd).[283] This approval did not include an evaluation of whether the rule had achieved any particular level of emissions reductions, or whether the District had fulfilled its commitment to achieve 1.9 tpd of emissions reductions through revisions to Rule 4901.

We note that the 2018 $PM_{2.5}$ Plan included updated emissions inventories for this source category.[284] Consistent with CAA section 172(c)(3), which requires nonattainment plans to include inventories that are "comprehensive, accurate, [and] current," attainment plans often include updated emission inventories that rely on information developed since an earlier plan. The 2018 $PM_{2.5}$ Plan's updated emission inventories for wood burning devices may be relevant to a determination of whether the 2014 amendments to Rule 4901 resulted in 1.9 tpd of direct $PM_{2.5}$ emissions reductions by 2017. In particular, the 2018 $PM_{2.5}$ Plan's control measure analyses differ from previous inventory estimates in the following ways:

- The 2018 $PM_{2.5}$ Plan inventories estimate that 2013 winter season emissions from residential wood burning devices were 6.35 tpd, compared with the 2015 winter season estimate of 8.037 tpd in the 2014 Rule 4901 Staff Report.[285]
- The 2018 $PM_{2.5}$ Plan inventories estimate that 2017 winter season emissions from residential wood burning devices were 5.49 tpd,

[278] 2018 $PM_{2.5}$ Plan, Chapter 6, 6–3 to 6–4.

[279] Id. at 6–5 to 6–6.

[280] 2018 $PM_{2.5}$ Plan, Table 6–2; email dated November 27, 2019, from Jon Klassen, SJVUAPCD, to Rory Mays, EPA Region IX, Subject: Emissions Reductions from 2014 Amendment to Rule 4901; and letter dated February 4, 2020 from Kurt Karperos, CARB, to Elizabeth Adams, EPA Region IX.

[281] SJVUAPCD, "Final Staff Report for Amendments to the District's Residential Wood Burning Program," September 18, 2014 ("2014 Rule 4901 Staff Report"), App. B, B–12. We note that the 2.2 tpd is based on a 180-day season that reflects the November through April (180-day) period used by the State for "winter-season," 24-hour average emissions inventories for the San Joaquin Valley. This District staff report estimates that the 2014 amendment would achieve emission reductions of 3.27 tpd of direct $PM_{2.5}$ during the November through February (120-day) period in which it applies. See also 80 FR 58637, 58639 (September 30, 2015) (proposed approval of 2014 amendment to Rule 4901) and 81 FR 69393 (October 6, 2016) (final approval of 2014 amendment).

[282] 81 FR 69393.

[283] Id., at 69393–69394.

[284] Appendix B Table B–1 of the 2018 $PM_{2.5}$ Plan contains a summary of direct $PM_{2.5}$ emissions inventories from various source categories, including Residential Fuel Combustion, but does not include emissions values specific to wood-burning devices. The emissions inventories for wood burning devices are found in Appendix C of the 2018 $PM_{2.5}$ Plan, at C–257.

[285] 2014 Rule 4901 Staff Report, App. B, B–5.

compared with the 2017 winter season inventory of 8.35 tpd estimated in the 2012 $PM_{2.5}$ Plan and Supplement.

Overall, the more recent inventories presented in the 2018 $PM_{2.5}$ Plan show a 0.86 tpd reduction in winter season direct $PM_{2.5}$ emissions from wood burning devices between 2013 and 2017.[286] Similarly, the State's August 12, 2019 clarification to its 2017 quantitative milestone report states that a 0.86 tpd reduction in these emissions occurred from 2013 to 2017.[287]

This difference between the emission reductions projected in the 2014 Rule 4901 Staff Report and the emission reductions reflected in the inventories in Appendix C of the 2018 $PM_{2.5}$ Plan appears to be due to an update to emissions inventory methods in 2015–2016. The updated methodology indicates that emissions from this source category are lower than emissions as calculated by the methodology used to develop the emissions inventory in the 2012 $PM_{2.5}$ Plan.[288] The updated methodology is based on a 2014 survey of San Joaquin Valley residents, which provided more representative data regarding fuel usage rates and the number of wood burning devices in use in the District.[289]

In light of this difference between the emission reductions projected in the 2014 Rule 4901 Staff Report and the emission reductions reflected in the inventories in Appendix C of the 2018 $PM_{2.5}$ Plan, the EPA sought clarification from CARB and the District regarding the reductions achieved by the 2014 rule amendment. In response, CARB pointed to the analysis of emissions reductions in the 2014 Rule 4901 Staff Report as demonstrating compliance with the commitment to achieve 1.9 tpd of emissions reductions.[290] CARB and the District also noted that the 2012 $PM_{2.5}$ Plan projected that 2017 emissions from wood burning devices would be 8.35 tpd and the 2018 $PM_{2.5}$ Plan inventory estimates that 2017 emissions from wood burning devices were 5.49 tpd, and concluded that this comparison reflects emission reductions of 2.86 tpd for this source category.[291]

We propose to find, based upon the analysis of projected emission reductions in the 2014 Rule 4901 Staff Report, that the District has complied with the aggregate commitment in the 2012 $PM_{2.5}$ Plan to achieve total emission reductions of 1.9 tpd of direct $PM_{2.5}$ by 2017. Given the differences between the inventories used to create the commitment and the current inventories, we also seek comment as to whether the State and District have met the commitment to achieve total emission reductions of 1.9 tpd of direct $PM_{2.5}$ by 2017.

3. Demonstration That the Implementation Plan Includes the Most Stringent Measures

We interpret this criterion to mean that the State must demonstrate to the EPA's satisfaction that its Serious area plan includes the most stringent measures that are included in the implementation plan of any state, or achieved in practice in any state, and can feasibly be implemented in the area.

As discussed in section IV.C of this preamble, because of the substantial overlap in the source categories and controls evaluated for BACM and those evaluated for MSM, we present our evaluation of the 2018 $PM_{2.5}$ Plan's provisions for including MSM alongside our evaluation of the Plan's provisions for implementing BACM for each identified source category. For the reasons provided in section IV.C and further in the EPA's BACM/MSM TSD, we propose to determine that the SJV $PM_{2.5}$ Plan provides for the implementation of MSM for sources of direct $PM_{2.5}$ and $PM_{2.5}$ plan precursors as expeditiously as practicable and no later than January 1, 2024, in accordance with the requirements of CAA section 188(e) and the $PM_{2.5}$ SIP Requirements Rule.

4. Demonstration of Attainment by the Most Expeditious Alternative Date Practicable

Section 189(b)(1)(A) of the CAA requires that each Serious area plan include a demonstration (including air quality modeling) that the plan provides for attainment of the $PM_{2.5}$ NAAQS by the applicable attainment date or, where the State is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by that date is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable. We discuss below our evaluation of the modeling approach in the Plan, the State's basis for excluding one 24-hour data point from the modeling analysis, and the control strategy in the Plan for attaining the 2006 24-hour $PM_{2.5}$ NAAQS by the most expeditious alternative date practicable.

a. Air Quality Modeling Approach and Results

The EPA's recommended procedures for modeling ambient $PM_{2.5}$ as part of an attainment demonstration are contained in the EPA's ''Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze'' (''Modeling Guidance'').[292] This guidance recommends that a state use a photochemical model, such as the Comprehensive Air-quality Model with extensions (CAMx) or CMAQ, to simulate a base case, with meteorological and emissions inputs reflecting a base case year, to replicate concentrations monitored in that year. The model application to the base case year undergoes a performance evaluation to ensure that it corroborates concentrations monitored in that year. States may then use the model to simulate emissions occurring in other years required for an attainment plan, namely the base year (which may differ from the base case year) and a future year. The modeled response to the emission changes between those years is used to calculate Relative Response Factors (RRFs), which are applied to the design value in the base year to estimate the projected design value in the future year for comparison against the NAAQS. Separate RRFs are estimated for each chemical species component of $PM_{2.5}$, and for each quarter of the year, to reflect their differing responses to seasonal meteorological conditions and emissions. Since each species is handled separately, before applying an RRF the base year design value must be speciated using available chemical species measurements, that is, each

[286] 2018 $PM_{2.5}$ Plan, App. C, C–257.

[287] Letter dated August 12, 2019, from Richard W. Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX, transmitting ''Attachment: Supplemental Information and Clarifications to 2017 Quantitative Milestones.''

[288] SJVUAPCD, ''2015 Area Source Emissions Inventory Methodology 610—Residential Wood Combustion,'' (dated October 18, 2016), 27, Table 12 (showing decrease in estimated 2015 annual emissions from woodstoves and fireplaces of 461 tons per year).

[289] Id. at 22.

[290] Email dated November 27, 2019, from Jon Klassen, SJVUAPCD, to Rory Mays, EPA Region IX, Subject: Emissions Reductions from 2014 Amendment to Rule 4901; Letter dated February 4, 2020 from Kurt Karperos, CARB, to Elizabeth Adams, EPA Region IX, 2–3.

[291] Id.

[292] ''Modeling Guidance for Demonstrating Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze,'' EPA–454/R–18–009, November 2018; available at: *https://www.epa.gov/scram/state-implementation-plan-sip-attainment-demonstration-guidance.* During development of the SJV $PM_{2.5}$ Plan, CARB relied on the draft version of this guidance update, ''Draft Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze,'' OAQPS, EPA, December 3, 2014 Draft,; 2018 $PM_{2.5}$ Plan, App. K, 11. Additional EPA modeling guidance can be found in 40 CFR 51 App. W (''Guideline on Air Quality Models''), 82 FR 5182 (January 17, 2017); available at *https://www.epa.gov/scram/clean-air-act-permit-modeling-guidance.*

day's measured $PM_{2.5}$ comprising the design value must be split into its species components. The Modeling Guidance provides additional detail on the recommended approach.

The 2018 $PM_{2.5}$ Plan includes a modeled demonstration projecting that the San Joaquin Valley will attain the 2006 24-hour $PM_{2.5}$ NAAQS by December 31, 2024. Specifically, CARB conducted photochemical modeling with the CMAQ model using inputs developed from routinely available meteorological and air quality data, as well as more detailed and extensive data from the DISCOVER–AQ field study conducted in January to February 2013.[293]

The Plan's primary discussion of the photochemical modeling appears in Appendix K (''Modeling Attainment Demonstration'') of the 2018 $PM_{2.5}$ Plan. The State briefly summarizes the area's air quality problem in Chapter 2.2 (''Air Quality Challenges And Trends'') and summarizes the modeling results in Chapter 6.4 (''Attainment Demonstration and Modeling'') of the 2018 $PM_{2.5}$ Plan. The State provides a conceptual model of $PM_{2.5}$ formation in the San Joaquin Valley as part of the modeling protocol in Appendix L (''Modeling Protocol''). Appendix J (''Modeling Emission Inventory'') describes emission input preparation procedures. The State presents additional relevant information in Appendix C (''Weight of Evidence Analysis'') of the CARB Staff Report, which includes ambient trends and other data in support of the attainment demonstration.

CARB's air quality modeling approach investigated the many inter-connected facets of modeling ambient $PM_{2.5}$ in the San Joaquin Valley, including model input preparation, model performance evaluation, use of the model output for the numerical NAAQS attainment test, and modeling documentation. Specifically, this required the development and evaluation of a conceptual model, modeling protocol, episode (*i.e.,* base year) selection, modeling domain, CMAQ model selection, initial and boundary condition procedures, meteorological model choice and performance, modeling emissions inventory preparation procedures, model performance, attainment test procedure, adjustments to baseline air quality for modeling, the 2024 attainment test, and an unmonitored area analysis. CARB's supplemental weight of evidence analysis further supports the Plan's demonstration of attainment by the end of 2024. These analyses are generally consistent with the EPA's recommendations in the Modeling Guidance.

The model performance evaluation in Appendix K included statistical and graphical measures of model performance. The magnitude and timing of predicted concentrations of total $PM_{2.5}$, as well as of its ammonium and nitrate components, generally match the occurrence of elevated $PM_{2.5}$ levels in the measured observations. A comparison to other recent modeling efforts shows good model performance on bias, error, and correlation with measurements, for total $PM_{2.5}$ and for most of its chemical components. The Weight of Evidence Analysis[294] shows the downward trend in NO_X emissions along with a 50% decrease between 1999 and 2017 in the number of days above the 2006 $PM_{2.5}$ NAAQS.[295] The analysis also shows decreases in daily $PM_{2.5}$ concentrations during winter, and in the frequency of high $PM_{2.5}$ concentrations generally. Available ambient air quality data shows that total $PM_{2.5}$ and ammonium nitrate concentrations have clearly declined over the 2001–2015 period, despite some increases from time to time.[296] These air quality trends show that there has been a substantial improvement in air quality due to emission reductions in the SJV, although that point is not fully reflected in the 98th percentile statistic, which is the basis for the regulatory design value.[297] These lines of evidence all lend confidence in the modeling and the attainment demonstration.

Given the State's extensive discussion of modeling procedures, tests, and performance analyses in the Modeling Protocol, and the good model performance, the EPA finds that the modeling in the SJV $PM_{2.5}$ Plan is adequate for purposes of supporting the demonstration of attainment by 2024. For further detail, please see the EPA's Modeling TSD.

b. Control Strategy

The SJV $PM_{2.5}$ Plan's control strategy to reduce emissions from sources of NO_X and direct $PM_{2.5}$ is presented in Chapter 4 (''Attainment Strategy for $PM_{2.5}$'')[298] and related supporting information in the Plan's control strategy appendices, including Appendix C (''Stationary Source Control Measure Analyses''), Appendix D (''Mobile Source Control Measures Analyses''), and Appendix E (''Incentive-Based Strategy''). Most of the projected emission reductions are achieved by baseline measures—*i.e.,* the combination of State and District measures adopted prior to the State's and District's adoption of the Plan—that will achieve ongoing emission reductions from the 2013 base year to the 2024 projected attainment year.

The remainder of the emission reductions are achieved by an incentive-based measure adopted by CARB in December 2019, a regulatory measures adopted by the District in June 2019, and a number of additional measures to be adopted and implemented by CARB and the District, including regulatory measures and incentive-based measures. In addition, both the 2018 $PM_{2.5}$ Plan and the Valley State SIP Strategy include commitments to take action on specific measures by specific dates and to achieve specified amounts of NO_X and $PM_{2.5}$ emission reductions by certain dates.[299] We refer to these commitments herein as ''aggregate commitments.''

We note that the SJV $PM_{2.5}$ Plan generally relies on annual average emission inventory and control strategy estimates because it was designed to address requirements for the 1997 annual and 24-hour $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 2012 annual $PM_{2.5}$ NAAQS. The State views the control strategy for the annual average attainment needs as providing sufficient emission reductions for 24-hour average (winter average) attainment and RFP needs.[300] We agree with this assessment and have evaluated the control strategy in the Plan by reference to annual average emission reductions. Table 6 provides a summary

[293] NASA, ''Deriving Information on Surface conditions from COlumn and VERtically Resolved Observations Relevant to Air Quality,'' available at *https://www.nasa.gov/mission_pages/discover-aq/index.html.*

[294] CARB Staff Report, Appendix C.

[295] Id. at 28.

[296] An increase in 2013 and 2014 is attributed to severe drought-related conditions during the winter of 2013–2014. Id. at 27.

[297] Letter dated May 9, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9 (transmitting SJV $PM_{2.5}$ Plan to EPA), Attachment A, 3.

[298] Consistent with the State and District's determination that ammonia, SO_X, and VOC do not contribute significantly to $PM_{2.5}$ levels exceeding the NAAQS in the San Joaquin Valley, the Plan's control strategy focuses on reductions in emissions of direct $PM_{2.5}$ and NO_X. CARB Staff Report, 12. Nonetheless, the Plan projects the following annual average emission reductions from the 2013 base year to 2024: 0.5 tpd reductions in SO_X (5.9%), 30.3 tpd reductions in VOC (9.3%), and 4.6 tpd reductions in ammonia (1.4%). 2018 $PM_{2.5}$ Plan, App. B, Tables B–3, B–4, and B–5.

[299] CARB Resolution 18–49, paragraph 2 and SJVUAPCD Governing Board Resolution 18–11–16, paragraph 6.

[300] See, *e.g.,* Letter dated August 12, 2019 from Richard Corey, Executive Officer, CARB to Mike Stoker, Regional Administrator, EPA Region IX, regarding the State's ''2017 Quantitative Milestone Report for the 1997 and 2006 NAAQS,'' 2, n. 3.

of the 2013 base year emissions and the reductions from baseline measures, additional State measures, and additional District measures that are necessary for the San Joaquin Valley to attain the 2006 $PM_{2.5}$ NAAQS by December 31, 2024.[301]

TABLE 6—SUMMARY OF SJV $PM_{2.5}$ PLAN'S ANNUAL AVERAGE EMISSION REDUCTIONS TO ATTAIN THE 2006 $PM_{2.5}$ NAAQS BY DECEMBER 31, 2024

		NO_X (tpd)	% of 2013 base year emissions (percent)	Direct $PM_{2.5}$ (tpd)	% of 2013-base year emissions (percent)
A	2013 Base Year Emissions	317.2		62.5	
B	Baseline Measure Emission Reductions (2013–2024)	168.3	53.1	4.2	6.7
C	Additional State Measures	32	10.1	0.9	1.4
D	Additional District Measures	1.88	0.6	1.3	2.1
E	Total 2013–2024 Emission Reductions (B+C+D)	202.2	63.7	6.4	10.2

Source: 2018 $PM_{2.5}$ Plan, Appendix B, Tables B–1 and B–2, and Ch. 4, Tables 4–3 and 4–7.

i. Baseline Measures

Baseline measures will provide the majority of emissions reductions needed to attain the 2006 24-hour $PM_{2.5}$ NAAQS in the San Joaquin Valley, amounting to approximately 83.2% of the NO_X emission reductions and 65.6% of the direct $PM_{2.5}$ emission reductions necessary for attainment.[302]

The 2018 $PM_{2.5}$ Plan states that mobile sources emit over 85% of the NO_X in the San Joaquin Valley and that CARB has adopted and amended regulations to reduce public exposure to diesel particulate matter, which includes direct $PM_{2.5}$, and NO_X, from ''fuel sources, freight transport sources like heavy-duty diesel trucks, transportation sources like passenger cars and buses, and non-road sources like large construction equipment.'' [303]

Given the need for substantial emissions reductions from mobile and area sources to meet the NAAQS in California nonattainment areas, the State of California has developed stringent control measures for on-road and non-road mobile sources and the fuels that power them. California has unique authority under CAA section 209 (subject to a waiver by the EPA) to adopt and implement new emissions standards for many categories of on-road vehicles and engines and new and in-use non-road vehicles and engines. The EPA has approved such mobile source regulations for which waiver authorizations have been issued as revisions to the California SIP.[304]

CARB's mobile source program extends beyond regulations that are subject to the waiver or authorization process set forth in CAA section 209 to include standards and other requirements to control emissions from in-use heavy-duty trucks and buses, gasoline and diesel fuel specifications, and many other types of mobile sources. Generally, these regulations have also been submitted and approved as revisions to the California SIP.[305]

As to stationary sources, the 2018 $PM_{2.5}$ Plan states that stringent regulations adopted for prior attainment plans continue to reduce emissions of NO_X and direct $PM_{2.5}$.[306] Specifically, Table 4–1 of the 2018 $PM_{2.5}$ Plan (''District Rules Reducing PM and NO_X Emissions in the Valley'') identifies 33 District measures that limit NO_X and direct $PM_{2.5}$ emissions.[307] The EPA has approved each of the identified measures into the California SIP,[308] with four exceptions.

First, the District amended Rule 4692 (''Commercial Charbroiling'') on June 21, 2018, to establish new registration and reporting requirements for certain types of charbroiling operations. These amendments to Rule 4692 require commercial cooking operations with UFCs to report by January 1, 2019, on the type and quantity, in pounds, of meat cooked on the UFCs on a weekly basis for the previous 12-month period as well as other information regarding the nature of their operations, and for certain such operations to register with the District and keep weekly records relating to the quantities of meat cooked.[309] CARB submitted the amended rule to the EPA on November 21, 2018, and the EPA has not yet proposed any action on this submission. The EPA approved a prior version of this rule into the SIP on November 3, 2011.[310] The District states that the 2018 amendment was an important first step in its ongoing process to develop a new control measure that will include financial incentives to help fund accelerated deployment of under-fired charbroiler emission control technologies.[311] The 2018 amendments do not, however, establish any new control requirements and therefore do not achieve additional emission reductions beyond those that continue to be achieved by the SIP-approved version of Rule 4692.

Second, the District amended Rule 4905 (''Natural Gas-fired, Fan-type, Residential Central Furnaces'') on June 21, 2018, to extend the period during which manufacturers may pay emission fees in lieu of meeting the rule's NO_X

[301] Emission reductions from baseline measures are calculated as the sum of all stationary, area, and mobile source emission reductions from 2013 to 2024 in App. B of the 2018 $PM_{2.5}$ Plan.

[302] The EPA calculated these percentages as follows: Annual average baseline NO_X reductions are 168.3 tpd of 202.2 tpd necessary for attainment (83.2%) and annual average baseline direct $PM_{2.5}$ reductions are 4.2 tpd of 6.4 tpd necessary for attainment (65.6%). 2018 $PM_{2.5}$ Plan, Ch. 4 and App. B.

[303] 2018 $PM_{2.5}$ Plan, Ch. 4, 4–9 and Valley State SIP Strategy, 4. For CARB's analysis of its mobile source measures for BACM and MSM, see 2018 $PM_{2.5}$ Plan, App. D, including analyses for on-road light-duty vehicles and fuels (starting page D–17), on-road heavy-duty vehicles and fuels (starting page D–35), and non-road sources (starting page D–64).

[304] See *e.g.,* 81 FR 39424 (June 16, 2016); 82 FR 14447 (March 21, 2017); and 83 FR 23232 (May 18, 2018).

[305] See *e.g.,* the EPA's approval of standards and other requirements to control emissions from in-use heavy-duty diesel trucks, 77 FR 20308 (April 4, 2012), and revisions to the California on-road reformulated gasoline and diesel fuel regulations, 75 FR 26653 (May 12, 2010).

[306] 2018 $PM_{2.5}$ Plan, Ch. 4, 4–3. For the District's analysis of its stationary source measures for BACM and MSM, see 2018 $PM_{2.5}$ Plan, App. C.

[307] Id. Ch. 4, Table 4–1.

[308] See EPA Region IX's website for information on District control measures that have been approved into the California SIP, available at: *https://www.epa.gov/sips-ca/epa-approved-san-joaquin-valley-unified-air-district-regulations-california-sip.*

[309] SJVUAPCD Rule 4692, as amended June 21, 2018, and SJVUAPCD, Final Draft Staff Report, ''Amendments to Rule 4692 (Commercial Charbroiling),'' June 21, 2018, 1 and 5–6.

[310] 76 FR 68103 (November 3, 2011) (approving Rule 4692 as amended September 17, 2009).

[311] SJVUAPCD, Final Draft Staff Report, ''Amendments to Rule 4692 (Commercial Charbroiling),'' June 21, 2018, 1.

emission limits.[312] CARB submitted the amended rule to the EPA on November 21, 2018, and the EPA has not yet proposed any action on this submission. The EPA approved a prior version of Rule 4905 into the California SIP on March 29, 2016.[313] As part of that rulemaking, the EPA noted that because of the option in Rule 4905 to pay mitigation fees in lieu of compliance with emission limits, emission reductions associated with the rule's emission limits would not be creditable in any attainment plan without additional documentation.[314] Until the District submits the necessary documentation to credit emission reductions achieved by Rule 4905 toward an attainment control strategy, this rule is not creditable for SIP purposes. The 2018 $PM_{2.5}$ Plan indicates that the District attributed 0.26 tpd of NO_X reductions between 2013 and 2024 to Rule 4905.[315] These emission reductions have de minimis impacts on the attainment demonstration in the SJV $PM_{2.5}$ Plan.

Third, the District amended Rule 9510 (''Indirect Source Review'') on December 21, 2017, to eliminate inconsistencies in its applicability provisions and to ensure that all large development projects are subject to the rule.[316] CARB submitted this rule to the EPA on May 23, 2018, and the EPA has not yet proposed any action on the submission. The EPA approved a prior version of this rule into the California SIP on May 9, 2011.[317] As part of that rulemaking, the EPA noted that emission reductions associated with this rule would not be creditable in any attainment or RFP demonstration unless the District revises the rule to address the EPA's enforceability concerns.[318] Until the District adopts such revisions to the rule, Rule 9510 is not creditable for SIP purposes. The 2018 $PM_{2.5}$ Plan does not, however, appear to rely on this rule to any measurable extent in the projected attainment inventory.[319] Therefore, the District's inclusion of this rule in Table 4–1 of the 2018 $PM_{2.5}$ Plan has no impact on our evaluation of the attainment demonstration.

Finally, the 2018 $PM_{2.5}$ Plan lists Rule 4203 (''Particulate Matter Emissions from Incineration of Combustible Refuse'') as a baseline measure. This rule has not been approved into the California SIP.[320] Appendix C of the 2018 $PM_{2.5}$ Plan states, however, that the emissions inventory for incineration of combustible refuse is 0.00 tpd of NO_X and 0.00 direct $PM_{2.5}$ from 2013 through 2024.[321] Thus, to the extent the District relied upon emission reductions achieved by this rule in its future baseline emissions estimates, those emission reductions have de minimis impacts on the attainment demonstration in the SJV $PM_{2.5}$ Plan.

In sum, although Table 4–1 of the 2018 $PM_{2.5}$ Plan identifies four baseline measures that are not creditable for SIP purposes at this time, we find that the total emission reductions attributed to these four measures in the future baseline inventories have de minimis impacts on the attainment demonstration in the Plan.

ii. Additional Measures and Aggregate Commitments

The SJV $PM_{2.5}$ Plan relies on an incentive-based measure recently adopted by CARB to achieve 5.9 tpd of NO_X reductions and 0.3 tpd of direct $PM_{2.5}$ reductions—2.9% and 4.7%, respectively, of the total NO_X and direct $PM_{2.5}$ emission reductions necessary for the San Joaquin Valley to attain the 2006 $PM_{2.5}$ NAAQS by December 31, 2024.[322] Under longstanding guidance, the EPA has recommended presumptive limits on the amounts of emission reductions from certain voluntary and other nontraditional measures that may be credited in a SIP. Specifically, for voluntary mobile source emission reduction programs, the EPA has identified a presumptive limit of three percent (3%) of the total projected future year emission reductions required to attain the appropriate NAAQS, and for any particular SIP submittal to demonstrate attainment or maintenance of the NAAQS or progress toward attainment (RFP), 3% of the specific statutory requirement.[323] The EPA may, however, approve measures for SIP credit in amounts exceeding the presumptive limits where a clear and convincing justification is made by the State as to why a higher limit should apply in its case.[324]

The San Joaquin Valley's topography and meteorology present significant challenges for air quality. As stated in the 2018 $PM_{2.5}$ Plan, ''the surrounding mountains trap pollution and block airflow'' and ''[t]emperature inversions, while present to some degree throughout the year, can last for days during the winter, holding in nighttime accumulations of pollutants.'' [325] In addition, the population of the area continues to grow at a rate higher than the statewide growth rate, leading to increased vehicular traffic along major highways that run through the San Joaquin Valley.[326] Given these unique challenges, both the State and District continue to implement both traditional and non-traditional emission reduction strategies to attain the $PM_{2.5}$ standards in the San Joaquin Valley, including regulatory programs, incentive programs, and rigorous outreach and education efforts.[327] Over the past several decades, the State and District have developed and implemented several comprehensive plans to address attainment of the NAAQS for ozone and particulate matter.[328] These attainment plans have resulted in the State's and District's adoption of numerous regulations for stationary, area, and mobile sources, many of which are among the most stringent control measures in the nation. Given the air quality needs of the area and the numerous control measures that both the State and District have adopted and

[312] SJVUAPCD, Final Draft Staff Report, ''Proposed Amendments to Rule 4905 (Natural Gas-fired, Fan-type Central Furnaces),'' 2.

[313] 81 FR 17390 (March 29, 2016) (approving Rule 4905 as amended January 22, 2015).

[314] EPA, Region IX Air Division, ''Technical Support Document for EPA's Proposed Rulemaking for the California State Implementation Plan (SIP), San Joaquin Valley Unified Air Pollution Control District's Rule 4905, Natural Gas-Fired, Fan-Type Central Furnaces,'' October 5, 2015, n. 8.

[315] 2018 $PM_{2.5}$ Plan, App. C, C–290.

[316] SJVUAPCD, Final Draft Staff Report, ''Rule 9510 Indirect Source Review.'' December 21, 2017, 1.

[317] 76 FR 26609 (May 9, 2011) (approving Rule 9510 as amended December 15, 2005).

[318] 76 FR 26609, 26612–26614.

[319] The District's control analysis states that there is no emissions inventory specific to Rule 9510. 2018 $PM_{2.5}$ Plan, App. C, C–302.

[320] The EPA does not have any pending SIP submission for Rule 4203.

[321] 2018 $PM_{2.5}$ Plan, App. C, C–46.

[322] The 2018 $PM_{2.5}$ Plan shows that 202.2 tpd of NO_X and 6.4 tpd of $PM_{2.5}$ emission reductions are necessary for San Joaquin Valley to attain the 2006 $PM_{2.5}$ NAAQS by December 31, 2024. 2018 $PM_{2.5}$ Plan, revised App. H, Table H–6. For further discussion of Appendix H, see section IV.E of this preamble.

[323] EPA, ''Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs),'' October 24, 1997, 5.

[324] EPA, ''Incorporating Emerging and Voluntary Measure in a State Implementation Plan (SIP),'' October 4, 2004, 9; see also EPA, ''Guidance on Incorporating Bundled Measures in a State Implementation Plan,'' August 16, 2005, 8, n. 6, and EPA, ''Diesel Retrofits: Quantifying and Using Their Emission Benefits in SIPs and Conformity: Guidance for State and Local Air and Transportation Agencies,'' March 2018, 12.

[325] 2018 $PM_{2.5}$ Plan, Ch. 2, 2–1.

[326] Id. at 2–4.

[327] Id. at 2–2.

[328] See, *e.g.,* 69 FR 30005 (May 26, 2004) (approving plan to attain the 1987 PM_{10} NAAQS), 76 FR 69896 (November 9, 2011) (partially approving and partially disapproving plan to attain the 1997 $PM_{2.5}$ NAAQS), 77 FR 12652 (March 1, 2012) (approving plan to attain the 1997 8-hour ozone NAAQS), and 81 FR 19492 (April 5, 2016) (approving plan to attain the 1979 1-hour ozone NAAQS).

implemented in the San Joaquin Valley to date, we believe it is appropriate to allow the State to rely on the Valley Incentive Measure to achieve 2.9% (5.9 tpd) of the NO_X reductions and 4.7% (0.3 tpd) of the direct $PM_{2.5}$ reductions necessary for the area to attain the 2006 $PM_{2.5}$ NAAQS by the end of 2024.

For the remainder of the emission reductions necessary for attainment, the SJV $PM_{2.5}$ Plan identifies a series of additional State and District commitments to achieve emission reductions through additional control measures beyond baseline measures that will contribute to expeditious attainment of the 2006 $PM_{2.5}$ NAAQS. For mobile sources, CARB's commitment identifies a list of 12 State regulatory measures and three incentive-based measures that CARB has committed to propose to its Board for consideration by specific dates.[329] For stationary sources, the District's commitment identifies a list of nine regulatory measures and three incentive-based measures that the District has committed to propose to its Board for consideration by specific dates.[330] The Plan contains CARB's and the District's estimates of the emission reductions that would be achieved by each of these additional measures, if adopted.[331]

CARB's commitments are contained in CARB Resolution 18–49 (October 25, 2018) and the Valley State SIP Strategy and consist of two parts: A control measure commitment and a tonnage commitment. First, CARB has committed to ''begin the measure's public process and bring to the Board for consideration the list of proposed SIP measures outlined in the *Valley State SIP Strategy* and included in Attachment A, according to the schedule set forth.'' [332] By email dated November 12, 2019, CARB confirmed that it intended to begin the public process on each measure by discussing the proposed regulation or program at a public meeting (workshop, working group, or Board hearing) or in a publicly-released document and to then propose the regulation or program to its Board.[333] Second, CARB has committed ''to achieve the aggregate emissions reductions outlined in the *Valley State SIP Strategy* of 32 tpd of NO_X and 0.9 tpd of $PM_{2.5}$ emissions reductions in the San Joaquin Valley by 2024.'' [334] The Valley State SIP Strategy explains that CARB's overall commitment is to ''achieve the total emission reductions necessary to attain the federal air quality standards, reflecting the combined reductions from the existing control strategy and new measures'' and that ''if a particular measure does not get its expected emissions reductions, the State is still committed to achieving the total aggregate emission reductions.'' [335]

The District's commitments are contained in SJVUAPCD Governing Board Resolution 18–11–16 (November 15, 2018) and Chapter 4 of the 2018 $PM_{2.5}$ Plan and similarly consist of two parts: A control measure commitment and a tonnage commitment. First, the District has committed to ''take action on the rules and measures committed to in Chapter 4 of the Plan by the dates specified therein, and to submit these rules and measures, as appropriate, to CARB within 30 days of adoption for transmittal to EPA as a revision to the [SIP].'' [336] By email dated November 12, 2019, the District confirmed that it intended to take action on the listed rules and measures by beginning the public process on each measure, *i.e.,* discussing the proposed regulation or program at a public meeting, including a workshop, working group, or Board hearing, or in a publicly-released document, and then proposing the rule or measure to the SJVUAPCD Governing Board.[337] Second, the District has committed to ''achieve the aggregate emissions reductions of 1.88 tpd of NO_X and 1.3 tpd of $PM_{2.5}$ by 2024/2025'' through adoption and implementation of these measures or, if the total emission reductions from these rules or measures are less than these amounts, ''to adopt, submit, and implement substitute rules and measures that achieve equivalent reductions in emissions of direct $PM_{2.5}$ or $PM_{2.5}$ precursors'' in the same implementation timeframes.[338]

In November 2019, CARB provided status updates on its progress to date on developing and adopting the additional mobile source measures identified in its control measure commitment.[339] Table 7 lists each measure and provides a summary of the anticipated emission reductions and the current status for each measure. As shown in the ''Current Status'' column, CARB has adopted five measures and begun the public process on seven of the remaining 10 measures listed in its control measure commitment.

TABLE 7—STATUS OF CARB COMPLIANCE WITH CONTROL MEASURE COMMITMENTS FOR THE SAN JOAQUIN VALLEY

Count	Measure	Public process begins	Action	Implementation begins	NO_X emission reductions (tpd)	Direct $PM_{2.5}$ emission reductions (tpd)	Current status [a]
2016 State SIP Strategy Measures							
1	Lower Opacity Limits for Heavy-Duty Vehicles	2016	2018	2018–2024	6.8	<0.1	Adopted July 25, 2018.
2	Amended Warranty Requirements for Heavy-Duty Vehicles.	2016	2018	2022			Adopted June 28, 2018.
3	Heavy-Duty Vehicle Inspection and Maintenance (I/M) Program.	2019	2020	2022 +			Public process began February 11, 2019.
4	Heavy-Duty Low-NO_X Engine Standard—California Action.	2016	2019	2023	0.7		Public process began November 3, 2016.

[329] CARB Resolution 18–49 (October 25, 2018), Attachment A and Valley State SIP Strategy, Table 7 (''State Measures and Schedule for the San Joaquin Valley''). The EPA is excluding two State measures listed in Table 7 of the Valley State SIP Strategy—the ''Advanced Clean Cars 2'' measure and the ''Cleaner In-Use Agricultural Equipment'' measure—because these measures are scheduled for implementation in 2026 and 2030, respectively, well after the January 1, 2024 implementation deadline for control measures necessary for attainment by December 31, 2024. 40 CFR 51.1011(b)(5).

[330] SJVUAPCD Governing Board Resolution 18–11–16 (November 15, 2018) and 2018 $PM_{2.5}$ Plan, Table 4–4 (''Proposed Regulatory Measures'') and Table 4–5 (''Proposed Incentive-Based Measures'').

[331] 2018 $PM_{2.5}$ Plan, Ch. 4, Table 4–3 (''Emission Reductions from District Measures'') and Table 4–9 (''San Joaquin Valley Expected Emission Reductions from State Measures'') and Valley State SIP Strategy, Table 8 (''San Joaquin Valley Expected Emission Reductions from State Measures'').

[332] CARB Resolution 18–49 (October 25, 2018), 5.

[333] Email dated November 12, 2019, from Sylvia Vanderspek, CARB to Anita Lee, EPA Region IX, ''RE: SJV $PM_{2.5}$ information'' (attaching ''Valley State SIP Strategy Progress'') and CARB Staff Report, 14.

[334] CARB Resolution 18–49 (October 25, 2018), 5.

[335] Valley State SIP Strategy, 7.

[336] SJVUAPCD Governing Board Resolution 18–11–16 (November 15, 2018), 10–11.

[337] Email dated November 12, 2019, from Jon Klassen, SJVUAPCD to Wienke Tax, EPA Region IX, ''RE: follow up on aggregate commitments in SJV $PM_{2.5}$ plan'' (attaching ''District Progress In Implementing Commitments with 2018 $PM_{2.5}$ Plan'').

[338] SJVUAPCD Governing Board Resolution 18–11–16 (November 15, 2018), 10–11.

[339] Email dated November 12, 2019, from Sylvia Vanderspek, CARB to Anita Lee, EPA Region IX, ''RE: SJV $PM_{2.5}$ information'' (attaching ''Valley State SIP Strategy Progress'').

TABLE 7—STATUS OF CARB COMPLIANCE WITH CONTROL MEASURE COMMITMENTS FOR THE SAN JOAQUIN VALLEY—Continued

Count	Measure	Public process begins	Action	Implementation begins	NO_X emission reductions (tpd)	Direct $PM_{2.5}$ emission reductions (tpd)	Current status [a]
5	Innovative Clean Transit	2015	2018–2019	2020	<0.1	<0.1	Adopted December 14, 2018.
6	Advanced Clean Local Trucks (Last Mile Delivery).	2016	2019	2020	<0.1	<0.1	Public process began November 1, 2016.
7	Zero-Emission Airport Shuttle Buses	2017	2018	2023	NYQ	NYQ	Adopted June 27, 2019.
8	Zero-Emission Off-Road Forklift Regulation Phase 1.	2020	2020	2023			Public process to begin 2020.
9	Zero-Emission Airport Ground Support Equipment.	2018	2019	2023	<0.1	<0.1	Public process began June 6, 2018.
10	Small Off-Road Engines	2016	2018–2020	2022	0.1	<0.1	Public process began May 23, 2016.
11	Transport Refrigeration Units Used for Cold Storage.	2016	2018–2019	2020 +	NYQ	NYQ	Public process began April 13, 2016.
12	Low-Emission Diesel Fuel Requirement	2019	2021	2023	0.8	0.1	Public process began October 18, 2019.
Proposed State Measures for the Valley (Valley State SIP Strategy)							
13	Accelerated Turnover of Trucks and Buses Incentive Projects [b].	2018	by 2021	Ongoing	10	NYQ	Public process to begin by 2021.
14	Accelerated Turnover of Agricultural Equipment Incentive Projects [b].	2018	by 2020	Ongoing	Existing 3; New 8.	Existing 0.2; New 0.6.	CARB adopted December 12, 2019.
15	Accelerated Turnover of Off-Road Equipment Incentive Projects [b].	2020	by 2021	Ongoing	2	NYQ	Public process to begin by 2021.
Total Estimated Emission Reductions (tpd)					32	1	

Sources: 2018 $PM_{2.5}$ Plan, Tables 4–8 and 4–9 and email dated November 12, 2019, from Sylvia Vanderspek, CARB to Anita Lee, EPA Region IX, ''RE: SJV $PM_{2.5}$ information'' (attaching ''Valley State SIP Strategy Progress'').
NYQ means ''not yet quantified.''
[a] For references on the current status of these measures, see section VIII of the EPA's General Evaluation TSD.
[b] Indicates that CARB intends to develop a SIP-creditable measure to demonstrate that the emission reductions from incentive projects can be credited towards the aggregate commitment.

In November 2019, the District also provided status updates on its progress to date on developing and adopting the additional stationary source measures identified in its control measure commitment.[340] Table 8 lists each measure and provides a summary of the anticipated emission reductions and the current status for each measure. As shown in the ''Current Status'' column, the District has adopted and submitted one of these measures (the 2019 amendment to Rule 4901) to the EPA for approval into the SIP and has begun the public process on five of the remaining 11 measures listed in its control measure commitment.[341]

TABLE 8—STATUS OF SJVUAPCD COMPLIANCE WITH CONTROL MEASURE COMMITMENTS FOR THE SAN JOAQUIN VALLEY

Count	Measure	Public process begins	Action date	Implementation begins	NO_X emission reductions (tpd)	Direct $PM_{2.5}$ emission reductions (tpd)	Current status [a]
1	Rule 4311 (''Flares'')	2018	2020	2023	0.05		Public workshop held November 13, 2019.
2	Rule 4306 (''Boilers, Steam Generators, and Process Heaters—Phase 3'').	2019	2020	2023	0.76	0.03	Public scoping meeting held December 5, 2019.
3	Rule 4320 (''Advanced Emission Reduction Options for Boilers, Steam Generators, and Process Heaters Greater than 5.0 MMBtu/hr'').						Public scoping meeting held December 5, 2019.
4	Rule 4354 (''Glass Melting Furnaces'')	2020	2021	2023			Public process to begin in 2020.
5	Rule 4352 (''Solid Fuel-Fired Boilers, Steam Generators and Process Heaters'').	2020	2021	2023			Public process to begin in 2020.
6	Rule 4702 (''Internal Combustion Engines'')	2019	2020	2024			Public scoping meeting held December 5, 2019.
7	Rule 4550 (''Conservation Management Practices'').	2021	2022	2024		0.32	Public process to begin in 2021.
8	Rule 4692 (''Commercial Under-fired Charbroilers'').	2019	2020	2024			Public scoping meeting held December 12, 2019.

[340] Email dated November 12, 2019, from Jon Klassen, SJVUAPCD to Wienke Tax, EPA Region IX, ''RE: follow up on aggregate commitments in SJV $PM_{2.5}$ plan'' (attaching ''District Progress In Implementing Commitments with 2018 $PM_{2.5}$ Plan'').

[341] The EPA has recently proposed to approve amended Rule 4901 into the California SIP. 85 FR 1131.

TABLE 8—STATUS OF SJVUAPCD COMPLIANCE WITH CONTROL MEASURE COMMITMENTS FOR THE SAN JOAQUIN VALLEY—Continued

Count	Measure	Public process begins	Action date	Implementation begins	NO_X emission reductions (tpd)	Direct $PM_{2.5}$ emission reductions (tpd)	Current status [a]
9	Rule 4901 (''Woodburning Fireplaces and Wood Burning Heaters'') (Hot-spot strategy).	2019	2019	2019		0.26	Rule adopted June 20, 2019 and submitted to EPA July 22, 2019.
10	Agricultural Operation Internal Combustion Engines Incentive Projects.	2019	2020	Ongoing	1.07		Public process pending.
11	Commercial Under-fired Charbroiling Incentive Projects	2019	2020	Ongoing		0.53	Public process pending.
12	Residential Wood Burning Devices Incentive Projects.	2019	2020	Ongoing		0.16	Public process pending.
Total Estimated Emission Reductions (tpd)					1.88	1.3	

Sources: 2018 $PM_{2.5}$ Plan, Chapter 4, Tables 4–3, 4–4, and 4–5 and Appendix E, Table E–3; SJVUAPCD, Final Draft Staff Report, ''Amendments to District's Residential Wood Burning Emission Reduction Strategy,'' June 20, 2019 (''2019 Rule 4901 Staff Report''); and email dated November 12, 2019, from Jon Klassen, SJVUAPCD to Wienke Tax, EPA Region IX, ''RE: follow up on aggregate commitments in SJV $PM_{2.5}$ plan'' (attaching ''District Progress In Implementing Commitments with 2018 $PM_{2.5}$ Plan'').

[a] For references on the current status of these measures, see section VIII of the EPA's General Evaluation TSD.

With respect to Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters''), the District amended this rule on June 20, 2019, to establish more stringent limitations on the use of residential wood burning devices. Specifically, the June 20, 2019 amendment to Rule 4901 lowered the thresholds at which ''No Burn'' days will be imposed to limit direct $PM_{2.5}$ emissions from residential wood burning during the November through February timeframe in three ''hot spot'' counties (Fresno, Kern, and Madera).[342] CARB submitted this amended rule to the EPA on July 22, 2019, and the EPA has proposed to approve the amended rule into the California SIP.[343] The EPA approved a prior version of this rule into the SIP on October 6, 2016.[344] The District's control measure commitment for 2024 and 2025 in Chapter 4 of the 2018 $PM_{2.5}$ Plan indicates that the District expects to achieve 0.42 tpd of direct $PM_{2.5}$ emission reductions through implementation of its residential wood burning strategy, including implementation of the ''No Burn'' provisions in amended Rule 4901.[345] Upon the EPA's final action to approve amended Rule 4901 into the SIP, the additional emission reductions resulting from the ''No Burn'' provisions of the amended rule may be credited toward the attainment demonstration in the Plan.

We note that the District's current estimate of direct $PM_{2.5}$ emission reductions to be achieved through the ''No Burn'' provisions of amended Rule 4901 (0.26 tpd) is based on a compliance rate (referred to as a ''control efficiency'') of 100%. The District estimates an actual control efficiency of 97% to 99%, based on the District's surveillance of neighborhoods in the San Joaquin Valley.[346] This control efficiency is significantly higher than the 75% control efficiency that EPA guidance attributes to wood burning curtailment programs.[347] Because the District has not provided adequate support for a 97–100% rule effectiveness rate, we are crediting the amended rule at this time with 0.20 tpd of direct $PM_{2.5}$ emission reductions toward the attainment control strategy, based on a 75% control efficiency. We have factored this amount into the direct $PM_{2.5}$ emission reductions from approved measures, shown in Row C of Table 9.

Table 9 provides a summary of the total NO_X and direct $PM_{2.5}$ emission reductions necessary for attainment in the San Joaquin Valley by December 31, 2024, the emission reductions attributed to baseline measures and new control strategy measures, and the emission reductions remaining as aggregate tonnage commitments. Approximately 13.8% of the NO_X reductions necessary for attainment and 26.6% of the direct $PM_{2.5}$ reductions necessary for attainment remain as aggregate tonnage commitments.

TABLE 9—REDUCTIONS NEEDED FOR ATTAINMENT AND AGGREGATE TONNAGE COMMITMENTS

[tpd, 2024]

		NO_X	Direct $PM_{2.5}$
A	Total reductions needed from baseline and control strategy measures	202.2	6.4
B	Reductions from baseline measures	168.3	4.2
C	Total reductions from approved measures	5.9	0.5
D	Total reductions remaining as commitments (A–B–C)	28.0	1.7
E	Percent of total reductions needed remaining as commitments (D/A)	13.8%	26.6%

Sources: 2018 $PM_{2.5}$ Plan, Ch. 4, Tables 4–3 and 4–7, and Appendix B, Tables B–1 and B–2; 2019 Rule 4901 Staff Report, 34; and ''Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District'' (proposed rule to approve ''San Joaquin Valley Agricultural Equipment Incentive Measure''), pre-publication notice signed February 13, 2020.

[342] The revised rule adds additional restrictions on the installation of wood burning devices, new requirements for fireplace and chimney remodel projects, additional requirements for residential real estate sales, non-seasoned wood to the list of prohibited fuel types, a new visible emissions limit for fireplaces and non-registered devices, and other editorial revisions to improve rule clarity. The emission reductions from these additional revisions were not quantified.

[343] 85 FR 1131.

[344] 81 FR 69393 (October 6, 2016) (approving Rule 4901 as amended September 18, 2014).

[345] 2018 $PM_{2.5}$ Plan, Ch. 4, Table 4–3.

[346] Email dated October 9, 2019 from Jon Klassen, SJVUAPCD to Meredith Kurpius, EPA Region IX, Subject: ''RE: Info to support Rule 4901.''

[347] Strategies for Reducing Wood Smoke, EPA–456/B–13–01, March 2013, 42.

The CAA allows for approval of enforceable commitments that are limited in scope where circumstances exist that warrant the use of such commitments in place of adopted measures.[348] Specifically, CAA section 110(a)(2)(A) provides that each SIP ''shall include enforceable emission limitations and other control measures, means or techniques . . . as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirement of the Act.'' Section 172(c)(6) of the Act, which applies to nonattainment SIPs, is virtually identical to section 110(a)(2)(A). The language in these sections of the CAA is quite broad, allowing a SIP to contain any ''means or techniques'' that the EPA determines are ''necessary or appropriate'' to meet CAA requirements, such that the area will attain as expeditiously as practicable, but no later than the designated date. Furthermore, the express allowance for ''schedules and timetables'' demonstrates that Congress understood that all required controls might not have to be in place before a SIP could be fully approved.

Once the EPA determines that circumstances warrant consideration of an enforceable commitment to satisfy a CAA requirement, it considers three factors in determining whether to approve the enforceable commitment: (a) Does the commitment address a limited portion of the CAA requirement; (b) is the state capable of fulfilling its commitment; and (c) is the commitment for a reasonable and appropriate period of time.[349]

With respect to the SJV $PM_{2.5}$ Plan, circumstances warrant the consideration of enforceable commitments as part of the attainment demonstration for this area. As shown in Table 9 of this preamble, the majority of the emissions reductions needed to demonstrate attainment and RFP in the San Joaquin Valley are achieved by rules and regulations adopted prior to the State's development of the SJV $PM_{2.5}$ Plan, *i.e.,* baseline measures. As a result of these already-adopted State and District measures, most air pollution sources in the San Joaquin Valley were already subject to stringent rules prior to the development of the SJV $PM_{2.5}$ Plan, leaving fewer and more technologically-challenging opportunities to reduce emissions. Despite these significant emission reductions, as shown in Table 6 of this preamble, the San Joaquin Valley area needs to reduce NO_X and direct $PM_{2.5}$ emission levels by a total of 63.7% and 10.2%, respectively, from 2013 base year levels in order to attain the 2006 $PM_{2.5}$ NAAQS by the end of 2024.

As part of their respective control measure commitments in the SJV $PM_{2.5}$ Plan, CARB and the District each have identified potential control measures that are expected to achieve the additional emissions reductions needed for attainment. The timeline needed to develop, adopt, and implement these measures, however, goes well beyond the December 31, 2019 serious area attainment date for the 2006 $PM_{2.5}$ NAAQS in this area. Both the State and District are making progress in adopting the rules and measures listed in their respective control measure commitments but have not yet completely fulfilled them. Given these circumstances, we find that the State's and District's reliance on enforceable commitments in the SJV $PM_{2.5}$ Plan is warranted. Therefore, we have considered the three factors the EPA uses to determine whether the use of enforceable commitments in lieu of adopted measures satisfies CAA planning requirements.

(a) The Commitment Represents a Limited Portion of Required Reductions

For the first factor, we look to see if the commitment addresses a limited portion of a statutory requirement, such as the amount of emissions reductions needed to attain the NAAQS in a nonattainment area. As shown in Table 9 of this preamble, most of the total emission reductions needed to attain the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley by the end of 2024 will be achieved through implementation of both baseline and new measures, leaving 13.8% (28.0 tpd) of the necessary NO_X reductions and 26.6% (1.7 tpd) of the necessary direct $PM_{2.5}$ reductions as aggregate tonnage commitments.

Given the nature of the $PM_{2.5}$ challenge in the San Joaquin Valley, the significant reductions in NO_X and direct $PM_{2.5}$ emission levels achieved through implementation of baseline measures over the past several decades, and the difficulty of identifying additional control measures that are feasible for implementation in the area, we find it reasonable for the State and District to seek additional time to adopt the last increment of emission reductions necessary for attainment by 2024.

Therefore, we find that the emission reductions remaining as enforceable commitments in the SJV $PM_{2.5}$ Plan represent a limited portion of the total emissions reductions needed to demonstrate attainment by December 31, 2024.

(b) The State Is Capable of Fulfilling Its Commitment

For the second factor, we consider whether the State and District are capable of fulfilling their commitments. CARB and the District recently provided updates on their progress in developing and adopting the additional mobile source and stationary source measures listed in their respective control measure commitments. Specifically, as shown in Table 7 of this preamble, CARB has adopted four of the 12 regulatory measures listed in its control measure commitment, including heavy-duty vehicle opacity limits, heavy-duty vehicle warranty requirements, Innovative Clean Transit, and Zero-Emission Airport Shuttle Buses. CARB has also begun the public process on seven of the remaining eight regulatory measures listed in CARB's control measure commitment. Additionally, on December 12, 2019, CARB adopted the San Joaquin Valley Agricultural Incentive Measure, one of the three incentive-based measures identified in its control measure commitment. CARB submitted this measure to the EPA on February 11, 2020, and the EPA has proposed to approve it as a revision to the California SIP.[350]

[348] Commitments approved by the EPA under CAA section 110(k)(3) are enforceable by the EPA and citizens under CAA sections 113 and 304, respectively. In the past, the EPA has approved enforceable commitments and courts have enforced these actions against states that failed to comply with those commitments. See, *e.g., American Lung Ass'n of N.J.* v. *Kean,* 670 F. Supp. 1285 (D.N.J. 1987), aff'd, 871 F.2d 319 (3rd Cir. 1989); *NRDC, Inc.* v. *N.Y. State Dept. of Env. Cons.,* 668 F. Supp. 848 (S.D.N.Y. 1987); *Citizens for a Better Env't* v. *Deukmejian,* 731 F. Supp. 1448, recon. granted in par, 746 F. Supp. 976 (N.D. Cal. 1990); *Coalition for Clean Air* v. *South Coast Air Quality Mgt. Dist.,* No. CV 97–6916–HLH, (C.D. Cal. Aug. 27, 1999). Further, if a state fails to meet its commitments, the EPA could make a finding of failure to implement the SIP under CAA section 179(a), which starts an 18-month period for the State to correct the non-implementation before mandatory sanctions are imposed.

[349] The Fifth Circuit Court of Appeals upheld the EPA's interpretation of CAA sections 110(a)(2)(A) and 172(c)(6) and the Agency's use and application of the three factor test in approving enforceable commitments in the 1-hour ozone SIP for Houston-Galveston. *BCCA Appeal Group et al.* v. *EPA et al.,* 355 F.3d 817 (5th Cir. 2003). More recently, the Ninth Circuit Court of Appeals upheld the EPA's approval of enforceable commitments in ozone and $PM_{2.5}$ SIPs for the San Joaquin Valley, based on the same three factor test. Committee for a *Better Arvin, et al.* v. *EPA,* 786 F.3d 1169 (9th Cir. 2015).

[350] Letter dated February 11, 2020, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9, and ''Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District'' (proposed rule to approve ''San Joaquin Valley Agricultural Equipment Incentive Measure''), pre-publication notice signed February 13, 2020.

For CARB's Heavy Duty I/M Program, in addition to the February 11, 2019 workshop, CARB has held three other workshops in 2019.[351] With the passage of California Senate Bill 210, the Heavy Duty I/M Program will be considered for Board action in 2020.[352] For CARB's Heavy-Duty Low-NO_X Engine Standard, following the November 3, 2016 public workshop, CARB held six additional workshops between 2017 and 2019.[353] For the Zero-Emission Airport Ground Support Equipment, CARB held a workshop on August 2, 2018.[354] For the Small Off-Road Engines measure, CARB has held five additional working group meetings and three public workshops between 2017 and 2019.[355] For Transport Refrigeration Units Used for Cold Storage, CARB held additional workshops in 2017 and most recently in October 2019.[356]

CARB continues to pursue additional control strategies to reduce emissions in California's nonattainment areas. For example, ongoing CARB programs that address zero emission airport shuttle buses and transportation refrigeration units used for cold storage have yet to be quantified but are expected to further reduce NO_X and direct $PM_{2.5}$ emissions in the San Joaquin Valley by 2024.[357] Additionally, as part of the development of a draft plan submission to address attainment of the ozone NAAQS in the South Coast, CARB has identified a number of potential new state control measures that would achieve NO_X and direct $PM_{2.5}$ emission reductions not only in the South Coast but also in the San Joaquin Valley.[358] These include a Tier 5 non-road diesel engine standard, a state green contracting measure, a measure to reduce single occupancy vehicle travel, and a locomotive emission reduction measure.

Similarly, the District has made progress in meeting its control measure commitments for the San Joaquin Valley. As shown in Table 8 of this preamble, following an initial December 2018 public workshop, the District adopted amendments to Rule 4901 on June 20, 2019, and CARB submitted the amended rule to the EPA on July 22, 2019.[359] The amendments to Rule 4901 include lowering the residential wood burning curtailment thresholds for Madera, Fresno, and Kern Counties in addition to Valley-wide rule enhancements. The EPA has proposed to approve amended Rule 4901 into the California SIP.[360]

Additionally, the District has started a public process for five of the remaining eight regulatory measures, including each of the five regulatory measures for which it committed to do so by 2019 or earlier. Specifically, on August 23, 2017, the District hosted an initial public scoping meeting on potential amendments to Rule 4311 (''Flares''), and on November 13, 2019, the District hosted a public workshop on potential amendments to the rule.[361] These potential amendments include additional flare minimization requirements, where technologically achievable and economically feasible, and additional ultra-low NO_X flare emission limitations for existing and new flaring activities at Valley facilities, where technologically achievable and economically feasible.

For the remaining four measures in the District's control measure commitment, on June 21, 2018, the District adopted amendments to Rule 4692 that require commercial cooking operations with UFCs to report by January 1, 2019, on the type and quantity, in pounds, of meat cooked on the UFCs on a weekly basis for the previous 12-month period as well as other information regarding the nature of their operations, and for certain such operations to register with the District and keep weekly records relating to the quantities of meat cooked. This is an important first step in the District's development of a new control measure for a source category not previously subject to direct $PM_{2.5}$ emission control requirements in the San Joaquin Valley. The District hosted a public scoping workshop for Rule 4692 on December 12, 2019,[362] and a scoping meeting for Rule 4306 and Rule 4320 on December 5, 2019.[363] Finally, the District held a scoping meeting for Rule 4702, also on December 5, 2019.[364]

Beyond the rules discussed above, both CARB and the District have well-funded incentive grant programs to reduce emissions from mobile, stationary, and area sources in the San Joaquin Valley. Funding for the State's incentive programs in the San Joaquin Valley comes from various sources including the Carl Moyer Program, Proposition 1B Goods Movement Emission Reduction Program, Greenhouse Gas Reduction Fund, and the Funding Agricultural Replacement Measures for Emission Reductions (FARMER) program.[365] Funding for the District's incentive programs comes from a combination of federal, State, and local funding mechanisms, including the Diesel Emission Reduction Act (DERA) and Target Airshed Grant programs, the Carl Moyer Program, and fees assessed in the San Joaquin Valley by the California Department of Motor Vehicles and by the District through programs for Indirect Source Review, Voluntary Emission Reduction Agreements, and large boilers, steam generators, and process heaters.[366]

Collectively, these incentive funds have been applied to a wide range of emission sources, including heavy-duty trucks, light-duty vehicles, mobile agricultural equipment, locomotives, school buses, alternative fuel infrastructure, community-based programs, agricultural irrigation pumps, residential wood combustion devices, and commercial charbroilers.[367] The Plan identifies the total funding need for expeditious attainment as $5 billion, including $3.3 billion for heavy-duty trucks and buses and $1.4 billion for mobile agricultural equipment.[368]

[351] Information about the proposed Heavy-Duty I/M Program is available at *https://ww2.arb.ca.gov/our-work/programs/inspection-and-maintenance-program/Meetings-and-Workshops.*

[352] SB 210 was signed by the California Governor and filed with the Secretary of State on September 20, 2019.

[353] Information about the proposed Heavy-Duty Low-NO_X Engine Standard is available at *https://ww2.arb.ca.gov/our-work/programs/heavy-duty-low-nox/heavy-duty-low-nox-meetings-workshops.*

[354] Information about the proposed Zero-Emission Airport Ground Support Equipment regulation is available at *https://ww2.arb.ca.gov/our-work/programs/zero-emission-airport-ground-support-equipment/ze-airport-gse-meetings-workshops.*

[355] Information about the proposed Small Off-Road Engines measure is available at *https://ww2.arb.ca.gov/our-work/programs/small-off-road-engines-sore/resources* and *https://ww2.arb.ca.gov/sore-workshops.*

[356] Information about the proposed Transport Refrigeration Units Used for Cold Storage measure is available at *https://ww2.arb.ca.gov/our-work/programs/transport-refrigeration-unit/tru-meetings-workshops.*

[357] 2018 $PM_{2.5}$ Plan, Chapter 4, Table 4–9.

[358] CARB, ''2019 South Coast 8-hour Ozone SIP Update,'' December 12, 2019. See also CARB Resolution 19–31 (December 12, 2019). Further information about this SIP revision is available at *https://ww3.arb.ca.gov/planning/sip/planarea/scabsip/scabsip.htm#2019o3.*

[359] Letter dated July 19, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9.

[360] 85 FR 1131.

[361] For more information on this workshop, see *https://www.valleyair.org/Workshops/postings/2019/11-13-19_Flares/presentation.pdf.*

[362] More information on the public scoping workshop on Rule 3692 can be found at *https://www.valleyair.org/Workshops/postings/2019/12-12-19_CC/presentation.pdf.*

[363] More information on the scoping workshop for Rules 4306 and 4320 can be found at *https://www.valleyair.org/Workshops/postings/2019/12-05-19_BGH/presentation.pdf.*

[364] Information on the scoping meeting on Rule 4702 can be found at *https://www.valleyair.org/Workshops/postings/2019/12-05-19_ICE/presentation.pdf.*

[365] 2018 $PM_{2.5}$ Plan, App. E, E–6.

[366] Id.

[367] Id. at App. E, E–8 to E–21.

[368] Id. at App. E, Table E–4 (''Incentive Funding Needed for Expeditious Attainment''). The CARB Staff Report describes the status of current incentive

Continued

We note that, during CARB's September 19, 2019 hearing on the SJV $PM_{2.5}$ Plan, community and environmental advocacy groups raised concerns that incentive funding recently appropriated fell short of the Plan's needs and requested that the State pursue alternative measures to obtain emission reductions from specific stationary sources in the San Joaquin Valley.[369] In response to these concerns and similar concerns raised by CARB Governing Board Member Dean Florez, CARB committed to follow-up with the District and stakeholders and to hold public workshops in the San Joaquin Valley to discuss additional emission reduction opportunities.[370]

We note also that the State and District will have to submit to the EPA, for SIP approval, any control measure that it intends to rely on to satisfy the aggregate tonnage commitments in the Plan. Where the State or District intends to substitute reductions in one pollutant to achieve a tonnage commitment concerning a different pollutant (*e.g.,* substituting NO_X reductions to satisfy a direct $PM_{2.5}$ reduction commitment), it must include an appropriate inter-pollutant trading (IPT) ratio and the technical basis for such ratio. The EPA will review any such IPT ratio and its bases before approving or disapproving the measure.

Given the evidence of the State's and District's progress to date in proposing and adopting the measures listed in their respective control measure commitments and their continuing efforts to develop additional control measures to further reduce NO_X and $PM_{2.5}$ emissions in the San Joaquin Valley, we find that the State and District are capable of meeting their commitments.

(c) The Commitment Is for a Reasonable and Appropriate Timeframe

For the third and last factor, we consider whether the commitment is for a reasonable and appropriate period of time. As discussed in section II.B of this preamble, on March 23, 2017, CARB adopted the 2016 State Strategy and directed staff to return to the Board with a commitment to achieve additional emission reductions from mobile sources in the San Joaquin Valley.[371] CARB responded by developing the Valley State SIP Strategy, which includes additional state commitments to achieve accelerated emission reductions for purposes of attaining the $PM_{2.5}$ NAAQS in the San Joaquin Valley.

In the Valley State SIP Strategy, CARB recognized that the earlier attainment dates for the 1997, 2006, and 2012 $PM_{2.5}$ NAAQS in the San Joaquin Valley compared to ozone attainment dates in the San Joaquin Valley and elsewhere in the State required accelerating the pace of NO_X reductions.[372] Thus, in the Valley State SIP Strategy CARB identified and committed to achieve emission reductions of 32 tpd of NO_X and 0.9 tpd of direct $PM_{2.5}$ by 2024,[373] significantly greater amounts than those CARB had committed to in the 2016 State Strategy (6 tpd of NO_X and 0.1 tpd of direct $PM_{2.5}$ by 2025).[374] CARB defined the estimate of emission reductions by 2024 from the lower in-use performance level of heavy-duty trucks as 6.8 tpd of NO_X, representing the largest emission reduction among the additional prohibitory measures.[375]

The SJV $PM_{2.5}$ Plan includes specific rule development, adoption, and implementation schedules designed to meet the State's and District's commitments to reduce emissions to the levels needed to attain the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley by 2024. For example, the aggregate commitments in the SJV $PM_{2.5}$ Plan include commitments by both the State and the District to begin the public process on each of their respective control measure commitments by specific dates ranging from 2015 to 2021. The commitments also identify action and implementation dates ranging from 2018 to 2024 for a number of State and District control measures, including amendments to SJVUAPCD Rule 4901, Rule 4311, Rule 4306, Rule 4320, Rule 4354, and Rule 4352.[376]

We find that these schedules provide a reasonable and appropriate amount of time for the State and District to achieve the remaining emission reductions necessary to the attain the 2006 24-hour $PM_{2.5}$ NAAQS in the San Joaquin Valley by December 31, 2024. We therefore conclude that the third factor is satisfied.

c. Conclusion

The EPA must make several findings in order to approve the modeled attainment demonstration in an attainment plan SIP submission. First, we must find that the attainment demonstration's technical bases, including the emissions inventories and air quality modeling, are adequate. As discussed in sections IV.A and IV.D.4.a of this preamble, we are proposing to approve both the emissions inventories and the air quality modeling on which the SJV $PM_{2.5}$ Plan's attainment demonstration and related provisions are based.

Second, we must find that the SIP submittal provides for expeditious attainment through the timely implementation of all BACM and BACT. As discussed in section IV.C of this preamble, we are proposing to approve the BACM/BACT demonstration in the SJV $PM_{2.5}$ Plan.

Third, the EPA must find that the emissions reductions that are relied on for attainment in the SIP submission are creditable. As discussed in section IV.D.4, the SJV $PM_{2.5}$ Plan relies principally on already adopted and approved rules to achieve the emissions reductions needed to attain the 2006 24-hour $PM_{2.5}$ standards in the San Joaquin Valley by December 31, 2024. The balance of the reductions is currently in the form of enforceable commitments that account for 13.8% of the NO_X and 26.6% of the direct $PM_{2.5}$ emissions reductions needed for attainment, as shown in Table 9 of this preamble.

The EPA has previously accepted enforceable commitments in lieu of adopted control measures in attainment demonstrations when the circumstances warrant it and the commitments meet three criteria. As discussed herein, we find that circumstances here warrant the consideration of enforceable commitments and that the three criteria are met: (1) The commitments constitute a limited portion of the required emissions reductions, (2) both the State and the District have demonstrated their capability to meet their commitments, and (3) the commitments are for an appropriate timeframe. We therefore propose to allow the State to rely on these enforceable commitments in its attainment demonstration.

Based on these evaluations, we propose to determine that the SJV $PM_{2.5}$ Plan provides for attainment of the 2006 24-hour $PM_{2.5}$ NAAQS by the most expeditious alternative date practicable, consistent with the requirements of CAA sections 189(b)(1)(A) and 188(e).

funding and CARB's expectations concerning future incentive funding out to 2024 for the San Joaquin Valley. CARB Staff Report, section F (''Status of Incentive Funding''), 24–27.

[369] Letter dated September 17, 2019, from Genevieve Gale, Central Valley Air Quality (CVAQ) Coalition, et al to CARB Board Members and Staff.

[370] J&K Court Reporting, LLC, ''Meeting, State of California Air Resources Board,'' September 19, 2019 (transcript of CARB's public hearing), 100.

[371] CARB Resolution 17–7 (March 23, 2017), page 7.

[372] Valley State SIP Strategy, 2–3 and 6.

[373] CARB Resolution 18–49 (October 25, 2018), page 5.

[374] CARB Resolution 17–7 (March 23, 2017), paragraph 7.

[375] 2018 $PM_{2.5}$ Plan, Ch. 4, Table 4–9.

[376] 2018 $PM_{2.5}$ Plan, Ch. 4, Tables 4–4, 4–5, and 4–8.

5. Application for an Attainment Date Extension

As discussed in section I of this preamble, the Serious area attainment date for the San Joaquin Valley for the 2006 24-hour $PM_{2.5}$ NAAQS under CAA section 188(c)(2) is December 31, 2019. The first criterion for an extension of the attainment date beyond this statutory attainment date is that the State must apply for such extension. In the SJV $PM_{2.5}$ Plan, CARB and SJVUAPCD submitted a complete application for an extension of the Serious area attainment date for the SJV to December 31, 2024, for the 2006 $PM_{2.5}$ NAAQS.[377] In accordance with the requirements of the $PM_{2.5}$ SIP Requirements Rule in 40 CFR 51.1005(b)(2), the SJV $PM_{2.5}$ Plan contains all of the required components of a Serious area plan containing a request for extension of the attainment date under CAA section 188(e), as follows: (1) Base year and attainment projected emissions inventories, (2) provisions to implement MSM and BACM, (3) a modeled attainment demonstration, (4) reasonable further progress provisions, (5) quantitative milestone provisions, (6) contingency measure provisions, and (7) nonattainment new source review plan provisions.[378]

Based on our evaluation of the Plan, we propose to grant the State's request to extend the Serious area attainment deadline from December 31, 2019, to December 31, 2024, for the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley. We are requesting public comment to ensure that the EPA fully considers all relevant factors in evaluating the State's request. If based on new information or public comments we find that a decision to grant the requested extension would not be consistent with the requirements of the Act, the EPA may reconsider this proposal or deny California's request to extend the deadline.[379]

If the EPA were to take final action to deny the request for extension of the attainment date, the EPA would be required under CAA section 179(c) to determine, based on the San Joaquin Valley's air quality as of December 31, 2019, whether the area attained the 2006 $PM_{2.5}$ NAAQS by that date.

E. Reasonable Further Progress and Quantitative Milestones

1. Statutory and Regulatory Requirements

Section 172(c)(2) of the Act provides that all nonattainment area plans shall require reasonable further progress (RFP) toward attainment. In addition, CAA section 189(c) requires that all $PM_{2.5}$ nonattainment area plans contain quantitative milestone for purposes of measuring RFP, as defined in CAA section 171(1), every three years until the area is redesignated to attainment. Section 171(1) of the Act defines RFP as the annual incremental reductions in emissions of the relevant air pollutant as are required by part D, title I of the Act, or as may reasonably be required by the Administrator for the purpose of ensuring attainment of the NAAQS by the applicable attainment date. Neither subpart 1 nor subpart 4 of part D, title I of the Act requires that states achieve a set percentage of emissions reductions in any given year for purposes of satisfying the RFP requirement.

For purposes of the particulate matter NAAQS, RFP has historically been met by showing annual incremental emissions reductions sufficient to maintain ''generally linear progress'' toward attainment by the applicable deadline.[380] As discussed in EPA guidance in the General Preamble Addendum, requiring generally linear progress in reductions of direct $PM_{2.5}$ and relevant $PM_{2.5}$ precursors in a $PM_{2.5}$ attainment plan may be appropriate in situations where:

- The pollutant is emitted by a large number and range of sources,
- the relationship between any individual source or source category and overall air quality is not well known,
- a chemical transformation is involved (*e.g.,* secondary particulate significantly contributes to $PM_{2.5}$ levels over the standard), and/or
- the emission reductions necessary to attain the $PM_{2.5}$ standards are inventory-wide.[381]

The EPA believes that the facts and circumstances of each specific area will be relevant to whether the emissions reductions meet the agency's expectations for generally linear progress.[382]

The General Preamble Addendum also indicates that requiring generally linear progress may be less appropriate in other situations, such as:

- Where there are a limited number of sources of direct $PM_{2.5}$ or a relevant precursor,
- where the relationships between individual sources and air quality are relatively well defined, and/or
- where the emission control systems utilized (*e.g.,* at major point sources) will result in swift and dramatic emission reductions.

In nonattainment areas characterized by any of these latter conditions, the EPA has recommended that RFP may be met by stepwise progress as controls are implemented and achieve significant reductions soon thereafter. For example, if an area's nonattainment problem can be attributed to a few major stationary sources, EPA guidance recommends that states may meet RFP by ''adherence to an ambitious compliance schedule'' that is likely to yield significant reductions of direct $PM_{2.5}$ or a $PM_{2.5}$ precursor on a periodic basis, rather than on a generally linear basis.[383] The EPA believes that the facts and circumstances of each specific area will be relevant to whether the emissions reductions meet the agency's expectations for stepwise progress.

Plans for $PM_{2.5}$ nonattainment areas should include detailed schedules for compliance with emission control measures in the area and provide corresponding annual emission reductions to be achieved by each milestone in the schedule.[384] In reviewing an attainment plan under subpart 4, the EPA considers whether the annual incremental emissions reductions to be achieved are reasonable in light of the statutory objective of timely attainment. Although early

[377] CARB Resolution 19–1 (January 24, 2019), (submitting the Plan to EPA as a SIP revision), SJVUAPCD Governing Board Resolution 18–11–16 (November 15, 2018), paragraph 1 (adopting the 2018 $PM_{2.5}$ Plan), and 2018 $PM_{2.5}$ Plan, Ch. 6, 6–1 to 6–2.

[378] Letter dated May 9, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9 (transmitting adopted SJV $PM_{2.5}$ Plan) and letter dated November 15, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9 (transmitting adopted nonattainment new source review rules for the San Joaquin Valley).

[379] Under CAA section 179(c), the EPA must determine no later than 6 months after the applicable attainment date for any nonattainment area whether the area attained the NAAQS by that date. Absent an extension of the Serious area attainment date under CAA section 188(e), the latest permissible attainment date for the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley Serious nonattainment area was December 31, 2019, and the statutory deadline under CAA section 179(c) for the EPA to determine whether the area attained these NAAQS by the Serious area attainment date is June 30, 2020. See also Memorandum dated November 14, 1994, from Sally L. Shaver, EPA Air Quality Strategies and Standards Division, to EPA Air Division directors, Regions I through X, RE: ''Criteria for Granting 1-Year Extensions of Moderate PM–10 Nonattainment Area Attainment Dates, Making Attainment Determinations, and Reporting on Quantitative Milestones,'' 16 (stating that EPA regional offices will address state requests for 1-year attainment date extensions under CAA section 188(d) no later than 6 months after the applicable attainment date). The CAA does not establish a specific deadline for the EPA's denial of a request for extension of an attainment date.

[380] General Preamble Addendum, 42015.

[381] Id.

[382] 81 FR 58010, 15386.

[383] Id.

[384] Id. at 42016.

implementation of the most cost-effective control measures is often appropriate, states should consider both cost-effectiveness and pollution reduction effectiveness when developing implementation schedules for control measures, and may implement measures that are more effective at reducing $PM_{2.5}$ earlier to provide greater public health benefits.[385]

In addition to the EPA's longstanding guidance on the RFP requirements, the Agency has established specific regulatory requirements in the $PM_{2.5}$ SIP Requirements Rule for purposes of satisfying the Act's RFP requirements and provided related guidance in the preamble to the rule. Specifically, under the $PM_{2.5}$ SIP Requirements Rule, each $PM_{2.5}$ attainment plan must contain an RFP analysis that includes, at minimum, the following four components: (1) An implementation schedule for control measures; (2) RFP projected emissions for direct $PM_{2.5}$ and all $PM_{2.5}$ plan precursors for each applicable milestone year, based on the anticipated control measure implementation schedule; (3) a demonstration that the control strategy and implementation schedule will achieve reasonable progress toward attainment between the base year and the attainment year; and (4) a demonstration that by the end of the calendar year for each triennial milestone date for the area, pollutant emissions will be at levels that reflect either generally linear progress or stepwise progress in reducing emissions on an annual basis between the base year and the attainment year.[386]

A state intending to meet the RFP requirement on a stepwise basis must provide an appropriate justification for the selected implementation schedule.[387] As the EPA explained in the preamble to the $PM_{2.5}$ SIP Requirements Rule, a plan that relies on a stepwise approach to meeting RFP should include ''a clear rationale and supporting information to explain why generally linear progress is not appropriate (*e.g.,* due to the nature of the nonattainment problem, the types of sources contributing to $PM_{2.5}$ levels in the area and the implementation schedule for control requirements at such sources).'' [388] Additionally, states should estimate the RFP projected emissions for each quantitative milestone year by sector on a pollutant-by-pollutant basis.[389]

Section 189(c) of the Act requires that $PM_{2.5}$ attainment plans include quantitative milestones that demonstrate RFP. The purpose of the quantitative milestones is to allow periodic evaluation of the area's progress towards attainment of the $PM_{2.5}$ NAAQS consistent with RFP requirements. Because RFP is an annual emission reduction requirement and the quantitative milestones are to be achieved every three years, when a state demonstrates compliance with the quantitative milestone requirement, it should also demonstrate that RFP has been achieved during each of the relevant three years. Quantitative milestones should provide an objective means to evaluate progress toward attainment meaningfully, *e.g.,* through imposition of emissions controls in the attainment plan and the requirement to quantify those required emissions reductions. The CAA also requires a state to submit, within 90 days after each three-year quantitative milestone date, a milestone report that includes technical support sufficient to document completion statistics for appropriate milestones, *e.g.,* the calculations and any assumptions made concerning emission reductions to date.[390]

The CAA does not specify the starting point for counting the three-year periods for quantitative milestones under CAA section 189(c). In the General Preamble and General Preamble Addendum, the EPA interpreted the CAA to require that the starting point for the first three-year period be the due date for the Moderate area plan submission.[391] In keeping with this historical approach, the EPA established December 31, 2014, the deadline that the EPA established for a state's submission of any additional attainment-related SIP elements necessary to satisfy the subpart 4 Moderate area requirements for the 2006 24-hour $PM_{2.5}$ NAAQS, as the starting point for the first three-year period under CAA section 189(c) for the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley.[392]

Under the $PM_{2.5}$ SIP Requirements Rule, each attainment plan submission for an area designated nonattainment for the 2006 $PM_{2.5}$ NAAQS before January 15, 2015, must contain quantitative milestones to be achieved no later than three years after December 31, 2014, and every three years thereafter until the milestone date that falls within three years after the applicable attainment date.[393] If the area fails to attain, this post-attainment date milestone provides the EPA with the tools necessary to monitor the area's continued progress toward attainment while the state develops a new attainment plan under CAA section 189(d).[394] Quantitative milestones must provide for objective evaluation of reasonable further progress toward timely attainment of the $PM_{2.5}$ NAAQS in the area and include, at minimum, a metric for tracking progress achieved in implementing SIP control measures, including BACM and BACT, by each milestone date.[395]

Because the EPA designated the San Joaquin Valley as a nonattainment area for the 2006 24-hour $PM_{2.5}$ NAAQS effective December 14, 2009,[396] the plan for this area must contain quantitative milestones to be achieved no later than three years after December 31, 2014, and every three years thereafter until the milestone date that falls within three years after the applicable attainment date.[397] The SJV $PM_{2.5}$ Plan contains a request by the State under CAA section 188(e) to extend the applicable attainment date for the 2006 24-hour $PM_{2.5}$ NAAQS in the San Joaquin Valley to December 31, 2024. Therefore, in accordance with 40 CFR 51.1013(a)(4), the Serious area plan for this area must contain quantitative milestones to be achieved no later than December 31, 2017, December 31, 2020, December 31, 2023, and December 31, 2026.

2. Summary of State's Submission

Appendix H (''RFP, Quantitative Milestones, and Contingency'') of the 2018 $PM_{2.5}$ Plan contains the State's RFP demonstration and quantitative milestones for the 2006 24-hour $PM_{2.5}$ NAAQS. Following the identification of a transcription error in the RFP tables of Appendix H, the State submitted a revised version of Appendix H that corrects the transcription error and provides additional information on the RFP demonstration.[398] Given the State's

[385] Id.

[386] 40 CFR 51.1012(a).

[387] 40 CFR 51.1012(a)(4).

[388] 81 FR 58010, 58057.

[389] 81 FR 58010, 58056.

[390] General Preamble Addendum, 42016, 42017.

[391] General Preamble, 13539, and General Preamble Addendum, 42016.

[392] 79 FR 31566 (June 2, 2014) (final rule establishing subpart 4 moderate area classifications and deadline for related SIP submissions). Although this final rule did not affect any action that the EPA had previously taken under CAA section 110(k) on a SIP for a $PM_{2.5}$ nonattainment area, the EPA noted that states may need to submit additional SIP elements to fully comply with the applicable requirements of subpart 4, even for areas with previously approved $PM_{2.5}$ attainment plans, and that the deadline for any such additional plan submissions was December 31, 2014. Id. at 31569.

[393] 40 CFR 51.1013(a)(4).

[394] 81 FR 58010, 58064.

[395] Id. at 58064 and 58092.

[396] 74 FR 58688 (November 13, 2009).

[397] 40 CFR 51.1013(a)(4).

[398] Appendix H to 2018 $PM_{2.5}$ Plan, submitted February 11, 2020 via the EPA State Planning Electronic Collaboration System. This revised

conclusions that ammonia, SO_X, and VOC emissions do not contribute significantly to $PM_{2.5}$ levels that exceed the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley, as discussed in section IV.B of this preamble, the RFP demonstration provided by the State addresses emissions of direct $PM_{2.5}$ and NO_X.[399] Similarly, the State developed quantitative milestones based upon the Plan's control strategy measures that achieve emission reductions of direct $PM_{2.5}$ and NO_X.[400] For the 2006 $PM_{2.5}$ NAAQS, the RFP demonstration in the Plan follows a stepwise approach due to the time required for CARB and the District ''to amend rules, develop programs, and implement the emission reduction measures.'' [401] The revised Appendix H provides clarifying information on the RFP demonstration, including additional information to justify the Plan's stepwise approach to demonstrating RFP. This clarifying information did not affect the Plan's quantitative milestones.

We describe the RFP demonstration and quantitative milestones in the SJV $PM_{2.5}$ Plan in greater detail below.

a. Reasonable Further Progress

The State addressed the RFP and quantitative milestone requirements in Appendix H to the 2018 $PM_{2.5}$ Plan submitted in February 2020. The Plan estimates that emissions of direct $PM_{2.5}$ and NO_X will generally decline from the 2013 base year to the projected 2024 attainment year, and beyond to the 2026 quantitative milestone year. The Plan's emissions inventory shows that direct $PM_{2.5}$ and NO_X are emitted by a large number and range of sources in the San Joaquin Valley. Table H–2 in Appendix H contains an anticipated implementation schedule for District regulatory control measures and Table 4–8 in Chapter 4 of the 2018 $PM_{2.5}$ Plan contains an anticipated implementation schedule for CARB control measures in the San Joaquin Valley. Table H–5 in Appendix H (reproduced in Table 10) contains projected emissions for each quantitative milestone year and the attainment year. These emission levels reflect both baseline emissions projections and commitments to achieve additional emission reductions through implementation of new control measures beginning in 2024.[402]

TABLE 10—$PM_{2.5}$ PROJECTED EMISSIONS INVENTORY FOR BASE AND MILESTONE YEARS, INCLUDING BASELINE MEASURES AND EMISSION REDUCTION COMMITMENTS

[Annual average tpd]

Pollutant	2013	2017	2020	2023	2024	2026
	Baseline year	Quantitative milestone	Quantitative milestone	Quantitative milestone	Attainment year	Quantitative milestone
$PM_{2.5}$	62.5	58.9	59.0	58.3	56.1	56.2
NO_X	317.2	233.3	203.3	153.6	115.0	105.5

Source: 2018 $PM_{2.5}$ Plan, Appendix H, Table H–5.

Table H–6 and Table H–7 of Appendix H (reproduced in Table 11) identify the reductions needed for attainment of the 2006 $PM_{2.5}$ NAAQS by 2024, and the San Joaquin Valley's progress toward attainment in each milestone year.

TABLE 11—REDUCTIONS NEEDED FOR ATTAINMENT AND ACHIEVED IN EACH MILESTONE YEAR

[Annual average]

Pollutant	Reductions needed for attainment (from 2013 baseline) (tpd)	Percent reductions achieved in milestone year				
		2017	2020	2023	2024	2026 [a]
		Quantitative milestone (percent)	Quantitative milestone (percent)	Quantitative milestone (percent)	Attainment year (percent)	Quantitative milestone (percent)
$PM_{2.5}$	6.4	56.3	54.7	65.6	100	98.4
NO_X	202.2	41.5	56.3	81.0	100	104.7

Source: 2018 $PM_{2.5}$ Plan, Appendix H, Tables H–6 and H–7.
[a] The EPA has made minor corrections to the calculated percentages for 2026 in Table H–7 of the 2018 $PM_{2.5}$ Plan.

Based on the data in Tables 10 and 11, the State and District set RFP targets for the attainment year and quantitative milestone years as shown in Table H–10 of Appendix H (reproduced in Table 12). The targets are consistent with a stepwise approach to demonstrating RFP. For direct $PM_{2.5}$, significant reductions between the 2013 baseline and the 2017 milestone year (approximately 56% of the reductions needed for attainment) are consistent with a generally linear approach to demonstrating RFP. However, between the 2017 and 2020 milestone years, projected direct $PM_{2.5}$ emissions increase. Emissions of direct $PM_{2.5}$ decrease by the 2023 milestone year but fall short of the rate of reductions that would show generally linear

version of Appendix H replaces the version submitted with the 2018 $PM_{2.5}$ Plan on May 10, 2019. All references to Appendix H in this proposed rule are to the revised version of Appendix H submitted February 11, 2020.

[399] 2018 $PM_{2.5}$ Plan, App. H, H–1.

[400] Id. at H–22 to H–23 (for State milestones) and H–19 to H–20 (for District milestones).

[401] 2018 $PM_{2.5}$ Plan, App. H, H–4.

[402] In App. H, see Tables H–3 (emission projections based on baseline measures) and H–4 (reductions from control measure commitments). The SJV $PM_{2.5}$ Plan includes commitments for reductions from new control measures in 2024 and 2025. With respect to the projected emission reductions for 2026, the District and CARB stated in a conversation with EPA staff on January 6, 2020 that they assumed reductions achieved in 2026 would be similar to reductions committed to in 2024 and 2025. See memorandum dated January 6, 2020, from Laura Lawrence, EPA Region IX Air Planning Office, to docket number EPA–R09–OAR–2019–0318.

progress.[403] The Plan relies on a more substantial direct $PM_{2.5}$ emission reduction in 2024 due, in large part, to the State's and District's commitments to achieve additional $PM_{2.5}$ emission reductions from new measures in 2024. Direct $PM_{2.5}$ emissions are projected to increase slightly in 2026.

For NO_X, the emission projections show steady reductions over time. The projection for the 2017 milestone year is consistent with a generally linear RFP demonstration, but for the 2020 and 2023 milestone years, emission reductions fall short of generally linear progress toward attainment.[404] The Plan relies on a more substantial NO_X emission reduction in 2024 due, in large part, to the State's and District's commitments to achieve additional NO_X reductions from new measures that year. NO_X emissions are projected to continue to decrease in the 2026 milestone year.

According to the Plan, reductions in both direct $PM_{2.5}$ and NO_X emissions from 2013 base year levels result in emissions levels consistent with attainment in the 2024 attainment year. Based on these analyses, the State and District conclude that the adopted control strategy and additional commitments for reductions from new control programs beginning in 2024 are adequate to meet the RFP requirement for the 2006 $PM_{2.5}$ NAAQS.

TABLE 12—STEPWISE RFP TARGET EMISSION LEVELS AND PROJECTED EMISSION LEVELS FOR MILESTONE AND ATTAINMENT YEARS

[Annual average tpd]

Pollutant	2017		2020		2023		2024 [a]		2026	
	Target	Projected	Target	Projected	Target	Projected	Target	Projected	Target [b]	Projected
$PM_{2.5}$	58.9	58.9	59.0	59.0	58.3	58.3	56.1	56.1	56.2	56.2
NO_X	233.3	233.3	203.3	203.3	153.6	153.6	115.0	115.0	105.5	105.5

Source: 2018 $PM_{2.5}$ Plan, Appendix H, Tables H–6 and H–10.

[a] Emissions targets and projections for the 2024 attainment year are provided in Table H–6 of the 2018 $PM_{2.5}$ Plan.

[b] Direct $PM_{2.5}$ emissions for 2026 are derived from the Plan's projected emissions inventory (including baseline controls), less the 2.2 tpd of direct $PM_{2.5}$ emissions that CARB and the District committed to achieve by 2024. 2018 $PM_{2.5}$ Plan, Appendix H, Tables H–3, H–4, and H–5.

The State and District's control strategy for attaining the 2006 $PM_{2.5}$ NAAQS relies primarily on ongoing reductions from baseline measures, recent revisions to the District's residential wood burning rule (Rule 4901), and an aggregate tonnage commitment for the remaining reductions needed for attainment. The majority of the NO_X and $PM_{2.5}$ reductions needed for attainment result from CARB's current mobile source control program. As shown in Table 11, the attainment control strategy in the Plan is projected to achieve a total of 202.2 tpd of NO_X reductions by 2024, of which 78% (157 tpd) is attributed to CARB's mobile source control program.[405] Similarly, the attainment control strategy is projected to achieve a total of 6.4 tpd of direct $PM_{2.5}$ reductions by 2024, of which 72% (4.6 tpd) is attributed to CARB's mobile source control program.[406] These on-going controls will thus result in additional reductions in NO_X and direct $PM_{2.5}$ emissions between the base year (2013) and the attainment year (2024).[407]

CARB's mobile source control program provides significant ongoing reductions in emissions of direct $PM_{2.5}$ and NO_X from on-road and non-road mobile sources such as light duty vehicles, heavy-duty trucks and buses, non-road equipment, and fuels. For on-road and non-road mobile sources, which represent the largest sources of NO_X emissions in the San Joaquin Valley, Appendix H of the 2018 $PM_{2.5}$ Plan identifies five mobile source regulations and control programs that limit emissions of direct $PM_{2.5}$ and NO_X: The On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation (''Truck and Bus Regulation''), the Advanced Clean Cars Program (''ACC Program''), the In-Use Off-Road Diesel-Fueled Fleets Regulation (''Off-Road Regulation''), the Heavy-Duty Vehicle Inspection and Maintenance Program, and the California Low-NO_X Engine Standard for new on-road heavy-duty engines used in medium- and heavy-duty trucks purchased in California.[408] CARB's mobile source BACM and MSM analysis in Appendix D of the 2018 $PM_{2.5}$ Plan provides a more comprehensive overview of each of these programs and regulations, among many others.[409] CARB's emission projections for mobile sources are presented in the Plan's emissions inventory.[410]

The Truck and Bus Regulation, first adopted in 2008 and amended in 2011, has rolling compliance deadlines based on truck engine model year (MY). CARB's implementation of the Truck and Bus Regulation includes phase-in requirements for $PM_{2.5}$ and NO_X emissions reductions that began in 2012 and require nearly all pre-2010 vehicles to have exhaust emissions meeting 2010 MY engine emission levels by 2023.[411] The 2010 MY engines include particulate filters for direct $PM_{2.5}$ control. By 2016, the particulate filter requirement for trucks with a gross vehicle weight rating greater than 26,001 pounds was fully implemented in the San Joaquin Valley and all heavier trucks with 1995 and older model year engines were required to have a 2010 engine installed or replaced by a truck with a 2010 MY engine.[412]

For non-road vehicles, CARB adopted the Off-Road Regulation in 2007 to regulate vehicles used in construction, mining, and other industrial applications. The Off-Road Regulation requires owners to (1) replace older

[403] To show generally linear progress, direct $PM_{2.5}$ emissions would need to decrease by approximately 64% from the baseline year in 2020, and by approximately 91% from the baseline year in 2023. The actual decreases for these years are 55% in 2020, and 66% in 2023.

[404] To show generally linear progress, NO_X emissions would need to decrease by approximately 64% from the baseline year in 2020, and by approximately 91% from the baseline year in 2023. The actual decreases for these years are 56% in 2020, and 81% in 2023.

[405] Id. at Chapter 4, Table 4–7.

[406] Id.

[407] Id. at App. H, H–4.

[408] 2018 $PM_{2.5}$ Plan, App. H, H–21 and H–22. Because the second phase of the Advanced Clean Cars Program (''ACC 2'') is not scheduled for implementation until 2026 (see 2018 $PM_{2.5}$ Plan, Table 4–8), which is after the January 1, 2024 implementation deadline under 40 CFR 51.1011(b)(5) for control measures necessary for attainment by December 31, 2024, we are not reviewing this program as part of the control strategy in the SJV $PM_{2.5}$ Plan.

[409] 2018 $PM_{2.5}$ Plan, App. D, Ch. IV.

[410] 2018 $PM_{2.5}$ Plan, App. B.

[411] The State's quantitative milestone report for the 2017 milestone indicates that the requirement for heavier trucks to install diesel particulate filters was fully implemented by 2016. CARB and SJVUAPCD, ''2017 Quantitative Milestone Report for the 1997 and 2006 NAAQS,'' November 21, 2018 (''2017 QM Report''), 5.

[412] Id.

engines or vehicles with newer, cleaner models, (2) retire older vehicles or reduce their use, or (3) apply retrofit exhaust controls.[413] Beginning in 2014 for large fleets and in 2017 for medium fleets, non-road fleets are required to meet increasingly stringent fleet average indices over time.[414] These indices reflect a fleet's overall PM and NO_X emissions rates by model year and horsepower.

The District has also adopted numerous stationary and area source rules for direct $PM_{2.5}$ and NO_X emission sources that are projected to contribute to RFP and attainment of the $PM_{2.5}$ standards. These include control measures for stationary internal combustion engines, residential fireplaces, glass manufacturing facilities, agricultural burning sources, and various sizes of boilers, steam generators, and process heaters used in industrial operations. Appendix H of the 2018 $PM_{2.5}$ Plan identifies stationary source regulatory control measures implemented by the District that achieve ongoing $PM_{2.5}$ and/or NO_X reductions through the Plan's RFP milestone years and the attainment year, including the following: Rule 4354 (''Glass Melting Furnaces''), Rule 4702 (Internal Combustion Engines''), and Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters'').[415]

Rule 4354 was last amended in 2011 to lower certain limits on emissions of NO_X, SO_X, and PM_{10} from container glass, flat glass, and fiberglass manufacturing facilities. Rule 4702 was last amended in 2013 to lower the NO_X and SO_X emission limits for various types of internal combustion engines rated at 25 brake horsepower or greater. The District most recently amended Rule 4901 in 2019 to lower the thresholds at which ''No Burn'' days will be imposed to limit direct $PM_{2.5}$ emissions from high-polluting wood burning heaters and fireplaces during the November through February timeframe in three ''hot spot'' counties (Fresno, Kern, and Madera). These rules contribute to incremental reductions in emission of direct $PM_{2.5}$ and NO_X from the 2013 base year to the 2017 and 2020 RFP milestone years.[416] Additional District measures to control sources of direct $PM_{2.5}$ and NO_X are also presented in the Plan's BACM/MSM analyses and reflected in the Plan's baseline emission projections.[417]

For the remainder of the emission reductions necessary for attainment, the SJV $PM_{2.5}$ Plan identifies a series of additional State and District commitments to achieve emission reductions through additional control measures and incentive programs that will contribute to attainment of the 2006 $PM_{2.5}$ NAAQS by 2024. For mobile sources, CARB's commitment identifies a list of 12 regulatory measures and three incentive-based measures that CARB has committed to propose to its Board for consideration by specific dates.[418] For stationary and area sources, the District's commitment identifies a list of nine regulatory measures and three incentive-based measures that the District has committed to propose to its Board for consideration by specific dates.[419] Both CARB and the District have committed to achieve specific amounts of reductions in direct $PM_{2.5}$ and NO_X emissions by 2024, either through implementation of these listed measures or through implementation of other control measures that achieve the necessary amounts of emission reductions by 2024.[420]

The 2018 $PM_{2.5}$ Plan discusses a number of additional control measures that the District may adopt to meet its aggregate tonnage commitment, including additional control requirements for flares; boilers, steam generators, and process heaters of various sizes; glass melting furnaces; internal combustion engines; conservation management practices for agricultural operations; and commercial under-fired charbroilers.[421] In addition, the Plan states that the District intends to use incentive programs to reduce emissions of direct $PM_{2.5}$ and NO_X from internal combustion engines used in agricultural operations, commercial under-fired charbroilers, and residential woodburning devices.[422] The 2018 $PM_{2.5}$ Plan establishes deadlines between 2018 and 2023 for CARB to take action on and begin implementing the 15 additional mobile source control measures that CARB has committed to propose to its Board[423] and similar deadlines between 2019 and 2024 for the District to take action on and begin implementing the 12 additional District control measures that the District has committed to propose to its Board.[424]

The anticipated implementation schedule for new District measures is presented both in Table H–2 of Appendix H and in tables 4–4 and 4–5 of the 2018 $PM_{2.5}$ Plan, and the anticipated implementation schedule for new CARB measures is presented in Table 4–8 of the 2018 $PM_{2.5}$ Plan. These anticipated implementation schedules are summarized in Table 13, below. Although the commitment to achieve reductions is based on an aggregate commitment for total reductions in 2024, the State and District anticipate implementing many of the measures in Table 13 prior to these dates to achieve the aggregate tonnage commitment.

Specifically, implementation of the District's revisions to Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters'') began in 2019, and implementation of CARB's lower opacity limits for heavy-duty vehicles began in 2018. Additionally, the District anticipates implementing several measures beginning in 2023 and CARB anticipates implementing several measures in 2020, 2022, and 2023.[425]

[413] 2017 QM Report, 8.

[414] A fleet average index is an indicator of a fleet's overall emissions rate of particulate matter and NO_X based on the horsepower and model year of each engine in the fleet.

[415] 2018 $PM_{2.5}$ Plan, App. H, Table H–2.

[416] 2017 QM Report, 2–3.

[417] 2018 $PM_{2.5}$ Plan, App. B and App. C.

[418] 2018 $PM_{2.5}$ Plan, Chapter 4, Table 4–8 and CARB Resolution 18–49 (October 25, 2018), 5. Table 4–8 of the 2018 $PM_{2.5}$ Plan lists 14 State regulatory measures but we are excluding from our review the ''Advanced Clean Cars 2'' measure and the ''Cleaner In-Use Agricultural Equipment'' measure, because these measures are scheduled for implementation in 2026 and 2030, respectively, well after the January 1, 2024 implementation deadline for control measures necessary for attainment by December 31, 2024. 40 CFR 51.1011(b)(5).

[419] 2018 $PM_{2.5}$ Plan, Chapter 4, Table 4–4 and SJVUAPCD Governing Board Resolution 18–11–16 (November 15, 2018), 10–11.

[420] SJVUAPCD Governing Board Resolution 18–11–16 (November 15, 2018), 10–11 and CARB Resolution 18–49 (October 25, 2018), 5.

[421] 2018 $PM_{2.5}$ Plan, Chapter 4, 4–12 and 4–15 to 4–22.

[422] Id. at 4–22 to 4–24.

[423] 2018 $PM_{2.5}$ Plan, Chapter 4, Table 4–8 and CARB Resolution 18–49 (October 25, 2018), 5. The EPA is excluding two State measures listed in Table 4–8 of the 2018 $PM_{2.5}$ Plan, the ''Advanced Clean Cars 2'' measure and the ''Cleaner In-Use Agricultural Equipment'' measure, because these measures are scheduled for implementation in 2026 and 2030, respectively, well after the January 1, 2024 implementation deadline for control measures necessary for attainment by December 31, 2024. 40 CFR 51.1011(b)(5).

[424] 2018 $PM_{2.5}$ Plan, Table 4–4 and Table 4–5 and SJVUAPCD Governing Board Resolution 18–11–16 (November 15, 2018), 10–11.

[425] For more detail on our evaluation of the State's and District's aggregate commitments, see section IV.D.4.b.ii of this preamble.

TABLE 13—ANTICIPATED IMPLEMENTATION SCHEDULE FOR STATE AND DISTRICT MEASURES

CARB measures	Implementation begins
Lower In-Use Emission Performance Level:	
Lower Opacity Limits for Heavy-Duty Vehicles	2018–2024.
Amended Warranty Requirements for Heavy-Duty Vehicles	2022.
Heavy-Duty Vehicle Inspection and Maintenance Program	2022.
Low-NO_X Engine Standard	2023.
Innovative Clean Transit	2020.
Advanced Clean Local Trucks (Last Mile Delivery)	2020.
Zero-Emission Airport Shuttle Buses	2023.
Zero-Emission Off-Road Forklift Regulation Phase 1	2023.
Zero-Emission Airport Ground Support Equipment	2023.
Small Off-Road Engines	2022.
Transport Refrigeration Units Used for Cold Storage	2020.
Low-Emission Diesel Fuel Requirement	2023.
Accelerated Turnover of Trucks and Buses	Ongoing.
Accelerated Turnover of Agricultural Equipment	Ongoing.
Accelerated Turnover of Off-Road Equipment	Ongoing.
District measures	**Implementation begins**
Rule 4311 (''Flares'')	2023.
Rule 4306 (''Boilers, Steam Generators, and Process Heaters—Phase 3''), Rule 4320 (''Advanced Emission Reduction Options for Boilers, Steam Generators, and Process Heaters Greater than 5.0 MMBtu/hr'').	2023.
Rule 4702 (''Internal Combustion Engines'')	2024.
Rule 4354 (''Glass Melting Furnaces'')	2023.
Rule 4352 (''Solid Fuel-Fired Boilers, Steam Generators and Process Heaters'')	2023.
Rule 4550 (''Conservation Management Practices'')	2024.
Rule 4692 (''Commercial Charbroiling'') (Hot-spot Strategy)	2024.
Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters'') (Hot-spot Strategy)	2019.
Replacement of Internal Combustion Engines used at Agricultural Operations	Ongoing.
Installation of Commercial Under-fired Charbroiling Controls (Hot-spot Strategy)	Ongoing.
Replacement of Residential Wood Burning Devices (Valley-wide and Hot-spot Strategy)	Ongoing.

Source: 2018 $PM_{2.5}$ Plan, Table 4–4, Table 4–5, Table 4–8 and Appendix H, Table H–2.

Section H.1.3 of Appendix H of the Plan provides the State's and District's justifications for the stepwise approach to meeting the RFP requirement and the related implementation schedules for new or revised control measures. These justifications include the time needed to engage in the rulemaking process, including time for state and local public processes; the need to provide time for industry to comply with new regulatory requirements; the need to resolve feasibility issues for emerging technologies; and, for CARB mobile source measures, the need for affected industries to prepare technologies and infrastructure for market-scale adoption.

For example, Appendix H of the 2018 $PM_{2.5}$ Plan states that ''time after rule adoption will be necessary for unit manufacturers and vendors to make available compliant equipment, and for facility operators to source, purchase, and install new units or compliant retrofit equipment. Dependent on the source category, construction of controls will include engineering, site preparation and infrastructure upgrades, unit installation, and operator training on proper operation.'' [426]

We present below some of the implementation challenges that the State and District have identified as part of their justification for meeting the RFP requirement by the stepwise approach in the Plan.

The new NO_X control measures that CARB and the District anticipate implementing toward the end of the attainment period can be found in Table 4–4, Table 4–5, and Table 4–8 of the 2018 $PM_{2.5}$ Plan. Appendix H of the 2018 $PM_{2.5}$ Plan provides the following explanation for the need to implement the listed measures in a stepwise manner:

''The objective of many of CARB's new measures is to introduce or advance innovative technologies in early stages of development or market penetration. In the case of technology-forcing regulations, . . . time is needed by the affected industry to ready the technologies, including infrastructure, for market-scale adoption, and would have been discussed previously by CARB and stakeholders during the measure development phase. The time required to facilitate new and innovative technologies is a principle driver of the timeline for control measure implementation CARB laid out in Table 4–8.'' [427]

CARB provided more specific information regarding two of these measures on pages H–9 and H–10 of Appendix H. For instance, the development of the Heavy-Duty Vehicle Inspection and Maintenance Program was affirmed by California legislative action in 2019, and CARB is now working on program design and infrastructure to implement new legislative direction.[428] For the Low-NO_X Engine Standard, the implementation timeline has been influenced by a multi-year research program to assess the feasibility of this standard.

The new direct $PM_{2.5}$ measures that CARB and the District anticipate implementing toward the end of the attainment period can be found in Table 4–4, Table 4–5, and Table 4–8 of the 2018 $PM_{2.5}$ Plan. CARB's additional measures are expected to achieve 0.9 tpd of direct $PM_{2.5}$ emission reductions [429] and the District's

[426] 2018 $PM_{2.5}$ Plan, App. H, H–7.

[427] 2018 $PM_{2.5}$ Plan, App. H, H–8.

[428] California Senate Bill 210, signed September 20, 2019.

[429] 2018 $PM_{2.5}$ Plan, Table 4–9.

additional measures, including revised rules for commercial charbroiling and conservation management practices (CMPs) for agricultural operations, are expected to achieve 1.3 tpd of direct $PM_{2.5}$ emission reductions in 2024.[430] New or revised District measures are thus expected to achieve a significant portion of the State's and District's 2.2 tpd direct $PM_{2.5}$ emission reduction commitment for the 2024 attainment year.

For example, the 2018 $PM_{2.5}$ Plan shows that approximately one fourth of the direct $PM_{2.5}$ emission reductions that the State and District have committed to achieve by 2024 (0.53 of 2.2 tpd) are expected to result from a planned revision to the District's commercial charbroiling rule (Rule 4692) that would contain control requirements for under-fired charbroilers (UFCs).[431] The District anticipates proposing this revised rule to the SJVUAPCD Governing Board in 2020 and implementing it beginning in 2024.[432] According to information provided in Appendix C of the 2018 $PM_{2.5}$ Plan, the costs associated with retrofitting control technology onto equipment at existing restaurants and maintaining such equipment can be prohibitively expensive, especially for smaller restaurants.[433] Because of ongoing uncertainties about the technological and economic feasibility of controls for UFCs, the District has adopted a set of registration and reporting provisions in a revised version of Rule 4692 that required owners and operators of commercial cooking operations with UFCs to register each unit and to submit, by January 1, 2019, a one-time informational report providing information about the UFC and its operations. CARB submitted this revised rule to the EPA on November 16, 2018.

The 2018 $PM_{2.5}$ Plan also shows that a portion of the necessary direct $PM_{2.5}$ emission reductions in 2024 (0.32 of 2.2 tpd) is expected to result from a revised version of the District's CMP rule (Rule 4550), which is designed to reduce particulate emissions from agricultural operations.[434] The District anticipates proposing this revised rule to the SJVUAPCD Governing Board in 2022 and implementing it beginning in 2024.[435] As explained in Appendix C of the 2018 $PM_{2.5}$ Plan, an important step in developing effective $PM_{2.5}$ controls for dust from agricultural operations is to develop an understanding of the effectiveness of CMPs on controlling $PM_{2.5}$ emissions in the Valley.'' [436] Towards this end, the District intends to work with stakeholders and researchers to evaluate the feasibility and effectiveness of additional control measures to reduce $PM_{2.5}$ emissions, including: Tilling and other land preparation activities; selection of conservation tillage as a CMP for croplands; and CMPs on fallow lands that are tilled or otherwise worked with implements of husbandry (*e.g.,* a farm tractor drawing a trailer with crops) to reduce windblown PM emissions from disturbed fallowed acreage.[437]

b. Quantitative Milestones

Appendix H of the 2018 $PM_{2.5}$ Plan identifies December 31 milestone dates for the 2017, 2020, and 2023 milestone years and for the 2026 post-attainment milestone year.[438] Appendix H also identifies target emissions levels to meet the RFP requirement for direct $PM_{2.5}$ and NO_X emissions for each of these milestone years,[439] as shown in Table 10, above, and control measures that the State or District plan to implement by each of these years, in accordance with the control strategy in the Plan.[440]

The Plan includes quantitative milestones for mobile, stationary, and area sources. For mobile sources, the State has developed quantitative milestones that provide for evaluation of RFP based on the implementation of specific control measures by the relevant three-year milestones. For the first three quantitative milestones, the Plan provides for evaluating RFP with implementation of regulatory measures; for the final post attainment date quantitative milestone in 2026, the Plan provides for evaluating RFP with implementation of incentive measures.[441] For the 2017, 2020, and 2023 milestone years, the quantitative milestones include implementation of the Truck and Bus Regulation, which requires particulate filters and cleaner engines on existing trucks and buses, in the years preceding each milestone year (*i.e.,* between 2012–2017, 2017–2020, and 2020–2023, respectively). Each of these milestone years also includes action on or implementation of certain State measures for light-duty vehicles and non-road vehicles as follows:

- 2017—Truck and Bus Regulation, ACC Program, and Off-Road Regulation;
- 2020—Truck and Bus Regulation, ACC 2: Reduced ZEV Brake and Tire Wear, and Heavy-Duty Vehicle Inspection and Maintenance Program; and
- 2023—Truck and Bus Regulation and the California Low-NO_X Engine Standard for new on-road heavy-duty engines in medium- and heavy-duty trucks bought in California.

For 2026, the Plan's quantitative milestone includes an update on the State's implementation of two incentive programs, specifically, identification of the number of trucks and buses turned over to low-NO_X or cleaner engines due to the State's Accelerated Turnover of Trucks and Buses Measure, and identification of the number of pieces of agricultural equipment replaced with Tier 4 engines due to the State's Accelerated Turnover of Agricultural Equipment Measure.[442]

For stationary and area sources, the District has developed quantitative milestones that similarly include updates on a combination of regulatory measures and incentive measures. For 2017, the District's quantitative milestones are to report on its implementation of six District measures: 2014 amendments to Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters'') and certain incentive programs for direct $PM_{2.5}$, Rule 4308 (''Boilers, Steam Generators, and Process Heaters (0.075 to <2 MMBtu)''), 2011 amendments to Rule 4354 (''Glass Melting Furnaces''), 2013 amendments to Rule 4702 (''Internal Combustion Engines''), Rule 4902 (''Residential Water Heaters''), and Rule 4905 (''Natural Gas-fired, Fan-type, Residential Central Furnaces'').[443]

For the 2020, 2023, and 2026 milestone years, the District's quantitative milestones are to report on the status of measures proposed and/or adopted during the preceding three years according to the schedule in the Plan.[444] Consistent with the State and District's control strategy in Chapter 4 of the 2018 $PM_{2.5}$ Plan, the District's quantitative milestones include updates on the status of the District's residential wood burning strategy (both the 2019 amendments to Rule 4901 and incentive

[430] Id. at Table 4–3.

[431] Id. at 4–19, 4–2 and Table 4–3.

[432] Id. at Table 4–4.

[433] Id. at C–209 to C–210.

[434] Id. at Table 4–3.

[435] Id. at Table 4–4.

[436] The District is holding a series of workshops from January to March 2020 with the stated goal of ''assisting growers and dairy families in understanding and complying with District Rule 4550.'' SJVUAPCD, ''Notice of Public Hearing for Adoption of Proposed 2018 $PM_{2.5}$ Plan for the 1997, 2006, and 2012 Standards,'' available at *https://www.valleyair.org/Workshops/postings/2020/2020_CMP/notice.pdf.*

[437] Id. at C–203.

[438] 2018 $PM_{2.5}$ Plan, App. H, Table H–12.

[439] Id. at Table H–5.

[440] Id. at H–22 to H–23 (for State milestones) and H–19 to H–20 (for District milestones).

[441] Id. at H–22 to H–23.

[442] 2018 $PM_{2.5}$ Plan, App. H, H–22.

[443] Id. at H–19.

[444] Id. at H–19 to H–20.

projects for residential wood burning devices), the District's incentive-based strategy for commercial under-fired charbroilers, and the regulatory measures scheduled for SJVUAPCD Board consideration during the three years preceding the following milestone years:

- 2020—Rule 4311 (''Flares), Rules 4306/4320 (large boilers, steam generators, and process heaters), Rule 4702 (''Internal Combustion Engines''), and Rule 4692 (''Commercial Under-fired Charbroilers''); and
- 2023—Rules 4354 (''Glass Melting Furnaces''), 4352 (''Solid Fuel-Fired Boilers, Steam Generators and Process Heaters''), and Rule 4550 (''Conservation Management Practices'').[445]

We note that CARB submitted its 2017 Quantitative Milestone Report to the EPA on December 20, 2018.[446] This report includes a certification that CARB and the District met the 2017 quantitative milestones for the San Joaquin Valley for the 2006 $PM_{2.5}$ NAAQS and discusses the State's and District's progress on implementing the three CARB measures and six District measures identified in Appendix H as quantitative milestones for the 2017 milestone year.

3. EPA's Evaluation and Proposed Action

a. Reasonable Further Progress

We have evaluated the RFP demonstration in Appendix H of the 2018 $PM_{2.5}$ Plan and, for the following reasons, propose to find that it satisfies the statutory and regulatory requirements for RFP. First, the Plan contains an anticipated implementation schedule for the attainment control strategy, including all BACM, BACT, and MSM control measures and the State's and District's aggregate tonnage commitments, as required by 40 CFR 51.1012(a)(1). The implementation schedule is found in Table 4–4, Table 4–5, and Table 4–8 of the 2018 $PM_{2.5}$ Plan and in Table H–2 of Appendix H. The 2018 $PM_{2.5}$ Plan documents the State's and District's conclusion that they are implementing all BACM, BACT, and MSM for direct $PM_{2.5}$ and NO_X emissions in the Valley as expeditiously as practicable.[447]

Second, the RFP demonstration contains projected emission levels for direct $PM_{2.5}$ and NO_X for each applicable milestone year as required by 40 CFR 51.1012(a)(2). These projections are based on continued implementation of the existing control measures in the area (*i.e.,* baseline measures), recent revisions to the District's residential wood burning rule (Rule 4901), and commitments to achieve additional reductions from new measures in 2024, and reflect full implementation of the State's, District's, and MPOs' attainment control strategy for these pollutants. With regard to the 2026 milestone year, we note that the projection is based on reductions from baseline measures and on an assumption that the amount of reductions from new control measures that will be achieved in 2026 is the same as those achieved in 2024 and 2025.

Third, the projected emissions levels based on the implementation schedule in the Plan demonstrate that the control strategy will achieve reasonable further progress toward attainment between the 2013 baseline year and the 2024 attainment year as required by 40 CFR 51.1012(a)(3). Tables 11 and 12 of this proposed rule show decreases in emissions levels in each milestone year, leading to the achievement of the reductions required for attainment in 2024. Although the direct $PM_{2.5}$ emissions increase slightly (0.1 tpd) over attainment year levels in the 2026 post-attainment milestone year, we expect that this small emissions increase will have de minimis impacts on the area's attainment and maintenance of the NAAQS.

Finally, the RFP demonstration shows that overall pollutant emissions will be at levels that reflect stepwise progress between the base year and the attainment year and provides a justification for the selected implementation schedule, as required by 40 CFR 51.1012(a)(4). The steeper decline in emissions in 2024 is primarily due to a commitment by the State and District to achieve reductions from new control measures beginning in 2024. The State's and District's justifications for their selected implementation schedules, *i.e.,* for the delay to 2024 in their respective commitments to achieve emissions reductions from new or revised control measures, include the time needed for rulemaking processes, the time needed for industry to comply with new regulatory requirements, the need to resolve feasibility issues for emerging technologies, and the time needed to prepare technologies and infrastructure for market-scale adoption.

We note that although both the State and District have committed to propose to their respective boards certain new or revised control measures in the years leading up to the 2024 attainment year, the only enforceable commitment in the Plan that requires adoption of control measures is the tonnage commitment for 2024, which provides the basis for the stepwise approach to RFP. Because of the size of the tonnage commitments for the 2024 attainment year, and the absence of commitments to adopt measures or achieve emission reductions in earlier years, we request comment on whether additional enforceable commitments for regulatory action to implement emission controls in the interim years (*i.e.,* in 2022 or 2023) are necessary to ensure that the stepwise approach to emission reductions in the Plan is consistent with reasonable further progress toward expeditious attainment. Such commitments may include commitments to achieve specified amounts of emission reductions before 2024 (*i.e.,* aggregate tonnage commitments) or commitments to adopt specific new or revised control measures by specific dates before 2024, and may provide a basis for reducing the size of the total tonnage commitment for the 2024 attainment year.

b. Quantitative Milestones

Appendix H of the 2018 $PM_{2.5}$ Plan identifies milestone dates (*i.e.,* December 31 of 2017, 2020, 2023, and 2026) that are consistent with the requirements of 40 CFR 51.1013(a)(4) and target emissions levels for direct $PM_{2.5}$ and NO_X to be achieved by these milestone dates through implementation of the Plan's control strategy. These target emission levels and associated control requirements provide for objective evaluation of the area's progress towards attainment of the 2006 24-hour $PM_{2.5}$ NAAQS.

The State's quantitative milestones in Appendix H are to take action on or to implement specific measures listed in the State's control measure commitments that apply to heavy-duty trucks and buses, light-duty vehicles, and non-road equipment sources and may provide substantial reductions in emissions of direct $PM_{2.5}$ and NO_X from mobile sources in the San Joaquin Valley. Similarly, the District's quantitative milestones in Appendix H are to take action on or to implement specific measures listed in the District's control measure commitments that apply to sources such as residential wood burning, commercial charbroiling, conservation management practices,

[445] 2018 $PM_{2.5}$ Plan, Ch. 4, Tables 4–4 and 4–5.

[446] Letter from Richard W. Corey, Executive Officer, CARB, to Michael Stoker, Regional Administrator, EPA Region IX, with attachment, December 20, 2018.

[447] The BACM/BACT and MSM control strategy that provides the basis for these emissions projections is described in Chapter 4, App. C, and App. D of the 2018 $PM_{2.5}$ Plan.

glass melting furnaces, and internal combustion engines and that may provide substantial reductions in emission of direct $PM_{2.5}$ and NO_X from stationary sources. These milestones provide an objective means for tracking the State's and District's progress in implementing their respective control measure and aggregate tonnage commitments and, thus, provide for objective evaluation of the San Joaquin Valley's progress toward timely attainment.

For these reasons, we propose to determine that the SJV $PM_{2.5}$ Plan satisfies the requirements for quantitative milestones in CAA section 189(c) and 40 CFR 51.1013 for the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley.

F. Motor Vehicle Emission Budgets

1. Statutory and Regulatory Requirements

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) Cause or contribute to violations of a NAAQS, (2) worsen the severity of an existing violation, or (3) 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 EPA's transportation conformity rule, codified at 40 CFR part 93, subpart A (''Transportation Conformity Rule''). Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, EPA, FHWA, and FTA to demonstrate that an area's regional transportation plans (RTP) and transportation improvement programs (TIP) conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets (MVEBs or ''budgets'') contained in all control strategy plans applicable to the area. An attainment or maintenance plan for the $PM_{2.5}$ NAAQS should include budgets for the attainment year, each required RFP milestone year, or the last year of the maintenance plan, as appropriate, for direct $PM_{2.5}$ and $PM_{2.5}$ precursors subject to transportation conformity analyses. Budgets are generally established for specific years and specific pollutants or precursors and must reflect all of the motor vehicle control measures contained in the attainment and RFP demonstrations.[448]

Under the $PM_{2.5}$ SIP Requirements Rule, Serious area $PM_{2.5}$ attainment plans must include appropriate quantitative milestones and projected RFP emission levels for direct $PM_{2.5}$ and all $PM_{2.5}$ plan precursors in each milestone year.[449] For an area designated nonattainment for the 2006 $PM_{2.5}$ NAAQS before January 15, 2015, the attainment plan must contain quantitative milestones to be achieved no later than three years after December 31, 2014, and every 3 years thereafter until the milestone date that falls within three years after the applicable attainment date.[450] As the EPA explained in the preamble to the $PM_{2.5}$ SIP Requirements Rule, it is important to include a post-attainment year quantitative milestone to ensure that, if the area fails to attain by the attainment date, the EPA can continue to monitor the area's progress toward attainment while the state develops a new attainment plan.[451] Although the post-attainment year quantitative milestone is a required element of a Serious area plan, it is not necessary to demonstrate transportation conformity for 2026 or to use the 2026 budgets in transportation conformity determinations until such time as the area fails to attain the 2006 $PM_{2.5}$ NAAQS.

$PM_{2.5}$ plans should identify budgets for direct $PM_{2.5}$, NO_X and all other $PM_{2.5}$ precursors for which on-road emissions are determined to significantly contribute to $PM_{2.5}$ levels in the area for each RFP milestone year and the attainment year, if the plan demonstrates attainment. All direct $PM_{2.5}$ SIP budgets should include direct $PM_{2.5}$ motor vehicle emissions from tailpipes, brake wear, and tire wear. With respect to $PM_{2.5}$ from re-entrained road dust and emissions of VOC, SO_2, and/or ammonia, the transportation conformity provisions of 40 CFR part 93, subpart A, apply only if the EPA Regional Administrator or the director of the state air agency has made a finding that emissions of these pollutants within the area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and Department of Transportation (DOT), or if the applicable implementation plan (or implementation plan submission) includes any of these pollutants in the approved (or adequate) budget as part of the RFP, attainment, or maintenance strategy.[452]

By contrast, transportation conformity requirements apply with respect to emissions of NO_X unless both the EPA Regional Administrator and the director of the state air agency have made a finding that transportation-related emissions of NO_X within the nonattainment area are not a significant contributor to the $PM_{2.5}$ nonattainment problem and have so notified the MPO and DOT, or the applicable implementation plan (or implementation plan submission) does not establish an approved (or adequate) budget for such emissions as part of the RFP, attainment, or maintenance strategy.[453]

It is not always necessary for states to establish motor vehicle emissions budgets for all of the $PM_{2.5}$ precursors. The $PM_{2.5}$ SIP Requirements Rule allows a state to demonstrate that emissions of certain precursors do not contribute significantly to $PM_{2.5}$ levels that exceed the NAAQS in a nonattainment area, in which case the state may exclude such precursor(s) from its control evaluations for the specific NAAQS at issue. If a state successfully demonstrates that the emissions of one or more of the $PM_{2.5}$ precursors from all sources do not contribute significantly to $PM_{2.5}$ levels in the subject area, then it is not necessary to establish motor vehicle emissions budgets for that precursor(s).

Alternatively, the transportation conformity regulations contain criteria for determining whether emissions of one or more $PM_{2.5}$ precursors are insignificant for transportation conformity purposes.[454] For a pollutant or precursor to be considered an insignificant contributor based on the transportation conformity rule's criteria, the control strategy SIP must demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth in that pollutant and/or precursor for a NAAQS violation to occur. Insignificance determinations are based on factors such as air quality, SIP motor vehicle control measures, trends and projections of motor vehicle emissions, and the percentage of the total attainment plan emissions inventory for the NAAQS at issue that is comprised of motor vehicle

[448] 40 CFR 93.118(e)(4)(v).

[449] 40 CFR 51.1012(a), 51.1013(a)(1).

[450] 40 CFR 51.1013(a)(4) and 81 FR 58010, 58058 and 58063–58064 (August 24, 2016).

[451] 81 FR 58010, 58063–58064.

[452] 40 CFR 93.102(b)(3), 93.102(b)(2)(v), and 93.122(f); see also Conformity Rule preamble at 69 FR 40004, 40031–36 (July 1, 2004).

[453] 40 CFR 93.102(b)(2)(iv).

[454] 40 CFR 93.109(f).

emissions. The EPA's rationale for providing for insignificance determinations is described in the July 1, 2004 revision to the Transportation Conformity Rule.[455]

Transportation conformity trading mechanisms are allowed under 40 CFR 93.124 where a state establishes appropriate mechanisms for such trades. The basis for the trading mechanism is the SIP attainment modeling that establishes the relative contribution of each $PM_{2.5}$ precursor pollutant. The applicability of emission trading between conformity budgets for conformity purposes is described in 40 CFR 93.124(c).

The EPA's process for determining the adequacy of a budget consists of three basic steps: (1) Notifying the public of a SIP submittal; (2) providing the public the opportunity to comment on the budgets during a public comment period; and (3) making a finding of adequacy or inadequacy.[456] The EPA can notify the public by either posting an announcement that the EPA has received SIP budgets on the EPA's adequacy website (40 CFR 93.118(f)(1)), or through a **Federal Register** notice of proposed rulemaking when the EPA reviews the adequacy of an implementation plan budget simultaneously with its review and action on the SIP itself (40 CFR 93.118(f)(2)).

2. Summary of State's Submission

The 2018 $PM_{2.5}$ Plan includes budgets for direct $PM_{2.5}$ and NO_X emissions for each RFP milestone year (2017, 2020, and 2023), the projected attainment year (2024), and one post-attainment year quantitative milestone (2026).[457] The Plan establishes separate direct $PM_{2.5}$ and NO_X subarea budgets for each county, or partial county (for Kern County), in the San Joaquin Valley.[458] CARB calculated the budgets using EMFAC2014,[459] CARB's latest version of the EMFAC model for estimating emissions from on-road vehicles operating in California that was available at the time of Plan development, and the latest modeled vehicle miles traveled and speed distributions from the San Joaquin Valley MPOs from the Final 2017 Federal Transportation Improvement Plan, adopted in September 2016. The budgets reflect winter average emissions because those emissions are linked with the District's attainment demonstration for the 2006 24-hour $PM_{2.5}$ NAAQS.

Consistent with the requirements set forth in the $PM_{2.5}$ SIP Requirements Rule, the SJV $PM_{2.5}$ Plan contains RFP budgets for 2026, which is the year following the attainment year. As explained below, we are not taking action on the 2026 budgets at this time. The EPA is also not reviewing the submitted motor vehicle emissions budgets for 2017. These budgets would not be used in any future transportation conformity determinations because the plan contains budgets for 2020 and other years in the future.

The direct $PM_{2.5}$ budgets include tailpipe, brake wear, and tire wear emissions but do not include paved road dust, unpaved road dust, and road construction dust emissions.[460] The State did not include budgets for VOC, SO_2, or ammonia. As discussed in section IV.B of this preamble, the State submitted a $PM_{2.5}$ precursor demonstration documenting that control of these precursors would not significantly contribute to attainment of the 2006 $PM_{2.5}$ NAAQS, and the EPA is proposing to approve the precursor demonstration. Therefore, if the EPA approves the demonstration, the State would not be required to submit budgets for these precursors. The State included a discussion of the significance/insignificance factors for ammonia, SO_2, and VOC, which would demonstrate a finding of insignificance under the transportation conformity rule.[461] The State is not required to include re-entrained road dust in the budgets under section 93.103(b)(3) unless the EPA or the State has made a finding that these emissions are significant. Neither the State nor the EPA has made such a finding. The Plan does include a discussion of the significance/insignificance factors for re-entrained road dust.[462] The budgets included in the 2018 $PM_{2.5}$ Plan are shown in Table 14.

TABLE 14—MOTOR VEHICLE EMISSION BUDGETS FOR THE SAN JOAQUIN VALLEY FOR THE 2006 $PM_{2.5}$ STANDARD

[Winter average, tpd]

Budget year	2017		2020		2023		2024		2026	
	$PM_{2.5}$	NO_X	$PM_{2.5}$	NO_X	$PM_{2.5}$	NO_X	$PM_{2.5}$	NO_X	$PM_{2.5}$	NO_X
Fresno	0.9	29.3	0.9	25.9	0.8	15.5	0.8	15.0	0.8	14.3
Kern	0.8	28.7	0.8	23.8	0.7	13.6	0.7	13.4	0.8	12.8
Kings	0.2	5.9	0.2	4.9	0.2	2.9	0.2	2.8	0.2	2.7
Madera	0.2	5.5	0.2	4.4	0.2	2.6	0.2	2.5	0.2	2.3
Merced	0.3	11.0	0.3	9.1	0.3	5.5	0.3	5.3	0.3	4.9
San Joaquin	0.7	15.5	0.6	12.3	0.6	7.9	0.6	7.6	0.6	6.9
Stanislaus	0.4	12.3	0.4	9.8	0.4	6.2	0.4	6.0	0.4	5.6

Source: 2018 $PM_{2.5}$ Plan, Appendix D, Table 3–2. Budgets are rounded to the nearest tenth of a ton.
Note: We are not proposing any action at this time on the 2017 RFP or the 2026 post-attainment year RFP budgets.

In the submittal letter for the 2018 $PM_{2.5}$ Plan, CARB requested that the EPA limit the duration the approval of the budgets to the period before the effective date of the EPA's adequacy finding for any subsequently submitted budgets.[463]

Conformity Trading Mechanism

The 2018 $PM_{2.5}$ Plan also includes a proposed trading mechanism for transportation conformity analyses that would allow future decreases in NO_X emissions from on-road mobile sources to offset any on-road increases in direct $PM_{2.5}$ emissions. For the 2006 $PM_{2.5}$ NAAQS, the State is proposing to use

[455] 69 FR 40004.

[456] 40 CFR 93.118(f).

[457] 2018 $PM_{2.5}$ Plan, App. D, Table 3–2.

[458] 40 CFR 93.124(c) and (d).

[459] EMFAC is short for *EM*ission *FAC*tor. The EPA announced the availability of the EMFAC2014 model for use in state implementation plan development and transportation conformity in California on December 14, 2015. The EPA's approval of the EMFAC2014 emissions model for SIP and conformity purposes was effective on the date of publication of the notice in the **Federal Register.** EMFAC2014 must be used for all new regional emissions analyses and CO, PM_{10} and $PM_{2.5}$ hot-spot analyses that are started on or after December 14, 2017, which is the end of the grace period for EMFAC2014.

[460] 2018 $PM_{2.5}$ Plan, App. D, D–122 to D–123.

[461] 40 CFR 93.109(f).

[462] 2018 $PM_{2.5}$ Plan, App. D, D–121 and D–122.

[463] Letter dated May 9, 2019, from Richard W. Corey, Executive Officer, CARB to Mike Stoker, Regional Administrator, EPA Region 9, 3.

the 2:1 NO_X: $PM_{2.5}$ ratio. The ratio is based on a sensitivity analysis based on a 30% reduction of NO_X or $PM_{2.5}$ emissions and the corresponding impact on design values at sites in Bakersfield and Fresno.

To ensure that the trading mechanism does not affect the ability of the San Joaquin Valley to meet the NO_X budget, the NO_X emission reductions available to supplement the $PM_{2.5}$ budget would only be those remaining after the NO_X budget has been met.[464] The Plan also provides that the San Joaquin Valley MPOs shall clearly document the calculations used in the trading, along with any additional reductions of NO_X and $PM_{2.5}$ emissions in the conformity analysis.

3. EPA's Evaluation and Proposed Action

The EPA generally first conducts a preliminary review of budgets submitted with an attainment or maintenance plan for $PM_{2.5}$ for adequacy, prior to taking action on the plan itself, and did so with respect to the $PM_{2.5}$ budgets in the 2018 $PM_{2.5}$ Plan. On June 18, 2019, the EPA announced the availability of the 2018 $PM_{2.5}$ Plan with MVEBs and a 30-day public comment period. This announcement was posted on the EPA's Adequacy website at: *https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa.* The comment period for this notification ended on July 18, 2019. We did not receive any comments during this comment period.

Based on our proposal to approve the State's demonstration that emissions of ammonia, SO_2, and VOCs do not contribute significantly to $PM_{2.5}$ levels that exceed the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley, as discussed in section IV.B of this preamble, and the information about ammonia, SO_2, and VOC emissions in the Plan, the EPA proposes to find that it is not necessary to establish motor vehicle emissions budgets for transportation-related emissions of ammonia, SO_2, and VOC to attain the 2006 24-hour $PM_{2.5}$ NAAQS in the San Joaquin Valley. Based on the information about re-entrained road dust in the Plan and in accordance with 40 CFR 93.102(b)(3), the EPA proposes to find that it is not necessary to include re-entrained road dust emissions in the budgets for 2006 24-hour $PM_{2.5}$ NAAQS in the San Joaquin Valley.

For the reasons discussed in sections IV.D and IV.E of this proposed rule, the EPA is proposing to approve the RFP and attainment demonstrations, respectively, in the 2018 $PM_{2.5}$ Plan. The 2020 and 2023 RFP budgets and 2024 attainment budgets, as shown in Table 14 of this preamble, are consistent with these demonstrations, are clearly identified and precisely quantified, and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 40 CFR 93.118(e)(4) and (5). For these reasons, the EPA proposes to approve the budgets listed in Table 14. We provide a more detailed discussion in section IV of the EPA's General Evaluation TSD. We are not proposing to approve the 2017 budget or the post-attainment year 2026 RFP budget at this time. The budgets that the EPA is proposing to approve relate to the 2006 24-hour $PM_{2.5}$ NAAQS only, and our proposed approval does not affect the status of the previously-approved MVEBs for the 1997 $PM_{2.5}$ NAAQS and related trading mechanism, which remain in effect for that $PM_{2.5}$ NAAQS.

Although the post-attainment year quantitative milestone is a required element of the Serious area plan, it is not necessary to demonstrate transportation conformity for 2026 or to use the 2026 budgets in transportation conformity determinations until such time as the area fails to attain the 2006 $PM_{2.5}$ NAAQS. Therefore, the EPA is not taking action on the submitted budgets for 2026 in the SJV $PM_{2.5}$ Plan at this time. Additionally, the EPA has not yet started the adequacy process for the 2026 budgets.

If the EPA were either to find adequate or to approve the post-attainment milestone year budgets now, those budgets would have to be used in transportation conformity determinations that are made after the effective date of the adequacy finding or approval even if the San Joaquin Valley ultimately attains the $PM_{2.5}$ NAAQS by the Serious area attainment date. This would mean that the San Joaquin Valley MPOs would be required to demonstrate conformity for the post-attainment date milestone year and all later years addressed in the conformity determination (*e.g.,* the last year of the metropolitan transportation plan) to the post-attainment date RFP budgets rather than the budgets associated with the attainment year for the area (*i.e.,* the budgets for 2024). The EPA does not believe that it is necessary to demonstrate conformity using these post-attainment year budgets in areas that either the EPA anticipates will attain by the attainment date or in areas that attain by the attainment date.

If and when the EPA determines that the San Joaquin Valley has failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS by the applicable attainment date, the EPA would begin the budget adequacy and approval processes for the post-attainment year (2026) budgets. If the EPA finds the 2026 budgets adequate or approves them, those budgets will have to be used in subsequent transportation conformity determinations. The EPA believes that initiating the process to act on the submitted post-attainment year MVEBs following a determination that the area has failed to attain by the Serious area attainment date ensures that transportation activities will not cause or contribute to new violations, increase the frequency or severity of any existing violations, or delay timely attainment or any required interim emission reductions or milestones in the San Joaquin Valley $PM_{2.5}$ nonattainment area, consistent with the requirements of CAA section 176(c)(1)(B).

As noted above, the State included a trading mechanism to be used in transportation conformity analyses that would be used in conjunction with the budgets in the 2018 $PM_{2.5}$ Plan, as allowed for under 40 CFR 93.124(b). This trading mechanism would allow future decreases in NO_X emissions from on-road mobile sources to offset any on-road increases in $PM_{2.5}$, using a 2:1 NO_X:$PM_{2.5}$ ratio. To ensure that the trading mechanism does not affect the ability to meet the NO_X budget, the Plan provides that the NO_X emission reductions available to supplement the $PM_{2.5}$ budget would only be those remaining after the NO_X budget has been met. The San Joaquin Valley MPOs will have to document clearly the calculations used in the trading when demonstrating conformity, along with any additional reductions of NO_X and $PM_{2.5}$ emissions in the conformity analysis. The trading calculations must be performed prior to the final rounding to demonstrate conformity with the budgets.

The EPA has reviewed the trading mechanism as described on pages D–125 through D–127 in Appendix D of the 2018 $PM_{2.5}$ Plan and finds it is appropriate for transportation conformity purposes in the San Joaquin Valley for the 2006 24-hour $PM_{2.5}$ NAAQS. The methodology for estimating the trading ratio for conformity purposes is essentially an update (based on newer modeling) of the approach that the EPA previously approved for the 2008 $PM_{2.5}$ Plan for the 1997 $PM_{2.5}$ NAAQS[465] and the 2012

[464] 2018 $PM_{2.5}$ Plan, App. D, D–126 and D–127.

[465] 80 FR 1816, 1841 (January 13, 2015) (noting the EPA's prior approval of MVEBs for the 1997

Continued

$PM_{2.5}$ Plan for the 2006 24-hour $PM_{2.5}$ NAAQS.[466] The State's approach in the previous plans was to model the ambient $PM_{2.5}$ effect of areawide NO_X emissions reductions and of areawide direct $PM_{2.5}$ reductions, and to express the ratio of these modeled sensitivities as an interpollutant trading ratio.

In the updated analysis for the 2018 $PM_{2.5}$ plan, the State completed separate sensitivity analyses for the annual and 24-hour standards and modeled only transportation related sources in the nonattainment area. The ratio the State is proposing to use for transportation conformity purposes is derived from air quality modeling that evaluated the effect of reductions in transportation-related NO_X and $PM_{2.5}$ emissions in the San Joaquin Valley on ambient concentrations at the Bakersfield-California Avenue, Bakersfield-Planz, Fresno-Garland, and Fresno-Hamilton & Winery monitoring sites. The modeling that the State performed to evaluate the effectiveness of NO_X and $PM_{2.5}$ reductions on ambient 24-hour concentrations showed NO_X:$PM_{2.5}$ ratios that range from a high of 2.3 at the Bakersfield-California Avenue monitor to a low of 1.6 at the Fresno-Hamilton & Winery monitor.[467] We find that the State's approach is a reasonable method to use to develop ratios for transportation conformity purposes. We therefore propose to approve the 2:1 NO_X for $PM_{2.5}$ trading mechanism as enforceable components of the transportation conformity program for the San Joaquin Valley for the 2006 $PM_{2.5}$ NAAQS. If approved, this trading ratio will replace the 8:1 NO_X for $PM_{2.5}$ trading ratio approved for the San Joaquin Valley 2012 $PM_{2.5}$ Plan for the 2006 $PM_{2.5}$ NAAQS.

Under the transportation conformity rule, once budgets are approved, they cannot be superseded by revised budgets submitted for the same CAA purpose and the same year(s) addressed by the previously approved SIP until the EPA approves the revised budgets as a SIP revision. In other words, as a general matter, such approved budgets cannot be superseded by revised budgets found adequate, but rather only through approval of the revised budgets, unless the EPA specifies otherwise in its approval of a SIP by limiting the duration of the approval to last only until subsequently submitted budgets are found adequate.[468]

In the submittal letter for the SJV $PM_{2.5}$ Plan, CARB requested that we limit the duration our approval of the budgets to the period before the effective date of the EPA's adequacy finding for any subsequently submitted budgets.[469] The transportation conformity rule allows us to limit the approval of budgets.[470] However, we will consider a state's request to limit an approval of its MVEBs only if the request includes the following elements:[471]

- An acknowledgement and explanation as to why the budgets under consideration have become outdated or deficient;
- A commitment to update the budgets as part of a comprehensive SIP update; and
- A request that the EPA limit the duration of its approval to the period before new budgets have been found to be adequate for transportation conformity purposes.

CARB's request includes an explanation for why the budgets have become, or will become, outdated or deficient. In short, CARB has requested that we limit the duration of the approval of the budgets in light of the EPA's recent approval of EMFAC2017, an updated version of the model (EMFAC2014) used for the budgets in the 2018 $PM_{2.5}$ Plan.[472] EMFAC2017 updates vehicle mix and emissions data of the previously approved version of the model, EMFAC2014.

In light of the EPA's approval of EMFAC2017, CARB explains that the budgets in the 2018 $PM_{2.5}$ Plan, which we are proposing to approve in today's action, will become outdated and will need to be revised using EMFAC2017. In addition, CARB states that, without the ability to replace the budgets using the budget adequacy process, the benefits of using the updated data may not be realized for a year or more after the updated SIP (with the EMFAC2017-derived budgets) is submitted, due to the length of the SIP approval process. We find that CARB's explanation for limiting the duration of the approval of the budgets is appropriate and provides us with a reasonable basis for limiting the duration of the approval of the budgets.

We note that CARB has not committed to update the budgets as part of a comprehensive SIP update, but as a practical matter, CARB must submit a SIP revision that includes updated demonstrations as well as the updated budgets to meet the adequacy criteria in 40 CFR 93.118(e)(4).[473] Therefore, we do not need a specific commitment for such a plan at this time. For the reasons provided above, and in light of CARB's explanation for why the budgets will become outdated and should be replaced upon an adequacy finding for updated budgets, we propose to limit the duration of our approval of the budgets in the 2018 $PM_{2.5}$ Plan to the period before we find revised budgets based on EMFAC2017 to be adequate.

G. Major Stationary Source Control Requirements Under CAA Section 189(e)

Section 189(e) of the Act specifically requires that the control requirements applicable to major stationary sources of direct $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where the Administrator determines that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standards in the area.[474] The control requirements applicable to major stationary sources of direct $PM_{2.5}$ in a Serious $PM_{2.5}$ nonattainment area include, at minimum, the requirements of a nonattainment NSR permit program meeting the requirements of CAA sections 172(c)(5) and 189(b)(3).[475] As part of our January 20, 2016 final action to reclassify the San Joaquin Valley area as Serious nonattainment for the 2006 $PM_{2.5}$ standards, we established a February 21, 2017 deadline for the State to submit nonattainment NSR SIP revisions addressing the requirements of CAA sections 189(b)(3) and 189(e) of the Act for the 2006 $PM_{2.5}$ NAAQS, to the extent those requirements had not already been met by the nonattainment NSR SIP revisions due May 7, 2016 for purposes of implementing the 1997 $PM_{2.5}$ NAAQS.[476]

California submitted nonattainment NSR SIP revisions to address the subpart 4 requirements for the San

annual and 24-hour $PM_{2.5}$ standards in the 2008 $PM_{2.5}$ Plan at 76 FR 69896).

[466] 81 FR 59876 (August 31, 2016).

[467] 2018 $PM_{2.5}$ Plan, App. D, D–126.

[468] 40 CFR 93.118(e)(1).

[469] Letter dated May 9, 2019, from Richard W. Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9, 3.

[470] 40 CFR 93.118(e)(1).

[471] 67 FR 69141 (November 15, 2002), limiting our prior approval of MVEBs in certain California SIPs.

[472] On August 15, 2019, the EPA approved and announced the availability of EMFAC2017, the latest update to the EMFAC model for use by the State and local governments to meet CAA requirements. 84 FR 41717.

[473] Under 40 CFR 93.118(e)(4), the EPA will not find a budget in a submitted SIP to be adequate unless, among other criteria, the budgets, when considered together with all other emissions sources, are consistent with applicable requirements for RFP and attainment. 40 CFR 93.118(e)(4)(iv).

[474] General Preamble at 13539 and 13541–42.

[475] CAA section 189(b)(1) (requiring that Serious area plans include provisions submitted to meet the requirements for Moderate areas in section 189(a)(1)).

[476] 81 FR 2993, 2994 (January 20, 2016) and 40 CFR 52.245(e).

Joaquin Valley Serious $PM_{2.5}$ nonattainment area on November 20, 2019.[477] We are not proposing any action on this submission at this time. We will act on this submission through a separate rulemaking, as appropriate.

V. Summary of Proposed Actions and Request for Public Comment

For the reasons discussed in this proposed rule, under CAA section 110(k)(3), the EPA proposes to approve, as a revision to the California SIP, the following portions of the SJV $PM_{2.5}$ Plan for the 2006 $PM_{2.5}$ NAAQS:

- The 2013 base year emission inventories (CAA section 172(c)(3));
- the demonstration that BACM, including BACT, for the control of direct $PM_{2.5}$ and $PM_{2.5}$ plan precursors will be implemented no later than 4 years after the area was reclassified (CAA section 189(b)(1)(B));
- the demonstration (including air quality modeling) that the Plan provides for attainment as expeditiously as practicable but no later than December 31, 2024 (CAA sections 189(b)(1)(A) and 188(e));
- plan provisions that require RFP toward attainment by the applicable date (CAA section 172(c)(2));
- quantitative milestones that are to be achieved every three years until the area is redesignated attainment and that demonstrate RFP toward attainment by the applicable attainment date (CAA section 189(c));
- motor vehicle emissions budgets for 2020, 2023, and 2024 as shown in Table 14 of this proposed rule (CAA section 176(c) and 40 CFR part 93, subpart A); and
- the inter-pollutant trading mechanism provided for use in transportation conformity analyses for the 2006 $PM_{2.5}$ NAAQS, in accordance with 40 CFR 93.124(b).

The EPA is proposing to grant the State's request for extension of the Serious area attainment date from December 31, 2019, to December 31, 2024, based on a conclusion that the State has satisfied the requirements for such extensions in section 188(e) of the Act. We may, however, reconsider this proposal or deny California's request to extend the attainment date if the EPA concludes based on new information or public comments that the State has not satisfied the requirements for such extensions.

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal for the next 30 days.

VI. 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state plans as meeting federal requirements and does not impose additional requirements beyond those imposed by state law.

For these reasons, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: February 27, 2020.

John W. Busterud,

Regional Administrator, Region IX.

[FR Doc. 2020–05914 Filed 3–26–20; 8:45 am]

BILLING CODE 6560–50–P

[477] Letter dated November 15, 2019 from Richard W. Corey, Executive Officer, CARB, to Michael Stoker, Regional Administrator, EPA Region IX. California previously submitted nonattainment NSR SIP revisions for the San Joaquin Valley to address the subpart 4 requirements for Moderate $PM_{2.5}$ nonattainment areas, and the EPA approved these SIP revisions on September 17, 2014 (79 FR 55637).

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Part III

Tennessee Valley Authority

18 CFR Part 1318

Procedures for Implementing the National Environmental Policy Act; Final Rule

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1318

Procedures for Implementing the National Environmental Policy Act

AGENCY: Tennessee Valley Authority.

ACTION: Final rule.

SUMMARY: This final rule amends the procedures of the Tennessee Valley Authority (TVA) for implementing the National Environmental Policy Act (NEPA). The final rule is codified in Title 18 of the Code of Federal Regulations, as part 1318 of Chapter XIII (Tennessee Valley Authority).

DATES: This final rule is effective April 27, 2020.

FOR FURTHER INFORMATION CONTACT: Matthew Higdon, NEPA Specialist, Tennessee Valley Authority, 400 W. Summit Hill Drive #11B–K, Knoxville, Tennessee 37902. Telephone: 865–632–8051. Email: *mshigdon@tva.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

This final rule revises TVA's implementing procedures for assessing the effects of TVA's actions in accordance with NEPA, as amended (42 U.S.C. 4321 *et seq.*). The Council on Environmental Quality (CEQ) regulations at 40 CFR 1505.1 and 1507.3 require Federal agencies to adopt procedures as necessary to supplement CEQ's regulations implementing NEPA and to consult with CEQ during their development. TVA first established its procedures for implementing NEPA in 1980 (45 FR 54511–15, August 15, 1980), and amended the procedures in 1983 (48 FR 19264, April 28, 1983) to incorporate requirements relating to floodplain management and protection of wetlands, among other things.

In 2016, TVA completed an internal review of its NEPA procedures and practices and identified the need to revise some of its procedures to more accurately address TVA's current mission, program areas, or organizational structure. TVA also found that updating the procedures is necessary to address the evolving energy market place, current communication trends, and CEQ guidance issued subsequent to the initial TVA NEPA procedures. In addition, TVA identified opportunities to improve its practices and to clarify the procedures to ensure environmental compliance and improve the decision-making process. In updating its procedures, TVA ensures that the procedures reduce paperwork and delay to the extent possible.

The final rule incorporates: (1) Updates to organizational references to clarify roles and responsibilities within TVA; (2) acknowledgement of the use of modern notification and communication methods to improve public participation; (3) revisions to TVA's list of categorical exclusions (CEs) to include common actions that have been demonstrated to have no significant effect on the human environment and to remove CEs for actions which TVA rarely or no longer undertakes; and (4) revisions to improve the clarity of the procedures and remove redundant and outdated information.

When established in 1980, TVA's NEPA implementing procedures were contained in TVA Instruction IX (Environmental Review), a section of TVA's administrative code of internal policies and procedures. Under the final rule, the procedures are codified in Title 18 of the Code of Federal Regulations (CFR), as part 1318 of Chapter XIII (Tennessee Valley Authority), with the heading of part 1318 as ''Implementation of the National Environmental Policy Act of 1969.'' The regulations are organized under subparts A through G of part 1318. Incorporating TVA's NEPA procedures in the CFR at 18 CFR part 1318 is intended to promote greater transparency in the NEPA process.

On June 8, 2017, TVA published the proposed rule to revise its NEPA procedures in the **Federal Register**, initiating a 60-day public review period (82 FR 26620). In response to public requests for an extension, on July 28, 2017 (82 FR 35133) TVA extended the comment period for an additional 30 days. The extended comment period closed on September 6, 2017.

TVA consulted with CEQ on the proposed and final rule. During their review of the final rule, CEQ suggested edits to TVA's procedures to improve the grammar and clarity of the procedures and to ensure the procedures comply with CEQ procedures. After TVA incorporated this input, CEQ issued a letter to TVA on February 19, 2020, stating that CEQ reviewed this rule and found it to be in conformity with NEPA and CEQ regulations implementing NEPA (per 40 CFR 1507.3 and NEPA section 102(2)(B), 42 U.S.C. 4332(2)(B)). If CEQ finalizes its ongoing rulemaking (85 FR 1684), TVA will review and undertake additional revisions to its procedures to ensure consistency with the revised CEQ regulations as necessary.

Like TVA's previous NEPA procedures, the final rule supplements the CEQ regulations. The rule was drafted with the objective of minimizing repetition of requirements already contained in the CEQ regulations and with the understanding that the TVA-specific regulations would be applied with the CEQ regulations. The final rule includes many words and phrases that are defined in either the NEPA statute or CEQ regulations (including at 40 CFR part 1508). In addition, the final rule includes definitions for certain terms.

In its Notice of Proposed Rule, TVA addressed the implementation of Executive Order (E.O.) 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input. On August 15, 2017, during the public comment period on TVA's proposed rule, E.O. 13690 was revoked by executive action (E.O. 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects). TVA made changes to Subpart G of the final rule to reflect that E.O. 13690 was revoked.

After considering the public comments on the proposed rule, additional internal review, and consultation with CEQ, TVA made numerous changes to the proposed rule that are included in the final rule. Public comments and TVA responses are addressed in Section II below. The TVA responses explain those changes that are based on public input. All changes are summarized in Section III below.

II. Comments on the Proposed Rule and TVA's Responses

During the 2017 public review period, TVA received 1,572 responses, consisting of letters, emails, statements, phone calls, and web-based submissions. Of those, 61 responses contained original substantive comments. The remaining responses were variations of four form letters addressing several general topics, which are addressed below. Comments were received from individuals, trade associations, nongovernmental organizations, local, State and Federal entities, and a tribal government. The comments received by TVA are available on the TVA NEPA website (*https://www.tva.gov/nepa*).

TVA received substantive comments on all subparts of the proposed rule except Subpart B, which addresses the initiation of the NEPA process. Most commenters, including those who submitted comments in variations of form letters, expressed general opposition to TVA's proposal to establish new CEs. The primary reasons cited for this opposition were the beliefs that adding CEs would increase the

potential for adverse environmental impacts and that additional CEs would reduce or eliminate the public's ability to be informed of proposed TVA actions and their impacts and to participate in the decision-making process. TVA also received numerous comments that were not substantive because they included statements that were conclusory, unclear and/or vague, and statements related to specific TVA projects or operations rather than to the proposed rule.

The following discussion includes the comments received, TVA's responses to the comments, and a description of changes made by TVA to the rule based on the comments. TVA has also prepared a Comment-Response document to allow commenters to see how their comments are addressed; the identities of commenters are not provided in the responses below for the sake of brevity, given the volume of similar comments, but are included in the Comment-Response document available at the TVA NEPA website (*https://www.tva.gov/nepa*).

A. General Comments on the Proposed Rule

Comment: TVA's proposal would reduce transparency, limit TVA's obligation to solicit public input about proposed actions, and reduce recordkeeping regarding TVA decisions. NEPA requires that TVA inform the public on matters that impact people and the environment.

Response: TVA recognizes that compliance with NEPA and other environmental laws and requirements is of great interest to the people it serves. TVA remains committed to being a good steward of the environment and incorporating appropriate opportunities for public review into agency planning and decisionmaking.

TVA's final rule supplements but does not supersede the CEQ's regulations implementing NEPA, which contain public involvement requirements. The final rule retains CEQ's requirements to involve and consider public and interagency comments during the decision-making process and to include such comments and responses in the administrative record. CEQ regulations instruct agencies to apply CEs, where appropriate, because they can ''reduce paperwork and delay, so that EAs or EISs are targeted toward proposed actions that truly have the potential to cause significant environmental effects'' (Final Guidance for Federal Departments and Agencies on Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act, 75 FR 75628, 75631, December 6, 2010; see also 40 CFR 1500.5(k)).

A CE is a form of NEPA compliance, and not an exemption from NEPA. A CE is established for a category of actions that TVA has determined, based on analysis and experience, do not individually or cumulatively have potential to cause significant impacts to the human environment and, therefore, do not require the preparation of an environmental assessment (EA) or an environmental impact statement (EIS). The final rule does not reduce TVA's obligation to comply with NEPA, as some commenters assert. Rather, CEs make TVA's compliance with NEPA more efficient by allowing TVA to focus its resources on reviewing proposed actions that have the potential for significant environmental impacts. TVA is committed to conducting thorough, systematic, and interdisciplinary reviews of its projects and incorporating those findings into its decisionmaking.

Although there is no requirement under NEPA or CEQ regulations to do so, to ensure transparency, TVA has added a paragraph in the final rule that addresses the circumstances in which the public should be notified before a CE is used. As stated in the final rule (§ 1318.200(f)), TVA may consider public notice before a CE is used if TVA determines that the public may have relevant and important information relating to the proposal that will assist TVA in its decisionmaking.

TVA notes that public notice and/or involvement has been and will continue to be provided for certain actions for which CEs may be used. For instance, TVA routinely conducts public meetings when planning new transmission lines, provides notice and comment on certain land actions (*e.g.,* land disposals and commercial recreation requests), and, as addressed in Subpart G of the final rule, issues notices on certain actions impacting wetlands even when those actions come under CEs. These notices are listed on TVA's ''Get Involved Stay Involved'' website (*https://www.tva.gov/About-TVA/Get-Involved-Stay-Involved*).

In addition, TVA will periodically publish to the TVA NEPA website a list of completed actions for which TVA has prepared CE documentation to improve transparency regarding these minor actions.

Comment: TVA should continue to uphold the spirit and intent of NEPA. TVA's amendments to its procedures weakens the original intent of NEPA.

Response: The final rule does not reduce TVA's obligation to comply with NEPA and the establishment of new CEs does not represent a move by TVA away from its commitment to comply with NEPA. Rather, CEs make TVA's compliance with NEPA more efficient by allowing TVA to focus its resources on reviewing proposed actions that have the potential for significant environmental impacts. TVA is committed to conducting thorough, systematic, and interdisciplinary reviews of its projects and incorporating the findings of those reviews into its decisionmaking.

Comment: We oppose the proposed amendments to the TVA NEPA procedures. We do not trust TVA and do not believe TVA is doing what is best for those in the Valley.

Response: TVA regrets that some stakeholders hold this view, and remains committed to transparency and involving the public in its decisionmaking. TVA's overarching environmental policy is to promote proactive environmental sustainability in a balanced and ecologically sound manner, support sustainable economic growth in the Tennessee Valley, and produce cleaner, reliable and affordable power. The update to the NEPA procedures is consistent with this policy and is intended to promote environmental stewardship and ensure legal compliance. The updated procedures also facilitate the implementation of TVA's mission, use of evolving energy industry and communication methods, and improvement of its business practices. In addition, TVA is incorporating new guidance, directives and legal precedents that are relevant to NEPA practices. Nothing in the final rule eliminates TVA's obligation to continue to comply with all applicable local, state and federal laws addressing environmental protection when conducting its activities. TVA remains dedicated to these environmental mandates and to being good stewards of the environment and public lands it manages.

Comment: TVA's proposal to amend its procedures for implementing NEPA endangers public health, safety and the environment. The proposed rule increases the potential for adverse environmental impacts.

Response: Protecting public health and safety is among the key considerations in all NEPA reviews, including the establishment and application of CEs, and is TVA's highest priority. The final rule addresses how TVA considers adverse impacts to the environment, including impacts to sensitive resources, during its decision-making processes. The procedures also address consideration of measures to

minimize or mitigate such impacts. TVA will continue to adhere to all applicable local, state and federal laws and regulations when implementing actions that may potentially impact the environment.

Comment: TVA is completely ignoring NEPA procedures when engaging in environmental projects, and TVA has weakened the burden of proof and is now considering too many projects to be minor.

Response: TVA is revising its procedures to improve its NEPA compliance by clarifying and updating its procedures (last updated over 35 years ago) to make them more accurately reflect TVA's mission and program activities. CEQ regulations and guidance outline a process by which agencies may establish CEs for actions that are unlikely to result in significant environmental impacts and encourages their use to reduce paperwork and delay, and allow agencies to focus their EAs and EISs on proposed actions that truly have the potential to cause significant environmental effects. (See response to the first comment above). CEQ's regulations also require agencies to ''continue to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of NEPA.'' 40 CFR 1507.3(a). TVA has complied with these requirements in establishing the additional list of CEs and revising other CEs. Many of the new CEs reflect actions that TVA had previously excluded under more broadly defined CEs. Newly defined categories and revisions to existing CEs provide clarification and transparency regarding the type of actions covered by a CE and help limit its use to specific actions.

Comment: The proposed procedures do not address the increased uncertainty due to climate change and state that TVA must practice caution in relying on the impact findings of past decades as its basis for conclusions about potential impacts of future actions.

Response: TVA notes that CEQ guidance states that an agency's past experience should serve as the basis for identifying whether a proposed activity is one that normally does not require further environmental review (75 FR 75631, December 6, 2010). Although past experience serves as the basis for the list of CEs, TVA relied on a variety of supporting information in establishing its CEs. TVA recognizes the importance of understanding changes in the environment, including climate change, and of using high quality information and scientific analyses to inform its decisionmaking. For instance, TVA routinely considers climate change adaptation and potential greenhouse gas emissions when conducting environmental reviews. TVA specialists draw upon experience as well as available science to identify potential environmental impacts of actions and address any uncertainty.

Comment: TVA should continue to comply with all applicable state or federal regulations during the NEPA process.

Response: TVA will continue to comply with applicable local, state and federal laws when conducting its activities. TVA remains committed to coordination and consultation with other government agencies throughout the region in the intergovernmental review for assessing impacts of its actions. TVA's experience affirms that such coordination benefits TVA's decision-making processes and results in fewer environmental impacts.

Comment: We are concerned about the wind energy project proposed to be constructed near Crab Orchard, Tennessee. TVA should conduct reviews under NEPA of these types of projects and TVA should be the lead federal agency on the project.

Response: The concerns expressed in this comment relate to a specific wind energy development project that is no longer under consideration. While comments related to the Crab Orchard project are outside the scope of this rulemaking process, TVA notes that the final rule includes procedures for determining the scope of the federal action being proposed, including wind energy projects, and appropriate levels of environmental review and public involvement for those actions.

Comment: The Tennessee Wildlife Federation wishes to collaborate with TVA to develop and establish policies to fill in any critical gaps in public communication and understanding that may result from approval of key CE, and to provide important guidance and needed transparency. TVA should plan for worst-case scenarios to ensure consistency in the future in the absence of the formal NEPA requirements.

Response: Thank you for expressing interest in collaborating with TVA. We will continue to seek opportunities for collaboration with stakeholders to improve our decision-making processes.

Comment: TVA lacks the authority to reinterpret NEPA and CEQ regulations in its implementing procedures. TVA impermissibly paraphrases the CEQ regulations and improperly constrains its obligations to comply with requirements set forth in NEPA and the CEQ regulations.

Response: CEQ instructs agencies to develop their own NEPA procedures that supplement CEQ regulations (40 CFR 1507.3(a)). TVA's regulations were drafted to minimize repetition of requirements already contained in the CEQ regulations and with the understanding that the TVA-specific regulations would be applied in conjunction with the CEQ regulations. The TVA regulations include many words and phrases that are specifically defined in either the NEPA statute or CEQ regulations (40 CFR part 1508). TVA's regulations include definitions for certain terms to assist in implementing NEPA, not to reinterpret NEPA or CEQ's regulations. TVA coordinated the review of its amended procedures with the CEQ to ensure compliance with NEPA and CEQ's regulations. On February 19, 2020, CEQ notified TVA that the final rule conforms to NEPA and the CEQ regulations.

The commenter asserted that TVA improperly paraphrases CEQ regulations with its statement in the proposed rule that EAs should address ''important environmental issues.'' CEQ regulations do emphasize that agencies concentrate their efforts and attention on important issues when completing environmental analysis. Nonetheless, because of the emphasis in NEPA on the ''significance'' of environmental impacts, TVA revised the sentence in the final rule by replacing ''important environmental issues'' with ''issues that are potentially significant.''

Comment: Given the complexity of TVA's proposed rule, TVA did not provide adequate time for the public to review the proposed rule.

Response: The publication of the proposed rule in the **Federal Register** initiated a 60-day public comment period (82 FR 26620, June 8, 2017). After publication of the notice, TVA received stakeholder requests to extend the comment period; in response, TVA extended the period an additional 30 days. The 90-day comment period ended on September 6, 2017. Just prior to the close of the review period, one commenter requested a further extension of the comment period. TVA considers 90 days to be adequate; E.O. 13563, Improving Regulation and Regulatory Review, establishes 60 days as the standard duration of comment periods for informal rulemaking processes (75 FR 3821, January 21, 2011).

Comment: TVA has not provided adequate documentation to the public to evaluate the basis for TVA's proposed rule.

Response: TVA's **Federal Register** notice provided relevant supplementary information associated with the proposed rule, including a lengthy statement of the basis and a description of the proposed changes to each section of the procedures (82 FR 26620, June 8, 2017). TVA also prepared and made available its Proposed Categorical Exclusions Supporting Documentation (Supporting Documentation) for the proposed CEs to describe its review of the CEs and to support its findings that certain categories of actions do not result in significant environmental effects. TVA prepared the document to comply with CEQ's guidance to agencies on substantiating changes to agency CEs (75 FR 75628, December 6, 2010). The organization that made this comment submitted a Freedom of Information Act (FOIA) request seeking several thousand records associated with almost 700 NEPA reviews. TVA fulfilled the request in compliance with FOIA.

B. Comments on Subpart A—General Information

Comment: TVA cannot define the term ''controversial'' as proposed in Subpart A of its proposed rule.

Response: The language in the rule reflects current case law addressing the meaning of ''controversial'' under NEPA. Courts have consistently held that controversy refers to disagreement with respect to the characterization of the effects on the quality of the human environment, rather than opposition to a proposal. See, *e.g., Native Ecosystems Council* v. *U.S. Forest Serv.,* 428 F.3d 1233, 1240 (9th Cir. 2005) (stating that mere opposition or uncertainty does not render a project ''controversial'' under NEPA); *River Road Alliance, Inc.* v. *Corps of Engineers,* 764 F.2d 445, 451 (7th Cir. 1985) (''[P]ublic opposition [to a project] would be the environmental counterpart to the 'heckler's veto' of First Amendment law.'').

TVA will continue to consider the context and intensity of a potential impact to determine whether the action has the potential to significantly affect the environment; the definition of ''controversial'' clarifies that a dispute as to the size, nature or effect of the action's impacts must be supported by scientific commentary that casts doubt on the agency's methodology or data.

Comment: The Commonwealth of Virginia Department of Historic Resources encouraged TVA to include a brief statement of the possibilities and advantages of the coordinating process and documentation required for the preparation of an EA and finding of no significant impact (FONSI) or an EIS and Record of Decision (ROD), to comply with Section 106 of the National Historic Preservation Act (NHPA) in place of the regulations at 36 CFR 800.3 through 800.6.

Response: TVA occasionally uses the process established under 36 CFR 800.8 when beneficial and will continue to do so. The final rule encourages early coordination and public involvement in the NEPA process. TVA prefers not to include specific provisions relating to compliance with the NHPA in its NEPA procedures, but would continue to use the process in 36 CFR 800.8 to gain efficiencies.

C. Comments on Subpart C—Categorical Exclusions

Comment: Under its procedures addressing ''extraordinary circumstances,'' TVA is adding that ''the mere presence of one or more of the resources'' listed does not preclude the use of a CE, and the determination of whether extraordinary circumstances exists depends upon the existence of a cause-effect relationship between the proposed action and the effect on the resources. Regarding threatened and endangered species, it is our understanding that consideration of these is not specified in the CEs, but the provision (in § 1318.201(b) of the final rule) would still allow for an action involving threatened or endangered species to be categorically excluded and preclude the opportunity for public review and comment. TVA should ensure appropriate consideration of species in need of management. If there are federally-listed threatened and endangered species on TVA managed lands or lands where TVA is working, actions should not be categorically excluded.

Response: TVA's NEPA procedures require that extraordinary circumstances be reviewed prior to determining whether an action qualifies as a CE. One of the extraordinary circumstances is whether there is potential that threatened or endangered species would be significantly impacted by the action (§ 1318.201(a)(1)(i) of the final rule). TVA's final rule incorporates changes to TVA's list of extraordinary circumstances to make it clearer that an impact to sensitive resources, including threatened or endangered species, is an important factor for consideration in determining whether a CE should be used.

Under § 1318.201(b), TVA will review the presence of sensitive resources as a factor to consider in making a determination whether the resource may be impacted by the action. TVA's final rule also clarifies that the determination that an extraordinary circumstance will require additional environmental review in an EA or an EIS should depend not solely on the presence of sensitive resources, but also on the potential that those resources would be impacted by the proposed action. When appropriate, TVA will consult with the U.S. Fish and Wildlife Service to analyze the potential impacts to threatened or endangered species and apply appropriate measures to address those impacts. TVA would not apply a CE to any action with potential to result in the lethal taking of a threatened or endangered species.

Comment: The Department of the Interior recommended that TVA modify TVA's extraordinary circumstances section (18 CFR 1318.201 of the final rule) regarding special status species in a manner that is consistent with the Department's language as well as other Federal agencies.

Response: In response to the Department of the Interior comment, TVA has revised this provision on extraordinary circumstances under § 1318.201(a) in the final rule. ''Threatened or endangered species'' is replaced with ''Species listed or proposed to be listed under the Endangered Species Act on the List of Endangered or Threatened Species, or designated Critical Habitat for these species.'' This change accurately reflects the current practice of TVA to review for potential impacts to listed species as well as species proposed to be listed, and to the habitat on which such species rely, when considering whether it is appropriate to apply a CE to an action.

Comment: TVA should identify potential wind turbine projects as ''Extraordinary Circumstances.''

Response: A commenter who raised concerns about a specific wind energy project also stated that a potential electrical transmission interconnection to wind turbine projects should be considered an extraordinary circumstance. TVA notes the list of extraordinary circumstances in the final rule are factors or circumstances in which an action listed by TVA as a CE has the potential to cause significant environmental effects, thereby requiring further analysis and documentation in an EA or an EIS. It would be inappropriate to include a specific type of action to the list of extraordinary circumstances; however, whether ''extraordinary circumstances'' are present would be analyzed for all projects including wind projects. TVA notes that the final rule does not include a CE for industrial-scale wind projects of the type that are of concern to the commenter.

Comment: The proposed procedures regarding the identification of extraordinary circumstances are inconsistent with NEPA and CEQ guidance.

Response: Under § 1318.201(a), the final rule provides that an action that may otherwise be categorically excluded may not be so classified if an extraordinary circumstance is present and cannot be mitigated. If any of the extraordinary circumstances listed in Section 1318.201(a) apply to the proposed action, TVA would consider whether the proposal can be modified to resolve the circumstances that are considered extraordinary. In some cases, such measures to resolve extraordinary circumstances may be required through the application of other environmental regulatory processes (*e.g.,* the Clean Water Act or NHPA) such that the potential for significant impacts to the resource is resolved. Other regulatory processes, including consultation with State Historic Preservation Officers or the U.S. Fish and Wildlife Service, sometimes provide appropriate measures to resolve extraordinary circumstances, which facilitate the identification of appropriate mitigations, but do not replace TVA's compliance with NEPA.

Other agencies have recently promulgated similar procedures for extraordinary circumstances, including the National Aeronautics and Space Administration, the National Capital Planning Commission, and the Air Force Retirement Homes. TVA also notes that the cause-effect relationship between a proposed action and the potential effect on resources is also considered by the U.S. Forest Service when reviewing for extraordinary circumstances (see 36 CFR 220.6(b)(2)).

As noted above, when issuing its final 2010 guidance on CEs, CEQ stated in its preamble that it had received specific comments noting that, ''the determination that an extraordinary circumstance will require additional environmental review in an EA or an EIS should depend not solely on the existence of the extraordinary circumstance but rather on an analysis of its impacts.'' In reply to this comment, CEQ stated that it agreed with this perspective (75 FR 75629, December 6, 2010). TVA's rule is consistent with this guidance. A determination of the potential effects of an action and its severity should be considered by TVA to identify the situations or environmental settings when an otherwise categorically excludable action merits further analysis and documentation in an EA or an EIS.

Comment: TVA's definition of ''extraordinary circumstances'' improperly segregates consideration of ''controversy'' from determining significance.

Response: The division of the section into separate paragraphs (with § 1318.201(a)(1) identifying specific environmental resources and § 1318.201(a)(2) addressing controversy) does not segregate ''controversy'' from the extraordinary circumstances determination. Rather, it reflects proper organization: Controversy is included under § 1318.201(a)(1) since it is not an ''environmental resource.'' Consideration of whether the significance of environmental impacts is or may be ''highly controversial'' is still an important consideration in determining whether extraordinary circumstances exist, and the procedures now more clearly reflect CEQ's significance criteria.

TVA did not remove consideration of ''other environmentally significant resources''; the text of the procedures was revised for clarity and TVA added to § 1318.201(a)(1) a statement that it would consider whether ''the action has the potential to significantly impact environmental resources, including the following resources: . . . .'' The purpose of this section was not to exclude consideration of environmentally significant resources not specifically enumerated, but to identify resources most likely to be encountered.

Comment: TVA procedures addressing extraordinary circumstances (18 CFR 1318.201 of the final rule) fail to distinguish between the routine mitigation which is a type of best management practice and the more expansive mitigation actions described at 40 CFR 1508.20. TVA fails to distinguish between actions for which routine procedures address impacts and has been overly broad in its discussion of ''mitigated actions.'' The procedures contain language about mitigation that would allow agencies to downgrade significant impacts that had the potential for an EA and public input.

Response: As previously stated, TVA's procedures do not supersede those of CEQ. The use of the term ''mitigation'' in § 1318.201 is consistent with the definition of the word in 40 CFR 1508.20. TVA considered the comment and does not find it necessary to include in its procedures a distinction between routine and the non-routine mitigation, as suggested by the commenter.

TVA disagrees with the comment that a CE cannot be used when it is possible to modify a proposal to mitigate (as defined at 40 CFR 1508.20) a potential impact or to resolve an extraordinary circumstance. Under the final rule, TVA may modify a proposed action in order to resolve or alleviate the circumstances that are considered extraordinary. In other cases, TVA may implement mitigation measures that address the circumstances and ensure that no significant impacts from the action would occur. Often, the mitigation measures are identified through other environmental processes (such as consultation under NHPA or the Endangered Species Act (ESA)).

Comment: TVA's proposed CEs are written so broadly that they would apply to almost every activity the utility undertakes and threaten public health, public safety and the environment. Several terms used in CE definitions are too subjective and lack sufficient specificity.

Response: TVA disagrees that the changes represent a broad expansion in the scope of actions that may be categorically excluded. The expanded list still covers only those categories of actions that individually or cumulatively do not have a significant impact on the environment. Many of the actions specifically addressed in new CEs have been covered under the more broadly defined CEs established by TVA in 1980, as disclosed in the Supporting Documentation. For example, one of the CEs established in 1980 (CE 5.2.1, ''Routine operation, maintenance, and minor upgrading of existing TVA facilities'') is replaced by multiple new CEs. Many of the CEs established in 1980 lacked specificity and limiting criteria so that they were subject to broad interpretation over time by staff. The new and revised CEs included in the final rule represent a more detailed list of specific activities that are tailored to TVA programs.

In its 1983 guidance on NEPA regulations, CEQ encouraged agencies to ''consider broadly defined criteria which characterize types of actions that, based on the agency's experience, do not cause significant environmental effects'' (48 FR 34263, July 28, 1983). Later, in 2010, CEQ guided agencies to clearly define eligible categories of actions and the factors that would constrain their use. With the list of CEs in the final rule, TVA has struck a balance between these two ends of the guidance spectrum. It has established CEs that are not so narrow that they would not allow TVA flexibility to consider project-specific issues but that are more specific so as to improve clarity and avoid misapplication.

As discussed in the Supporting Documentation prepared by TVA to

substantiate its CE revisions, TVA also uses several terms in the definition of its CEs as narrative descriptors of parameters appropriate for the CE's use. For instance, terms like ''minor,'' ''limited,'' ''small,'' ''routine,'' and ''small-scale'' are included as limitations in some CEs. Several such descriptors have been included in TVA's procedures since 1980. TVA has determined that these narrative parameters are effective for assessing application of the CEs and will continue to apply a reasonable interpretation to such terms on a project-specific basis.

TVA would continue to consider the potential intensity of a proposed action when interpreting such descriptors in making CE determinations. (In its 2010 guidance, CEQ notes that when identifying extraordinary circumstances, agencies commonly use factors similar to the intensity criteria for determining significance pursuant to 40 CFR 1508.27(b).) The term ''minor'' is well understood by TVA staff as applying to actions limited in scale and scope; under the final rule, the term in some CEs is accompanied by a new spatial limitation. TVA notes that procedures of many federal agencies include similar narrative descriptions. As with each Federal agency, TVA must ensure that the CEs are appropriately used, that staff is adequately trained, and that environmental compliance is ensured through the implementation of these procedures by responsible staff and managers.

TVA's use of the term ''generally'' as used in spatial limits indicates that the limit is not a strict limit. If a project area slightly exceeds the spatial limit, some consideration may be made by staff to determine whether the CE may still apply based on consideration of potential impacts. TVA would not apply the CE to actions that substantially exceed the spatial limit. The term ''including, but not limited to'' introduces exemplary actions to which the CE applies; CEQ has encouraged agencies to identify representative examples of the type of activities ''especially for broad categorical exclusions'' in order to further clarify the types of actions covered (75 FR 75632, December 6, 2010).

For most activities that could qualify for a CE, TVA specialists complete a categorical exclusion checklist (CEC) to document TVA's review of the proposed activity. The CEC consists of 60 questions about potential site-specific environmental issues associated with an activity and is completed by an interdisciplinary team to document their findings. The CEC is part of an automated system that prompts TVA specialists to consider and document whether there are any extraordinary circumstances associated with a proposed activity. Often, specialists conduct field visits to make their determinations. Using the CEC, TVA specialists verify that a proposed activity falls within the definition of the CE and that there are no extraordinary circumstances associated with the activity.

As TVA has always done, some routine activities with no potential for environmental effects (training personnel, or changing a bathroom faucet) would not require paperwork to check for environmental effects. Even for categorically excluded activities, TVA must comply with other applicable laws and requirements, including the ESA, the Clean Water Act, and NHPA, further ensuring that significant environmental impacts would not occur.

Comment: TVA's justifications for expanding the list of CEs falsely rely on the assumption that actions that had insignificant effects in the past must therefore have an insignificant effect in the future. Past findings are not likely to hold up in these days of climate change where ecosystem compositions and their resiliency are threatened.

Response: CEQ's 2010 guidance on CEs provides direction on how to substantiate new or revised CEs: ''An agency's assessment of the environmental effects of previously implemented or ongoing actions is an important source of information to substantiate a categorical exclusion. Such assessment allows the agency's experience with implementation and operating procedures to be taken into account in developing the proposed categorical exclusion.'' (75 FR 75631, December 6, 2010) Consistent with this guidance, TVA cited to and relied on almost 700 previously implemented activities to support the establishment or revisions of CEs. As stated above, although past experience serves as the basis for the list of CEs, TVA recognizes the importance of understanding changes in the environment, including climate change, and of using current high quality information and scientific analyses to inform its decisionmaking. The extraordinary circumstance provision at § 1318.201 provides TVA the ability to consider changes in the environment that would make the use of a CE inappropriate.

Comment: TVA should require that all CEs are documented and should promulgate the documentation requirements in the rule.

Response: TVA notes that a majority of its CEs will require documentation in the form of a CEC. Generally, proposed actions that carry little probability of significant environmental impacts (*e.g.,* those that do not result in ground disturbance) do not require such documentation, consistent with CEQ's 2010 guidance that ''there is no practical need for, or benefit from, preparing additional documentation when applying a categorical exclusion to those activities.'' (75 FR 75636, December 6, 2010)

When establishing its NEPA procedures in 1980, TVA did not specify in its procedures whether CEs required documentation. Rather, TVA provides to staff administrative guidance to establish documentation requirements. TVA will continue to determine documentation requirements through implementing internal guidance rather than including such requirements in the final rule. Such an approach allows TVA flexibility to change guidance if the need for additional documentation is identified or as the agency acquires experience with implementing the new CEs.

Comment: TVA should engage an expert panel to evaluate scientific basis for expansion of CEs and implementation of floodplain management.

Response: A team of environmental and legal professionals was involved in the development of the revised procedures. The team included TVA environmental professionals, including a flood plains management specialist, as well as external contributors with extensive experience in environmental compliance. In addition to these professionals, TVA relied on its extensive experience as well as the experiences of other federal agencies when defining its CEs.

Comment: The Commonwealth of Virginia Department of Historic Resources recommends that TVA include that CEs under NEPA may still require compliance with the NHPA and ESA.

Response: In response to this recommendation, TVA added a statement in the procedures to clarify that the use of a CE does not relieve TVA from compliance with other statutes or consultations. This statement has been inserted at § 1318.200(e). TVA notes that a majority of actions that qualify for a categorical exclusion are also covered under a programmatic agreement under Section 106 of the NHPA that was developed through a review process involving the public, the Advisory Council on Historic Preservation, the State Historic Preservation Officers, and the tribes.

Comment: The Eastern Band of the Cherokee Indians requested that TVA continues to alert the tribes when historic resources or gravesites are found while actions under the new proposed CEs are undertaken. In these instances, work should be stopped immediately and tribes should be consulted.

Response: This practice is currently observed by TVA and no changes to TVA's NEPA procedures affect TVA's continued commitment to comply with the requirements of NHPA, the Native American Graves Protection and Repatriation Act, or other laws relating to historic properties.

Comment: Using CEs leads to less thorough environmental reviews and less robust decisionmaking (*e.g.,* it does not allow for considerations such as mitigation measures).

Response: A categorical exclusion is not an exemption from environmental review under NEPA, but is instead the result of an agency's evaluation of a class of actions that, in the absence of extraordinary circumstances, do not individually or cumulatively have the potential to cause significant environmental impacts. TVA's final rule identifies procedures that require TVA staff to conduct reviews of the proposed action to determine whether it would be appropriate to use a CE for the action and to ensure that extraordinary circumstances are not present. Because the vast majority of actions undertaken by federal agencies have no significant environmental impacts, CEs are the most frequently used approach for federal agencies to comply with NEPA. For example, between 2013 and 2018, TVA evaluated over 12,000 actions under CEs but less than 200 that required completion of an EA or EIS. CEQ considers CEs to be efficient tools for conducting a review process for actions which typically do not have significant effects on the human environment. In cases where TVA specialists identify the potential for adverse impacts and/or the need for mitigation to address the impacts, TVA would carefully consider whether it is appropriate to use the CE or to complete an EA or EIS.

Comment: TVA's proposed CEs segment activities in a manner that avoids NEPA review of activities that, considered together, would require an EA or EIS. TVA may not create CEs for activities that would normally tier to programmatic EAs and EISs (*e.g.,* TVA's Natural Resource Plan).

Response: TVA addresses the potential segmenting of actions in § 1318.200(c) of the final rule and will continue to comply with CEQ regulations requiring that agencies consider connected actions. Under TVA's final rule, larger projects may not be broken down into small parts such that the use of a CE for a small part commits TVA to a plan of action for the larger project. TVA NEPA compliance staff responsible for oversight of the procedures will continue to review proposals to verify that the action is not an interdependent part of a larger proposal that has no independent utility. Further, TVA has taken care to define each CE to ensure it covers stand-alone actions that have independent utility. TVA programs implement numerous activities to meet program goals and objectives. While such activities may be implemented to achieve broad goals or missions of TVA, TVA does not agree that the implementing actions of TVA programs or missions are, necessarily, interdependent, connected or even similar, as asserted by the commenter.

TVA does not agree with the assertion that all natural resource management actions are connected actions, nor that all transmission development and maintenance actions, all road development and management actions, and all electricity regulation actions are connected due to ''binding characteristics.'' Such an interpretation is unreasonable and inconsistent with CEQ regulations as well as TVA NEPA procedures and practices. Further, TVA notes that in the 2011 Natural Resource Plan (NRP) EIS, TVA committed to conducting an ''appropriate'' level of NEPA review; such reviews may be completed as CEs, EAs or EISs, depending on the nature of the proposal, its potential impacts, and whether the action meets the definition of an established CE.

Comment: In its Supporting Documentation, TVA does not take the required hard look at the potential direct and indirect environmental effects of the individual and cumulative application of the CEs.

Response: CEQ's guidance to agencies on establishing CEs directs the preparation of documentation with sufficient information to substantiate the new CEs (75 FR 75628, December 6, 2010). TVA included in the Supporting Documentation a summary of the general types of impacts that would occur for such actions, based on TVA's experience with these actions and input from interdisciplinary experts. This information provides important context to TVA's findings that such actions do not, individually or cumulatively, result in significant environmental effects. The description of impacts in the Supporting Documentation is general in nature because CEs are established for categories of actions without knowledge of the specific locations of these actions. The assessment of site-specific impacts is more appropriately undertaken by TVA when applying the CEs.

Consistent with CEQ's 2010 guidance, the discussions of revised or new CEs vary. The amount of information provided by TVA to substantiate each revised or new category depends on the type of activities included in the proposed category of actions and their potential to result in significant environmental effects. For instance, TVA's discussion of CEs for administrative actions are less detailed than the discussions of CEs that are more likely to result in impacts to the physical environment. In addition, TVA's discussion of revisions to existing CEs are generally less detailed than the substantiating information provided for new CEs because the revisions to existing CEs are typically minor.

Comment: The Supporting Documentation fails to provide any analysis of the potential for cumulatively significant effects on any of the 50 proposed CEs.

Response: TVA's Supporting Documentation provides information and includes a brief description of the common impacts of activities that would be covered under new or expanded CEs. As stated in the previous response, the documentation is consistent with CEQ's 2010 guidance regarding establishing CEs. The covered actions are minor in nature and would not result in individually or cumulatively significant impacts. TVA considered the frequency with which the categorically excluded actions are applied when identifying new CEs. Further, many of the CE actions most likely to result in ground disturbance are limited in scope and infrequent and would not be conducted as segments of greater development proposals, thereby reducing potential cumulative effects.

Comment: In its Supporting Documentation, TVA does not consider the climate-related impacts of any of the proposed CEs; certain categories of actions have potential to contribute to climate change and/or be affected by climate change.

Response: As noted above, TVA's Supporting Documentation for the CEs provides a summary of findings based on past environmental reviews. While the assessment of impacts in the Supporting Documentation is necessarily general in nature, TVA will continue to consider the potential environmental impacts of proposed site-specific actions, including their

potential to contribute to climate change, prior to applying the CEs. TVA notes that CEs that include in-kind replacement of turbines, purchase of existing combustion turbine or combined-cycle plants, or certain rate changes are defined to limit covered actions to those which result in no new emissions or in very minor generation changes, thereby ensuring no significant impact to the environment.

TVA notes that certain shoreline and floodplain impacts of climate change may be tempered because TVA actively manages the Tennessee River system to reduce flooding. The commenter also noted potential impacts of certain activities to bat species. Each proposed action would be reviewed for extraordinary circumstances, including the potential to impact listed or proposed threatened and endangered species. As noted above, TVA revised the CE procedures at § 1318.200(d) to affirm that the use of a CE does not relieve TVA from compliance with ESA and other statutes.

Comment: The EAs and EISs cited by TVA in its Supporting Documentation do not support the proposed CEs. Many of TVA's cited EAs and EISs included mitigation measures; an agency must ensure that mitigation measures in cited EAs and EISs are ''integral components'' of the actions included in a CE.

Response: The Supporting Documentation provided by TVA cites to almost 700 NEPA reviews (CEs, EAs, and EISs). TVA listed many NEPA records and described others in greater depth when they were particularly relevant to the category of actions. In addition to the support provided by the vast array of cited EAs and EISs in the documentation, the expertise acquired by TVA through the implementation of NEPA over four decades also substantiates the proposed CEs. TVA's Supporting Documentation represents a sufficient summary of the relevant information to substantiate its determinations that these categories of actions do not normally result in significant environmental impacts.

Many of the EAs and associated FONSIs cited by TVA in its Supporting Documentation include mitigation measures to address impacts; some of these mitigation measures resolve potentially significant impacts. The most commonly listed mitigation measures in TVA FONSIs include standardized best management practices implemented by TVA (*e.g.,* to address storm water runoff at a construction site); although listed as mitigating measures, TVA considers these to be standard practices that are incorporated into TVA's project design. TVA considers all mitigation measures and best management practices that are incorporated into a proposed action in its decision whether to apply any CE to that action. This approach is supported by the CEQ final guidance on the ''Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact'' (76 FR 3843, January 21, 2011). In its guidance, CEQ noted that ''[m]any Federal agencies rely on mitigation to reduce adverse environmental impacts as part of the planning process for a project, incorporating mitigation as integral components of a proposed project design before making a determination about the significance of the project's environmental impacts. Such mitigation can lead to an environmentally preferred outcome and in some cases reduce the projected impacts of agency actions to below a threshold of significance. An example of mitigation measures that are typically included as part of the proposed action are agency standardized best management practices such as those developed to prevent storm water runoff or fugitive dust emissions at a construction site'' (Id.).

Several mitigation measures identified in the cited EAs and FONSIs were developed through other environmental compliance processes (*e.g.,* through consultation with U.S. Fish and Wildlife Service regarding endangered species or through coordination with the U.S. Army Corps of Engineers to address impacts to wetland resources). TVA considers such measures to be integral components of the proposed action because TVA's action could not be implemented without compliance with these other environmental laws and regulations.

Commenters request that the mitigation measures listed in the cited EAs and FONSIs be included in the definition of the CE because they are integral components of the category of actions. Because the majority of mitigation measures listed in the cited EAs and FONSIs are included in the project design or derive from TVA's compliance with other environmental laws, TVA does not consider it necessary to include potential mitigations in a CE's definition. Rather, what is integral is the review by TVA of proposed actions to determine whether mitigation measures are needed. In addition to the limits included in the definitions, which are intended to eliminate the potential for significant impacts, TVA's consideration and review for extraordinary circumstances prior to use of a CE address the same or similar environmental concerns that are commonly addressed when applying mitigation to proposed actions. The review by TVA for extraordinary circumstances will allow TVA to determine whether mitigation measures are necessary and to consider whether additional environmental review at the EA or EIS level is necessary.

Based on public input, TVA again reviewed the 215 EAs and FONSIs cited in the Supporting Documentation and confirmed that the vast majority of EAs and FONSIs provide support for the proposed CEs. However, TVA found that it would not be appropriate to rely on some of the cited EAs and FONSIs to support the proposed CEs. TVA updated the Supporting Documentation by removing 30 EA and FONSI citations; the updated document is available for public review at the TVA NEPA website (*https://www.tva.gov/nepa*). TVA believes that the information provided in the updated Supporting Documentation complies with CEQ's 1983 and 2010 guidance on establishing CEs and adequately supports our determinations regarding the proposed CEs.

Comments addressing the segmentation of actions addressed under programmatic EISs are address above. TVA notes that the most frequently cited EIS in its Supporting Documentation is the NRP EIS. The documentation notes that at the completion of the EIS, TVA determined that no significant adverse impacts would result from implementing the plan and many beneficial impacts were described. In numerous sections of the Supporting Documentation, TVA highlighted several EISs that were representative NEPA documents of the relevant analyses conducted by TVA that supports its findings for specific CEs and provided a summary of the EIS and its findings in the narrative.

Comment: The CEs of other agencies that TVA uses as benchmarking examples in the Supporting Documentation do not support the CEs as written.

Response: The inclusion in TVA's Supporting Documentation of the CEs of other agencies as benchmarks for the CEs in the final rule is appropriate. The documentation includes a short discussion of how comparable the agency's CE is to the TVA category and describes supporting information, when available, from the administrative records issued by the agencies when the CEs were established. TVA noted in the documentation the extent to which the CEs were similar and supported its CE, highlighting which were more relevant to the TVA CE and which provided less or only partial support. The

benchmarked CEs were intended to provide additional support for the TVA CE; TVA relied primarily on its own experience in identifying categories of actions that do not typically result in significant environmental impacts.

Comment: By proposing to categorically exclude electricity contracts (under CE 6) without limiting application to situations where the contract will definitively not have such impacts, TVA undermines the CEQ requirement that agencies consider reasonable alternatives to a proposed action.

Response: The proposed revision to the CE established by TVA in 1980 was intended to clarify that transactions that spur expansion or development of facilities and/or transmission infrastructure are not covered under the CE. Upon further internal deliberation, however, TVA determined that no clarification was needed to the CE, as staff shared that understanding of the existing CE. In the final rule, TVA carries forward the existing CE without revision as CE 6.

Comment: Proposed CE 15, which addresses transmission line maintenance actions, violates and contravenes the injunction of the United States District Court in *Sherwood* v. *TVA.* There should be no CE for vegetation management due to the adverse impacts it has on the environment.

Response: TVA has withdrawn the proposed CE pertaining to right-of-way maintenance actions from the final rule. TVA is currently undertaking a programmatic environmental review of these actions.

Comment: The implementation of proposed CEs 15 and 19, both of which deal with the vegetation management decisions in TVA transmission corridors, have the potential to impact high natural resource land that contain habitation for plant and wildlife as well drinking water supplies.

Response: As noted above, TVA has not carried the proposed CE 15 pertaining to right-of-way maintenance actions into the final rule. TVA notes that CE 19 pertains to ending vegetation management activities, as transmission lines are retired. Under CE 19, TVA would conduct a complete and thorough review of the proposed action using its CEC to determine whether extraordinary circumstances exist that would require TVA to conduct additional environmental review. The CEC review is conducted by a qualified multidisciplinary team of experts. Existing current resource data will be used when available, or new field data will be obtained when needed. The CEC review will verify that no extraordinary circumstances exist that would preclude the use of CE 19.

Comment: Proposed CE 16, which includes the construction of new transmission lines and substations, would allow TVA to construct new transmission line infrastructure in increments of ''generally'' 10 miles, as long as they ''generally'' require no more than 125 acres of new rights-of-way, no more than 1 mile of new access road construction, and support facilities that physically disturb no more than 10 acres. The inclusion of the term ''generally'' means that the explicit 10-mile limitation is meaningless. TVA provides no rationale for why a 10-mile transmission line does not have significant environmental effects, while an 11-mile transmission line would. Without limiting the contiguous application of CE 16, TVA could simply break up a 150-mile; 1,000-mile; or 10,000-mile stretch of new transmission infrastructure into 10-mile increments and categorically exclude all of its activities.

Response: CEQ regulations and guidance and TVA's final rule (§ 1318.200(c)) prohibit the use of a CE on a segment or interdependent part of a larger proposed action. The TVA environmental compliance staff remains responsible for screening proposed actions and ensuring that larger projects are reviewed in their entirety. As noted above, TVA would not categorically exclude contiguous proposals as asserted by the commenter.

TVA explains that the 10-mile and 125-acre limits are established based on extensive TVA experience and provides a discussion of these limits in the CE Supporting Documentation (background discussion of CE 16). For instance, in its 2015 and 2019 Integrated Resource Plans (IRP) EIS, TVA reviewed dozens of TVA projects and their impacts. For those EIS reviews, dozens of EAs completed since 2005 were identified that address new transmission line construction, including 11 EAs addressing new transmission construction over 10 miles. See Table 5–2 of the 2019 Final EIS (available at *https://www.tva.gov/irp*).

As stated in the Supporting Documentation, the CE limits actions to no more than 10 miles in length and no more than 125 acres of new ROWs. This CE's acreage limit applied to actions involving new 500-kV transmission line construction would limit the length of such lines to less than 5.9 miles.

Comment: TVA has conceded that an EIS must be prepared for tree clearing and vegetation management for existing transmission lines, however, under CE 16 constructing new transmission infrastructure falls under an exemption. The commenter asserts that the category of actions has significant direct, indirect and cumulative effects, and TVA has not taken a ''hard look'' at the environmental effects of activities applicable to CE 16, simply citing its own NEPA analyses and ignoring the effects of CE 16.

Response: TVA did not propose CE 16 as a means to avoid tiering such site-specific analyses to the programmatic EIS it is currently preparing to address rights-of-way vegetation management. That EIS does not address the impacts associated with construction of new transmission infrastructure, but vegetation maintenance on existing lines.

TVA's experience supports the determination that construction of new transmission lines, when limited, would not result in significant environmental impacts. As noted in TVA's Supporting Documentation, CE 16 would not cover the construction of a 500-kV transmission line up to 10 miles, as asserted by the commenter, because 500-kV lines have a wider right-of-way. Rather, with the acreage limit included in the CE (125 acres), less than 5.9 miles of new 500-kV transmission line construction would be allowed.

In its Supporting Documentation, TVA included a summary of common impacts associated with such actions. TVA's review of potential impacts of such actions, as limited, is based on decades of experience, dozens of NEPA records, benchmarking to other federal agencies, and the professional expertise and knowledge of staff. TVA agrees that when considering these actions, a review must be conducted to determine the potential impacts to resources; TVA would complete a CEC for each action, allowing qualified TVA specialists to review the proposals and identify potential extraordinary circumstances. Use of the CE for such actions does not relieve TVA from compliance with other statutes, including ESA. If the extraordinary circumstances cannot be resolved, TVA would complete an EA or EIS.

As stated in TVA's Supporting Documentation, there are CEs of other agencies that provide support for TVA's findings that such actions do not typically result in significant environmental impacts. TVA acknowledges that these CEs are not identical to CE 16 and notes that TVA bases its spatial limits in CE 16 on its own experience.

Comment: In CE 16, TVA does not define what types of mitigation would be required for wetland impacts and

what parameters are needed for reviewing the area of impacted wetlands. Proposed CE 16 should be limited to construction of new transmission lines less than 4 miles in length that do not require offsite mitigation of wetland impacts.

Response: TVA did not find it appropriate to include the list of the types of mitigation measures it would implement to address wetlands in its NEPA procedures. TVA notes that its wetland biologists take part in the review process of actions that may be categorically-excluded to determine whether extraordinary circumstances exist. These biologists conduct desktop reviews and field surveys to determine whether wetlands may be affected by an action. If wetlands may be impacted, TVA coordinates with the U.S. Army Corps of Engineers and state agencies in compliance with Sections 401 and 404 of the Clean Water Act and determines whether impacted wetlands require mitigation. If avoidance or minimization of wetland impacts is not possible, appropriate mitigation generally refers to compensatory mitigation via purchase of credits from an offsite wetland mitigation bank to offset loss of wetland function. The level of NEPA review does not affect the determination of compensatory mitigation. Offsite mitigation is a common practice implemented to resolve wetland impacts. TVA's experience has shown that the potential for wetlands impacts, while real, is small and insignificant for actions that would fall under CE 16. TVA uses assessment methods for quantifying wetland functional capacity and projecting loss of wetland function from proposed disturbances.

When considering the extent of a proposal's wetland impacts, TVA wetland biologists apply standard analytical approaches and practices that are based on professional judgment, scientific norms, administrative guidance, and regulatory compliance. TVA addresses such parameters in other forms of guidance and administrative policy documents outside of NEPA.

Comment: Construction actions such as those under CE 16 should not be exempted from NEPA due to the projects' potential to impact the environment and surrounding citizens negatively.

Response: As stated in a previous response, CEs are not exemptions from or waivers of NEPA review; they are a type of NEPA review. Under CE 16, TVA will conduct a review of the proposed action using its CEC to determine whether extraordinary circumstances exist and to confirm that the action would not have significant impacts. Should extraordinary circumstances or the potential for significant effects be identified during this review, TVA would not use a CE, but would prepare an EA or an EIS.

TVA notes that its process for siting new transmission projects is designed to allow public input at various stages. Typically, TVA issues public notifications and conducts public open house meetings for new transmission line proposals to ensure that members of the public that may be affected by the project have an opportunity to learn more about the proposal and provide feedback. These opportunities for public input often precede the NEPA process and are conducted regardless of the level of NEPA review.

As previously noted, TVA has added § 1318.202 (Public Notice) to Subpart C of the final rule to clarify that public notice and involvement may be provided by TVA for CEs ''if TVA determines that the public may have relevant and important information relating to the proposal that will assist TVA in its decisionmaking.''

Comment: Proposed CE 17 would allow TVA to exclude the modification, repair, and maintenance of all existing infrastructure, without limitation based on the activities' geographic scope or environmental effects. The broad language allows TVA to exclude any and all changes without incorporating the NEPA process.

Response: As presented in the Supporting Documentation, CE 17 is based on TVA's experience with hundreds of similar projects, categorized as TVA's CE 5.2.17 under TVA's previous NEPA procedures, amended by this rule. The extensive records show that while the activities contemplated under CE 17 could have localized, minor, short-term adverse effects, they do not cause significant environmental effects. Through the development of several new CEs for transmission-related actions, TVA is providing more specific definitions of these activities to clarify for TVA staff which activities may be categorically excluded. The special limitations and review for extraordinary circumstances conducted by TVA when these actions are proposed ensure that these actions would not result in significant effects.

Transmission system CECs are typically prepared for small and isolated projects. Any system-wide effort to uprate a portion of the TVA transmission system would, by the requirements of this procedure, be assessed under a higher level of NEPA review. TVA NEPA compliance staff responsible for oversight of the procedures will continue to review proposals to verify that the action is not an interdependent part of a larger proposal that has no independent utility. To clarify the limitations of this CE, TVA revised the beginning of the definition of CE 17 to clarify that the category includes only ''routine'' modifications, repairs or maintenance actions and only ''minor'' upgrade of and addition to existing infrastructure.

CEQ guidance affirms that CEs are not exemptions or waivers of NEPA review; they are simply one type of NEPA review. Under CE 17, TVA will conduct a complete and thorough review of the proposed action using its CEC to identify extraordinary circumstances that may require the preparation of an EA or EIS. The CEC review is conducted by a qualified multidisciplinary team of experts. Existing, current resource data will be used when available, or new field data will be obtained when needed. Should the potential for significant effects be identified during this review, a higher level of NEPA review would be initiated.

TVA made two edits to the Supporting Documentation after reviewing the comments. In section 3.17.3.3, TVA removed the reference to communication-related equipment and structures because its inclusion was in error. In section 3.17.3.4, TVA removed the Department of Homeland Security CE as a benchmark CE for CE 17. An earlier draft version of CE 17 included actions relating to communication equipment that were later removed and the Supporting Documentation had not been properly revised to remove the information relating to communication equipment. TVA finds that the CEs of the Departments of Energy and Commerce support TVA's conclusion that actions under CE 17 do not result in significant environmental impacts; thus, these benchmark CEs were retained.

Comment: Proposed CEs 15, 16, and 17 do not adequately address cumulative impacts, which should be considered in siting.

Response: TVA has considered the potential cumulative impacts of these categories of actions. Consistent with CEQ's 2010 guidance on establishing CEs, TVA considered the frequency with which the categorically-excluded actions may be applied and the dispersed geographic area across which actions would occur across the seven-state TVA region. The CEs include spatial limitations to constrain the use of the CE and ensure that cumulative impacts are not significant (as noted above, TVA has withdrawn CE 15 from the final rule). CE 16 has a greater potential for cumulative impacts than

CE 17, due to the new disturbances associated with the actions. TVA notes that cumulative impacts associated with CE 17, which addresses modification, repair, maintenance, or upgrade of existing transmission infrastructure, would be limited, as most of this infrastructure already exists.

In the Supporting Documentation, TVA cites to numerous NEPA reviews that have occurred primarily since 2005. These NEPA documents likewise serve as a record of TVA's consideration of cumulative impacts. In addition, TVA relies on its integrated resource planning efforts to review actions needed to ensure the transmission of power through the TVA region and consider their regional impacts. The IRP was completed in 2011 and supplemented in 2015. A new IRP was completed by TVA in 2019. The 2015 and 2019 IRP Final EISs provide important supporting information for the establishment of CE 16 and 17 and are referenced in TVA's Supporting Documentation.

Comment: Proposed CEs 15, 16 and 17 should be withdrawn because TVA is currently doing a programmatic EIS on its transmission systems.

Response: As noted above, TVA has withdrawn from the final rule the proposed CE (CE 15) pertaining to right-of-way maintenance actions. The programmatic EIS currently underway is focused on right-of-way vegetative maintenance. TVA considers actions falling under CEs 16 and 17 to be outside the scope of that programmatic EIS.

Comment: Proposed CE 18 contains no limit to the length, geographic scope, or environmental impacts that the installation of fiber optics, electricity transmission control devices and supporting towers could have under the CE. The CE does not set forth specific criteria for and identification of the actions that it proposes to categorically exclude (40 CFR 1507.3(b)(2)).

Response: TVA does not consider the revision of this CE to expand the scope of covered actions. Rather, the revision is intended to clarify and add additional examples of activities, as recommended by CEQ in their 2010 guidance. TVA's examples are not intended to be exhaustive of all possible activities that fit within the subject class of activities. TVA anticipates that the inclusion of examples will more clearly define for TVA staff the activities associated with this CE.

TVA notes that installation of optical ground wire would have been covered under the previous, broadly defined version of this CE (established in 1980). TVA's NEPA procedure at § 1318.200(c), specifies that TVA will ensure that a larger project is not impermissibly broken down into small parts such that the use of a CE would irreversibly and irretrievably commit TVA to a particular plan of action for the larger project. Further, § 1318.200(d) provides that TVA has determined that the classes of actions qualifying for CEs do not individually or cumulatively have a significant effect on the human environment, subject to review for extraordinary circumstances. Section 1318.201 of the final rule specifies that actions normally qualifying as a CE cannot be reviewed at this level if an extraordinary circumstance is present that cannot be mitigated. These requirements in TVA's NEPA regulations set the boundaries for use of all of TVA's CEs.

Comment: Regarding CE 19, tree clearing and vegetation management practices for existing transmission infrastructure have significant environmental indirect, direct, individual, and cumulative effects, thereby requiring an EIS. If the tree clearing for maintaining rights-of-way and existing transmission has significant environmental effects, surely the same is true for new transmission infrastructure. TVA has not shown that a 25-mile standard for rebuilding transmission lines will not have an insignificant impact on the environment. In its Supporting Documentation, TVA incorrectly states that the three benchmarked CEs of other federal agencies are ''comparable.''

Response: Categorical exclusion 19 addresses the common activities TVA conducts to retire transmission lines or to rebuild transmission lines that may require a limited right-of-way expansion. The definition of the CE 19 includes spatial limitations such that no action would exceed 25 miles in length or constitute an expansion of more than 125 acres of an existing right of way. Expansions of larger transmission lines (*e.g.,* 500kV) would be shorter in length because of the 125-acre limit. These spatial limitations are not arbitrary. TVA relied on a combination of its extensive experience to identify a proper linear distance limit to ensure that the category of actions would not result in significant environmental impacts.

As explained in the Supporting Documentation, the 25-mile limit for redevelopment along existing ROWs is supported by previous environmental reviews conducted by TVA that resulted in findings of no significant impacts; since 2002, TVA has reviewed 108 such projects by completing CECs and 16 projects by completing EAs. TVA considered and reviewed the analysis conducted in its IRP EIS to determine the average impacts associated with new or upgraded transmission infrastructure projects.

The spatial limit for area of disturbance (125 acres) is consistent with the limitation included in CE 16, which is also supported by TVA experience and environment reviews (as explained in the Supporting Documentation discussion of CE 16). Therefore, actions under CE 19, as circumscribed by the spatial limitation, would not result in significant environmental impacts. TVA again notes that specialists will complete a CEC for every application of CE 19 to ensure that the proposed CE would not be applied when there are extraordinary circumstances requiring additional NEPA review.

The summary of potential impacts in the Supporting Documentation is consistent with CEQ's 2010 guidance and adequately substantiates the creation of CE 19. TVA disagrees with the opinion of commenters regarding the benchmarked CEs of other agencies; the CEs of other agencies cited by TVA in the Supporting Documentation are comparable to CE 19 and address similar activities involving similar methods, occurring with similar frequency, timing and context.

Comment: Proposed CE 20 should not include surplus transmission or generation properties that have recreational and/or natural resource value.

Response: This CE does not apply to generation properties. It applies only to existing transmission-related equipment and facilities. Generally, any properties addressed in CE 20 are industrial in character and, thus, are not suitable for recreational use and have limited natural resources value.

Comment: The definition of proposed CE 20 does not set forth ''specific criteria for and identification of'' the actions that it proposes to categorically exclude, as instructed by CEQ (40 CFR 1507.3(b)(2)). CE 20 must be rewritten to describe specific activities.

Response: TVA's revision to this CE does not broadly expand the scope of the actions covered. The primary change to this CE is that existing substations, switchyards, and transmission equipment would be included in existing properties that may be transferred or leased under the CE. Because covered actions are limited to existing infrastructure or rights-of-way, the actions are unlikely to alter the environmental status quo and unlikely to result in any new environmental impacts. TVA's experience supports its

determination that transactions or agreements to acquire or transfer existing infrastructure do not typically change the environmental status quo.

The replacement of the word ''sale'' with the word ''disposal'' in the definition of the CE clarifies that the action includes any transfer of ownership, rather than just monetary purchases. The word ''disposal'' refers to the transfer of the property, not the destruction or demolition of the infrastructure; this definition of disposal is well understood within TVA by staff and decision makers. In the context of the CE, where other types of real estate actions are addressed, this term is not unclear. The CE would not apply to proposals to demolish such infrastructure.

These actions are distinct from other actions relating to TVA's transmission system for which TVA may use a CE. Under the final rule, TVA will ensure that a larger project is not impermissibly broken down into small parts (§ 1318.200(c)).

Comment: Proposed CE 21 lacks the specificity required by NEPA and the CEQ regulations to ensure that no significant environmental impacts will occur as a result of application of the CE. TVA must evaluate the potential impacts of its action against the actual baseline conditions (and level of emissions), rather than the permitted levels.

Response: In response to this comment, TVA revised the CE to reflect that the planned operation by TVA of purchased or leased facilities should be consistent with the ''normal operating levels'' of the existing facilities rather than the limits identified in the facilities' environmental permits. This revision will further ensure that impacts to the environment are insignificant because the category of actions would effectively be limited to the continuing operation of an existing facility.

Under the final rule, TVA would consider whether an action has the potential to significantly impact environmental resources due to extraordinary circumstances before a CE can be used. Before using the CE, consideration would be given to potential air resource impacts and whether greenhouse gas emissions are significant.

TVA disagrees with the assertion that the generic EA completed by TVA and cited in its Supporting Documentation does not substantiate TVA's finding that the category of actions do not have significant impacts. The generic EA addresses the purchase or lease and operation of existing combustion turbine or combined-cycle combustion turbine plants located in or near the Tennessee Valley. TVA notes that the purchase or lease of an existing facility would only take place if it were in keeping with the IRP. The TVA IRP and the types of generation choices that TVA would consider would have already been assessed in the IRP and its EIS prior to the use of this CE.

Comment: TVA should withdraw proposed CE 22 because it is unreasonably broad and may be used to inappropriately develop its public lands. TVA's documentation does not support its findings. TVA should not categorically exclude any natural resource management activities.

Response: The definition of the CE sufficiently defines discrete and routine types of actions in well-defined settings. TVA staff is familiar with the terms included in the CE and have experience in applying such terms. The term ''generally'' does not negate the spatial limit but serves to provide TVA staff some discretion for an activity that may slightly exceed the limit. If a project area would slightly exceed the spatial limit, project staff would consult with TVA NEPA staff to determine whether the CE may still apply based on consideration of potential impacts. As noted in the supporting document, TVA has previously excluded such actions under several CEs. The new CE is more specifically defined than the previous, broadly defined CEs and provides clarity and transparency regarding the types of actions covered. The actions identified in the text of the CE are provided as examples to improve clarity and transparency.

The discussion of impacts in each section of the Supporting Documentation is, as noted in the document, a summary of TVA's findings that further demonstrate how TVA made its determination that such actions do not typically result in significant environmental effects. Prior to conducting some actions, TVA would review each proposal to determine if extraordinary circumstances exist. If they do, an EA or EIS would be prepared if the extraordinary circumstances cannot otherwise be resolved.

As noted above, TVA would not categorically exclude any segment or interdependent part of a larger proposed action and TVA has no intention of establishing thousands of dispersed recreation sites across hundreds of thousands of acres of public lands as suggested by the commenter; such development is inconsistent with TVA's objectives to provide quality dispersed recreation experiences and opportunities on undeveloped lands.

TVA disagrees that the eight CEs of other agencies do not support the new CE. The CEs of other agencies need not be identical to TVA's CE to provide support; these CEs are comparable, similar and relevant to TVA's CE because they address the same types of actions.

An example action listed in the proposed CE 22 was the ''stabilization of sites.'' TVA notes that dispersed recreation sites such as trails or primitive campsites are more likely to be much smaller in size than developed TVA recreation sites that are more accessible to the public (*e.g.,* campgrounds, picnic areas, trailheads). Establishing and maintaining a dispersed recreation site typically requires less intense, smaller-scale activities. The stabilization of dispersed recreation sites or facilities differs from the stabilization of shoreline addressed in the NRP. The term ''stabilization of sites'' in the context of dispersed recreation management may apply to minor actions at a discrete site or portion of a site or facility to address overuse or erosion or to make the site or facility more resilient to impacts. For instance, rock cribbing may be added along a trail to address erosion or wear from use. To stabilize the trail section or campsites, TVA would ''harden'' the site to concentrate impacts to one area (*e.g.,* a tent pad) and reduce impacts to adjacent vegetation and soils consistent with Leave No Trace principles. Because the term ''hardening of sites'' is a term more often used by TVA specialists and outdoor recreation professionals than ''stabilization of sites,'' TVA has revised the CE to include both ''hardening'' and ''stabilization'' of site. The change would be a better example of a covered action because it is more familiar.

Comment: TVA should either adjust CE 23 so that it complies with the requirements of NEPA, or it should withdraw it as a CE.

Response: TVA revised this CE to include example activities and to add a spatial limitation on activities. The examples improve clarity and transparency regarding the types of actions that fall under the CE; the spatial limitation is included to ensure that the CE is not used for projects that would result in significant environmental impacts. Because these are the only revisions proposed by TVA for this CE, TVA did not provide additional analysis in the Supporting Documentation as it did for new CEs. TVA has not developed and does not foresee the potential development of public use areas in the manner described by the commenter. Further,

under CEQ regulations and the final rule (§ 1318.200(c)), any use of CEs that would result in the impermissible segmentation of a larger project into smaller parts is prohibited.

Comment: Proposed CE 24 lacks specificity and should be either revised by TVA so that it complies with the requirements of NEPA or withdrawn.

Response: The revisions to this CE do not expand its scope. TVA has changed the definition to improve clarity and added an example of recreational use that has commonly been covered under this CE in the past, as discussed in TVA's Supporting Documentation. The term ''minor'' will remain in the CE to serve as a limit; a reasonable interpretation will continue to be applied to the term. Because the changes to the definition are minor and the scope of the category is not expanded, the Supporting Documentation provided only a summary of the changes.

Comment: Proposed CE 25 would allow TVA to sell, lease, or transfer land, as well as the accompanying mineral rights, land rights, and structures, as long as TVA determines that these acts are ''minor,'' a term that, left undefined and without appropriate context or other limits, provides TVA unfettered discretion. TVA should revise the CE to comply with NEPA or withdraw the CE.

Response: TVA's changes to the definition of this CE are intended to clarify the actions covered and to add examples of actions (*e.g.,* rights in ownership of permanent structures); CEQ encourages the inclusion of examples in the definitions of CEs. The definition includes ''lease'' to reflect that all transfers of property or rights would be covered; impacts of leases of properties are substantially similar to property transfers. The term ''minor'' remains in the definition of the CE as a narrative limitation. TVA will continue to apply a reasonable interpretation to this term and will ensure that the CE is not applied to major actions with significant environmental effects. The use of the term ''minor'' does not give TVA unfettered discretion to apply the CE without context or limits. The plain meaning of this term as well as the ''extraordinary circumstances'' provision would limit TVA's discretion. TVA notes that the other agency CE definition identified by the commenter includes stipulations to review proposals for impacts and extraordinary circumstances. Because TVA's process for determining whether it is appropriate to apply any CE to a proposed action requires a review of extraordinary circumstances and the proposed action's impacts, adding such text to this CE definition is unnecessary. TVA has adopted the final rule to ensure that its decisions are made in accordance with the policies and purposes of NEPA.

Comment: Proposed CEs 24 and 25 are too broad and could be misconstrued. TVA should break the CEs into multiple, separate CEs to improve clarity.

Response: Based on TVA's experience in applying CEs 24 and 25 since 1980, the types of actions that may be covered under the CEs are not too broad or subject to misapplication. Actions of each category are reasonably similar in nature and potential impacts from actions in each category are generally similar. In revising its procedures, TVA weighed each CE to determine whether the category should be broken into separate CEs to improve clarity. In some cases, TVA identified a need to split categories but in other instances, had no reason to create new CEs based on past experiences. TVA determined that while some clarification may be found in splitting certain CEs, it must also consider the merit of minimizing changes to its list of CEs. Where a need was not evident, as in the case of these two CEs, TVA opted to not make additional revisions to its procedures.

Comment: Proposed CE 26 lacks specificity; it should be revised to comply with NEPA or withdrawn.

Response: The comments do not specifically address the addition by TVA of an example action covered by the CE. The only proposed change to this CE is the replacement of the term ''boat docks'' with ''boat docks and ramps.'' This is needed to clarify the types of actions addressed by this CE. TVA's Supporting Documentation addresses this change; TVA did not provide additional analysis in the documentation because no other changes were proposed. The term ''minor'' has been used in this CE since 1980 and is understood by TVA staff. CEQ and TVA procedures forbid segmentation of activities. For reasons stated above, TVA did not establish documentation requirements for its CE.

Comment: The Department of the Interior expressed concern over the potential damage to existing shoreline habitation for vegetation and other aquatic life resulting from new boat ramps and the installation of minor shoreline structures or facilities (covered under CEs 26 and 27).

Response: Approvals of minor shoreline structures and facilities are among TVA's most commonly reviewed actions. As explained in the Supporting Documentation for the CEs, TVA reviews up to 2,000 approvals under Section 26a of the TVA Act annually. Many such actions have included construction by TVA or others of boat ramps. Boats ramps are included in the text of CEs 26 and 27 to provide clarity about their inclusion in actions covered under these CEs. TVA specialists complete an environmental review checklist (*i.e.,* CEC) for each of these actions to ensure that there are no extraordinary circumstances associated with the proposal. The impacts to shoreline habitation for vegetation and other aquatic life is considered during the review. The standard permit conditions applied to permit holders further reduce the potential for adverse impacts.

Comment: TVA should either revise or withdraw CE 27 because it lacks specificity and does not comply with the requirements of NEPA. The CE should be revised to correct that bank stabilization is a management practice.

Response: As noted above, TVA reviews up to 2,000 actions a year involving installation of shoreline structures, primarily in response to applications by private homeowners residing along reservoir shorelines. This CE was added to TVA's procedures because the CE established for such actions in 1980 did not explicitly allow TVA to apply the CE for its own actions, despite the fact that the impacts of such TVA projects are substantially the same. Such actions, whether conducted by applicants or TVA, are very common, as noted in TVA's Supporting Documentation.

The spatial limitation of 0.5 mile for stabilization projects is intended to ensure that actions under this CE are minor in nature. To identify a spatial limit for the definition of this CE, TVA reviewed environmental records of over 800 separate actions to identify an appropriate limit to the distance for the length of stabilization projects. The Supporting Documentation notes that over two dozen EAs completed by TVA for shoreline or streambank stabilization and/or installation of riprap materials were reviewed, with an average length of over 1.5 mile of riprap per project. When considering past projects that were categorically excluded, the average length of projects was found to be smaller than 1.5 miles. Rather than establish a 1.5-mile limit based on TVA's evaluation of past EAs for shoreline or streambank stabilization, TVA establishes a shorter linear distance as a limit because most of the projects it reviews are much shorter than 1.5 miles in distance. TVA identified 0.5 mile as the spatial limit for the CE because TVA experience in

numerous projects supports at least this distance.

Based on the suggestion by a commenter, TVA made a minor grammatical revision to the definition of CE 27 in the final rule to improve clarity.

Comment: The Department of the Interior requested that TVA consider modifying Proposed CEs 27 and 33 due to the impact they may have on aquatic life along the shorelines. The proposed CEs may not encompass all problems that would face construction on the shorelines. For significant projects TVA might even be able to consult the U.S. Fish and Wildlife Service without the use of CEs.

Response: TVA acknowledges that stabilization actions under the CE have the potential to directly impact benthic fauna and other aquatic habitat. TVA reviews each proposal for potential impacts to sensitive resources, including federally protected species. Such reviews would continue under the CEs as TVA reviews for extraordinary circumstances (as noted above, TVA has revised its extraordinary circumstances as suggested by the Department of the Interior to clarify the review for impacts to federal special status species). TVA has revised its Supporting Documentation to address potential impacts to benthic fauna and other aquatic habitat; the draft Supporting Documentation released for public review should have addressed these potential impacts. Based on experience and extensive environmental review of past projects, TVA has determined that such actions would not result in significant environmental impacts.

Comment: TVA should either revise proposed CE 28 so that it complies with the requirements of NEPA or withdraw it.

Response: The scope of CE 28 is limited to minor land allocation modifications and would not affect broad swaths of lands. TVA has made several revisions to the CE in the final rule.

TVA revised the definition of the CE to clarify that the only modifications to land use plans covered by the CE are changes to land use allocations. In addition, the CE would only apply to such allocation modifications that are proposed ''outside of a normal planning cycle.'' This clarification is added because TVA only considers minor allocation changes outside of a normal planning process under limited circumstances. TVA's land plans and policies (*e.g.,* NRP, Comprehensive Valleywide Land Plan, Land Policy, and Shoreline Management Policy) limit the types of revisions that can be made to land plans prior to development of the next plan for that reservoir. Outside of a normal land planning cycle, revisions to land use allocations in land plans can be made to correct administrative errors that occurred during the planning process. Further, land use allocation changes occurring outside of a normal planning cycle are to be made consistent with TVA's Land Policy. Specifically, the Land Policy provides, ''TVA shall consider changing a land use designation outside of the normal planning process only for water-access purposes for industrial or commercial recreation operations on privately owned backlying land or to implement TVA's Shoreline Management Policy.'' Allocation changes for other purposes would occur during the normal land planning process. Updates to land plans within the normal land planning cycle, whether it be for a portion of a reservoir, an entire reservoir, or a group of reservoirs, involves the preparation of an EA or EIS. The new CE would apply to land use allocations outside of a normal planning cycle and would not apply to land planning efforts within the normal planning process.

Also, TVA made minor revisions to the scope of the CE. The proposed CE addressed four types of land use plan modifications: Changes to address minor administrative errors; changes to incorporate new information (when consistent with a previously-approved decision); allocation changes to a more restrictive or protective allocation; and minor allocation changes to implement TVA's shoreline and land management policies. Upon further review of the CE and after considering the public comments, TVA removed from the scope of the CE the amendments to land use allocations to a more restrictive or protective allocation (if consistent with other TVA plans and policies). Such proposals are unusual and would not generally occur outside of the normal planning process. In addition, TVA added a spatial limitation of 10 acres to the final action covered by the CE, thereby limiting the amount of land affected by a land use allocation modification that occurs outside of a TVA planning cycle. The acreage limit is similar to the general limitation applied to other CEs in the final rule.

TVA notes that the ''shoreline or land management policies'' referenced in this CE are those relating to the Shoreline Management Policy and TVA's Land Policy. TVA has revised its discussion of this CE in its Supporting Documentation to provide additional explanation and background information on its land use planning practices and the types of actions and requests that may precipitate the need to consider such minor land use allocation changes.

TVA disagrees that the cited EAs and EISs and the benchmarked CEs of other agencies do not provide support for this CE. TVA finds that because those EAs, EISs and other agency CEs concern similar project with similar scopes, they provide additional support for TVA's determination that allocations changes that are minor and limited in scope do not result in significant environmental impacts. Other assertions made regarding the segmenting of actions contemplated in a tiered programmatic document and the need for documentation requirements are addressed by TVA in other responses.

Comment: TVA should either revise CE 29 so that it complies with the requirements of NEPA or withdraw it. The acreage limitation is too large for actions in these habitats. In addition, TVA may segment such activities, which is not appropriate, and does not provide sufficient information in its Supporting Documentation to substantiate the new CE.

Response: Based on extensive experience in conducting minor natural resource management actions, TVA has determined that certain actions would not result in significant environmental impacts. As noted in the Supporting Documentation, TVA has proposed this CE to more efficiently implement projects to maintain or restore the natural functions of these resources, consistent with objectives in its NRP and other TVA policies.

After publication of the Notice of Proposed Rule, TVA staff had further deliberations about the acreage figure identified in the definition of CE 29 that was intended as a spatial limitation for this category of actions. TVA had proposed that a 125-acre limitation would generally apply for the CE because, as discussed in the Supporting Documentation, the limitation would be consistent with limitations of other proposed CEs. Based on additional consideration, a limitation of 10 acres is more appropriate given the sensitive nature of wetland, riparian and aquatic ecosystems. In addition, the 10-acre limitation more accurately reflects TVA's past experiences in implementing projects in these types of ecosystems. The definition of CE 29 was revised accordingly in the final rule.

When applying CE 29, TVA would use a CEC to determine whether extraordinary circumstances exist for each proposed action. Qualified TVA specialists will review whether the actions have the potential to significantly impact environmental

resources and will consider whether measures are necessary to mitigate impacts and resolve extraordinary circumstances. Existing current resource data will be used or new field data will be obtained when needed. The final rule provides that during this review TVA may resolve the potential impacts through mitigation. The CEC review ultimately determines whether it is appropriate to use a CE for the action or whether additional environmental review is needed. The use of a CE for an action does not relieve TVA from compliance with other statutes or consultations, including, for example, the ESA or NHPA.

CEQ regulations prohibit the practice of segmenting projects into smaller components in order to avoid finding a significant impact of a project considered as a whole. TVA complies with this regulation, as reflected in § 1318.200, which includes direction to avoid segmenting larger projects into small parts when applying CEs. Environmental staff is responsible for screening out this type of activity and ensuring that larger projects are reviewed in their entirety. TVA staff would not use CE 29 for restoration or enhancement activities that are proposed across a wide area, as asserted; the CE would be used for discrete actions within the same area or immediate vicinity.

TVA disagrees that the Supporting Documentation is insufficient. The NRP EIS and other cited NEPA records provide important support that these restoration and enhancement actions do not typically result in significant environmental impacts. The NRP EIS states that TVA would conduct ''appropriate'' levels of review when specific implementing actions are proposed; it does not state that EAs or EISs would be necessary to review minor, implementing activities. As previously stated, the Supporting Documentation is intended to provide information to substantiate TVA's determination that certain actions do not result in significant impacts. CEQ's 2010 guidance affirms that agencies may rely on previously implemented actions and associated NEPA records to substantiate new CEs; TVA does not find that it is inappropriate to cite only to TVA EAs or EISs to support this and other CEs. TVA notes that the Supporting Documentation also provides supporting information from very similar CEs promulgated by other federal agencies, including agencies with land management and conservation responsibilities (*e.g.,* the Forest Service, Department of Homeland Security, Fish and Wildlife Service, and the Natural Resources Conservation Service).

Comment: TVA should either revise CE 30 so that it complies with the requirements of NEPA, or withdraw it.

Response: TVA cites to previous responses regarding the potential for segmentation of actions, the NEPA documents cited by TVA in its Supporting Documentation, and the appropriateness of using a CE for NRP implementing actions.

In addition, comments also asserted that two of the 19 CEs cited by TVA in benchmarking provide insufficient support for CE 30. TVA included several examples of actions in CE 30, as was done by the Bureau of Land Management for its CE C8. TVA cites to six Forest Service CEs and addresses the comparability in the Supporting Documentation, acknowledging that certain Forest Service CEs do not directly address certain TVA actions in CE 30. When benchmarking to other agencies' experiences, as described in the Supporting Documentation, TVA found numerous applicable and comparable CEs that provide additional support to TVA's determination that such actions qualify for a CE.

Comment: Proposed CE 31 lacks specificity, impacts of such actions are significant, and cited EAs, EISs, and benchmarked CEs do not support TVA's determination. TVA did not take a hard look and is playing a shell game by establishing a CE for actions addressed under programmatic NEPA, and documentation should be defined in the final rule. For these reasons TVA should revise or withdraw the CE.

Response: The comments relating to the definition of the CE (*e.g.,* use of the limiting terms and failure to specify the geographic area when conducting actions), the potential that such actions may result in significant impacts, the adequacy of the EAs and EISs cited in the Supporting Documentation, and the appropriateness of using CEs for certain natural resource program actions have been previously asserted; the responses above are equally applicable here.

Again, TVA notes that information in the Supporting Documentation includes a summary of relevant NEPA documents to substantiate CE 31. The experiences of TVA and the implemented projects cited by TVA in the document support TVA's determination that such activities, when limited, would not result in significant impacts. The CEs of other agencies cited in the document provide further support; TVA notes that the Forest Service and Bureau of Land Management CEs are similar in nature but acknowledges in the Supporting Documentation that there are differences (*e.g.,* in spatial limitations). TVA believes, however, that these CEs of the other federal agencies address similar activities as TVA's CE 31 and provide additional support for TVA's determination.

Comment: TVA should either revise CE 32 so that it complies with the requirements of NEPA or withdraw it.

Response: TVA disagrees that the CE lacks sufficient specificity or clarity. TVA staff in NEPA, Environmental Operations and Compliance, and Natural Resources reviewed the definition of the CE and found that actions specified therein are clear and well-understood. The CE is defined to describe common actions conducted by TVA to manage invasive plants. These actions do not result in significant environmental impacts if conducted in adherence to the spatial limits. TVA has extensive experience in conducting these types of vegetation management actions and, as noted in the Supporting Documentation, has reviewed similar actions under a CE in the past. TVA has determined that for many natural resource management actions that would implement its NRP, the CE provides an appropriate level of site specific environmental review.

As previously stated, TVA would conduct a review of all actions falling under this CE using a CEC to determine whether extraordinary circumstances exist and document its findings. Qualified TVA specialists will review whether the actions have the potential to significantly impact environmental resources, including sensitive bat species, and will consider whether measures are necessary to mitigate impacts and resolve extraordinary circumstances. The CEC checklist review ultimately determines whether it is appropriate to use a CE for the action or whether additional environmental review under an EA or EIS is needed. TVA also disagrees with assertions relating to the relevance of the benchmarked CE of the Forest Service; the Forest Service CE includes vegetation control activities, including the application of herbicides.

Comment: TVA's procedures for project planning under proposed CEs 29, 30, 31 and 32 are unclear. TVA stated in its NRP EIS that it would perform ''site and/or activity-specific environmental reviews'' for such activities. If the activities are covered under the CEs, what environmental review process will TVA use?

Response: TVA's determination that certain natural resource management actions would not result in significant environmental impacts is based on extensive experience in conducting

these minor actions. As noted in the Supporting Documentation, TVA has conducted many of these actions under CEs in the past. TVA has determined that for many actions addressed under its NRP, the CE provides an appropriate level of site-specific environmental review. As noted above, CEs are not exemptions or waivers of NEPA reviews and TVA would conduct a review of all actions falling under CEs 29, 30, 31, and 32 using a CEC. Qualified TVA specialists review each action to determine whether it is appropriate to use a CE for the action or whether additional environmental review in an EA or EIS is needed due to any extraordinary circumstances. The use of a CE for an action does not relieve the TVA entity from compliance with other statutes or consultations, including, for example, the ESA or NHPA.

Comment: Proposed CE 35 lacks the specificity required by CEQ and NEPA to ensure that actions would have little potential for significant impacts. Commenters suggested various changes, including eliminating the CE entirely, removing groundwater supply wells from the category of actions, applying a low volume limit on covered water supply wells, eliminating its applicability to other types of wells (*e.g.,* oil and gas), and providing clarification for determining what is ''low potential'' during site characterization. The water quality incident in Shelby County, Tennessee, reflects the need for more stringent reviews under NEPA and it would be inappropriate to apply a CE for water wells.

Response: Based on consideration of the comments received, TVA has revised this CE to apply a limit to the installation or modification of low-volume groundwater withdrawal wells. TVA had not intended the CE, as proposed, to be used for installing wells for high volumes of water withdrawal. For wells with such high volumes of withdrawal, TVA would complete an EA or EIS of such actions, as was done at TVA's Allen Fossil Plant.

By comparison, TVA has extensive experience installing small-scale groundwater monitoring and withdrawal wells, including low-volume wells for potable water use at facilities in remote locations (*e.g.,* campgrounds). TVA does not agree with one commenter's assertion that there is a substantial difference in the types of potential environmental impacts associated with establishing and operating groundwater withdrawal wells for supply and groundwater withdrawal wells for monitoring, based on TVA's experience in installing and conducting environmental reviews for low-volume groundwater withdrawal wells. As noted in the Supporting Documentation, the digging, drilling, boring and associated activities that occur when wells are installed do not vary greatly based on the well's purpose. The scope of work is similar whether the well is installed for water withdrawal or water monitoring.

Regarding comments on plugging of wells, TVA agrees that there are differences in the nature of plugging of groundwater wells and oil or gas wells at the end of their operating lives. However, the commenter's specific concerns about oil or gas wells relate to the potential for adverse effects that these wells pose if not properly plugged, rather than the impacts associated with TVA's actions to plug groundwater wells. The intent of plugging groundwater wells is to address the threat to public safety and water and air quality posed by the wells. To reduce the potential for confusion regarding what the ''abandonment'' of a well involves, TVA revised the text of the CE in the final rule by deleting ''and abandonment'' from the text and adding clarification that wells would be plugged at the end of their operating life.

The CE includes a statement limiting its use to circumstances when there is ''low potential for seismicity, subsidence, and contamination of freshwater aquifers.'' The inclusion of this text ensures that TVA reviews for the potential for such circumstances prior to determining whether a CE may be used for an action. Those qualified to make such determinations would be employed to make such determinations. Information provided in the Supporting Documentation provides an adequate summary of TVA's experience, previously implemented actions, and benchmarking to other agency CEs.

Finally, TVA received numerous comments stating that the water quality incident at its Allen plant in 2017 is a result of its installation of wells for cooling water. Studies do not show a link between the TVA action and the poor water quality findings. Equally important, this CE is not for high-volume withdrawal wells such as those at the Allen plant. To ensure its application only to small, local groundwater withdrawal wells, the definition of the CE was revised to further limit the application of this CE to ''low-volume'' withdrawal wells, ''provided that there would be no drawdown other than in the immediate vicinity of the pumping well and that there is no potential for long-term decline of the water table or degradation of the aquifer.''

Comment: CE 36 sweeps in far too much, and would exempt from NEPA review exactly the sort of activities that should be reviewed under NEPA. CE 36 should be withdrawn, or at the very least, TVA should promulgate requirements that would require that application of CE 36 be documented and be made publicly available on TVA's website.

Response: As previously noted, CEs are not exemptions from or waivers of NEPA review; they are simply one type of NEPA review. Among the actions falling under CE 36 are some of TVA's most common, routinely implemented actions to maintain operations of its facilities and equipment. Covered actions are very minor, with little or no new ground disturbance, and a minor potential for new pollutant emissions streams. This CE only applies to existing buildings, infrastructure systems, facilities and grounds, and operating equipment at TVA locations; actions that require new or revised permits are not covered by this CE.

As demonstrated in the Supporting Documentation, TVA has many years of experience with the routine operation, repair or in-kind replacement, and maintenance activities for existing buildings, infrastructure systems, facility grounds, and operating equipment. Many of these activities are considered so routine, and have been repeated so often that TVA estimates it has documented the lack of significant impacts of these types of actions in hundreds of CEs. Based on over 30 years of experience with assessing the impacts of the actions covered in CE 36, TVA believes that in the absence of extraordinary circumstances, these are repetitive actions that have been shown to have negligible effects. Decisions about the appropriate level of NEPA review for TVA actions are made by qualified environmental specialists, staff attorneys, and informed project managers, based on project descriptions including maps, photographs and drawings as appropriate. A project screening review team facilitates this process.

The terms used in the definition of the CE (*e.g.,* routine, in-kind, replacement, maintenance) are well understood by TVA staff. The CE provides clarification of how these terms are used and terms are given context through the examples. In the third sentence, the term ''substantial change'' is used when describing a limitation: The category does not include actions that result in a substantial change in the design

capacity, function, or operation of a facility, system, or equipment. TVA notes that this term refers to the extent to which an existing facility, system or equipment is changed, rather than the extent to which those changes would affect the environment. As stated in the second sentence of the CE, actions would be limited to those which do not alter the current condition or location of the facilities, systems or equipment for use for designated purposes. TVA notes that portions of these statements are based on the definition of the Department of Energy (DOE) CE (B1.3), which includes similar factors that constrain its use. Nevertheless, TVA has deleted the term ''substantial'' from this sentence to avoid potential confusion by TVA staff in the application of the CE. Likewise, TVA also reviewed the use of the word ''substantially'' under item (a) of CE 36 and has deleted it from the description of the example action to avoid confusion.

Commenters also assert that ''a category of action is only appropriate for a CE if those activities are incapable of causing significant environmental impact'' and that ''[f]or something to be categorically excluded, it should never have significant environmental effects.'' However, Federal agencies, in developing their NEPA procedures, are required to consider extraordinary circumstances in which a normally excluded action may have a significant environmental effect.'' See 40 CFR 1508.4. CEQ describes such extraordinary circumstances as ''factors or circumstances in which a normally excluded action may have a significant environmental effect. . . .'' (75 FR 75629, December 6, 2010). CEQ's recognition that there are circumstances in which a category of actions that are categorically excluded may nevertheless result in significant impacts serves to caution agencies to use the ''extraordinary circumstances'' provision to cull out any particular action from a CE category that may have a significant effect. In TVA's Supporting Documentation, TVA described categories of actions that do not have significant impacts, but was mindful that extraordinary circumstances may exist that apply an exception to the rule.

In the June 2017 release of the document, TVA's use of the terms ''typically'' or ''normally'' in some CEs was apparently misinterpreted by some commenters. TVA's intent for each of its conclusions for each category of actions is to affirm that it has determined that the actions do not result in significant impacts, under normal circumstances. The use of terms like ''typically'' or ''normally'' should not be interpreted as determinations by TVA that these activities have significant impacts. The Supporting Documentation has been revised, where appropriate, to avoid such confusion.

Comment: The Virginia Department of Historic Resources expressed concern with the wording in CE 36 that refers to structures less than 50 years old that will receive routine maintenance. This official suggested that TVA include the need to consider historic properties in the introductory section on ''extraordinary circumstances.''

Response: Under the final rule, TVA has included the potential for an action to significantly impact cultural or historic resources as an extraordinary circumstance to consider prior to use of a CE (§ 1318.201(a)(1)(iii)). Because actions under CEs 36 and 37 pertain to maintenance and potential modifications to buildings and structures, TVA included text to the examples listed under CEs 36 and 37 that limit the application of these CEs to activities at structures and buildings that are less than 50 years old. This limitation is intended to ensure proper consideration of potential impacts to cultural or historic resources and of the possible need to conduct consultation under Section 106 of NHPA. As noted above, TVA also added to the final rule a statement that the use of a CE for an action does not relieve TVA from compliance with NHPA.

Comment: Proposed CE 37 is inconsistent with the requirements of NEPA, and the actions covered by proposed CE 37 are exactly the sort that should be subjected to NEPA analysis. It is inappropriate to benchmark to the DOE's CEs. TVA should withdraw the CE.

Response: TVA has extensive experience in completing routine and minor actions to modify, upgrade, uprate and complete other activities at its existing facilities, grounds and equipment. The covered actions are necessary to maintain current facility infrastructure, grounds, and equipment. In addition to the spatial limitation (10 acres) applying to this CE, several additional limitations are included in the definition of actions listed under items (a) through (g).

Since 1980, activities under CE 37 have been categorically excluded under 5.2.1 of TVA's previous procedures. TVA believes that replacing the very broadly defined and widely used CE 5.2.1 is necessary to provide more specific definitions and examples to TVA staff of categorically excluded actions. Generally, TVA's consideration of such activities would not change; the level of review would be similar under the final rule. Under CE 37, TVA will conduct a review of the proposed action using its CEC. The determination of the potential for any significant impact due to extraordinary circumstances is made during the completion of the CEC review by a qualified multidisciplinary team of experts. Should extraordinary circumstances reflecting the potential for significant effects be identified during this review, TVA staff would complete a higher level of NEPA review.

TVA's statement in its Supporting Documentation that such actions ''under normal circumstances'' do not have a significant effect on the human environment articulates TVA's determination that a CE is appropriate for these actions, if TVA verifies that no extraordinary circumstances exist that may require TVA to conduct additional environmental review. TVA notes that the examples given by the commenter (such as boiler expansions that would dramatically change the output of a generator or the lifespan of the unit) are not covered under this CE because such components are major pieces of equipment (under item (a) of the CE). Further, the definition of the CE specifically limits its use under item (b) to modifications that do not substantially change emissions or discharges beyond current permitted levels. Other limitations are included in items (e), (f) and (g), which provide additional factors for consideration prior to use of the CE. TVA found that the DOE CE is similar in nature and provides additional support for TVA's determination that such actions, as limited, do not result in significant impacts.

Comment: The current language of proposed CE 38 is too broad and would allow TVA to construct new facilities anywhere without the completion of an EA or public input.

Response: The construction of new buildings and associated infrastructure in small areas are activities common to TVA. TVA has extensive experience in conducting environmental reviews of actions impacting less than 10 acres of land previously not disturbed by human activity or 25 acres of land so disturbed. TVA's extensive experience and environmental records support its conclusion that such actions, as limited in the CE, would not result in significant impacts. TVA notes again that CEs are not exemptions or waivers of NEPA review; rather, they are simply a type of environmental review. TVA will continue to review proposed actions to ensure that extraordinary circumstances are not present that would prevent the application of this CE. The appropriate reliance on CEs to

consider minor actions with little potential for significant effects provides a reasonable, proportionate, and effective analysis of the impacts of the action.

CE 38 would not apply to the siting, construction, and use of new power generating facilities. The CE is intended to address only buildings and associated infrastructure (*e.g.,* parking areas, utility lines serving the building). To improve clarity, TVA added an example of associated infrastructure to the definition of the CE. After considering the comment, TVA reviewed its Supporting Documentation and revised the discussion to clearly express TVA's intent that the CE would not apply to new construction of power generation facilities.

Comment: TVA should change the 10-acre limit in proposed CEs 38 and 43 to 5 acres and the 25-acre limit to 10 acres, respectively.

Response: The suggestion is noted. The commenter did not explain why the suggested limits would be more appropriate. TVA's own experience provides adequate justification for the use of these limits.

Comment: The Department of the Interior recommended adding the installation or replacement of small scale bridges to the listed actions under this CE (when such structures may facilitate improved fish and wildlife passage) and suggested that TVA evaluate potential modifications to existing roadways that intersect aquatic resources as to make sure a beneficial impact is occurring for aquatic resources. The Department also noted that TVA should evaluate how it will address the potential impacts from constructing or replacing culverts and consider modifying CE 42 concerning the issue. Finally, the Department noted that CE 42 allows for ground disturbance pertaining to TVA projects, and recommends modifying the language to encompass parameters when the CE can be used.

Response: TVA's CE for improvements to existing roads, trails, and parking areas includes several example actions; however, covered actions are not limited to the example actions listed. A reasonable interpretation of the CE would allow for limited improvements to roadways that include small-scale bridge installation, particularly if the bridge installation may result in fewer impacts to aquatic resources than culvert installation. TVA acknowledges that road improvement activities may result in impacts to the environment but limits the use of the CE only to minor expansions of existing roads, trails and parking areas, thereby limiting the extent of such impacts. TVA would complete a review using a CEC for each action under CE 42 to ensure extraordinary circumstances and potential impacts of the action are considered.

Comment: Several commenters expressed concern with the scope of actions covered under CE 45. Two commenters recommended that TVA revise its proposed CE 45 and delete items (c) and (d) from the list of covered actions, which address a small number of wind turbines and small-scale biomass power plants, respectively.

Response: Upon further consideration, TVA has removed items (c) and (d) from the list of covered actions of CE 45. TVA reviewed these actions again and concluded that it is unlikely to pursue the installation of wind turbines at its facilities in the foreseeable future. Further, lack of extensive experience assessing the impacts of wind turbines cautioned TVA against placing this category of actions under a CE. For the same reasons, TVA removed actions associated with small-scale biomass power plants from this CE in the final rule.

Comment: TVA should either adjust CE 45 so that it complies with the requirements of NEPA or withdraw it as a proposed CE. CE 45 is too broad in its current language regarding several potential renewable energy activities that would fall under the new CE. According to this commenter, the broad language does not encompass projects that should fall under the NEPA process.

Response: TVA does not consider the CE to be too broadly defined. TVA notes that actions may only be implemented at an existing TVA facility to limit its impacts and reduce the likelihood for conflicts. When reviewing whether an action falls within a CE, TVA must ensure that no extraordinary circumstances relating to the proposed action are present and whether the action has the potential to significantly impact environmental resources (see § 1318.201(a)). Because the potential for significant impacts is considered when determining whether to use a CE, adding such a limit to the definition would be redundant. A TVA interdisciplinary team would review each proposal and complete a review checklist before using the CE.

TVA's Supporting Documentation summarizes TVA's findings and information that supports the establishment of the CEs. Actions covered under CE 45 would only take place if they are consistent with TVA's IRP. The TVA IRP and the types of generation choices that TVA would consider would have already been assessed in the IRP and its EIS. Use of CE 45 (through the completion of a CEC) allows TVA to verify that the site-specific impacts of particular generation choices comports with the analysis in the IRP and its EIS.

As described in the Supporting Documentation, this CE is benchmarked closely with those of other federal agencies, primarily the Department of Energy. TVA grouped different energy actions under one CE because all such actions are renewable energy actions and would only be permitted at existing TVA facilities. Further, CE 45 has limitations: it applies to projects covering less than 10 acres of land previously not disturbed by human activity or up to 25 acres of lands so disturbed, consistent with other spatial limits identified by TVA. As noted above, TVA revised this CE in the final rule and removed the wind turbine and biomass power plants from the list of renewable energy actions covered by the category.

Comment: Proposed CE 45 item (b), which addresses solar photovoltaic systems, should be revised to remove the reference to on-the-ground systems, thereby limiting the category to solar system mountings on existing buildings or structures.

Response: The comment expressing this preference is noted. TVA notes that covered actions would only occur at an existing TVA facility and a spatial limitation would apply.

Comment: We are opposed to any green field development.

Response: Comment noted.

Comment: Commenters expressed opposition to the proposed CE 46 because TVA does not have experience with the construction of drop-in hydroelectric systems. Without this experience, these commenters stated that TVA could not substantiate the CE. According to these commenters, the installation of these hydroelectric systems would disrupt the native biodiversity within the Tennessee River and should not be categorically excluded.

Response: Based on public comment and additional internal consideration, TVA withdrew the proposed CE 46 from the final rule. TVA had proposed the CE to include the installation, modification, operation and removal of small, drop-in, run-of-the-river hydroelectric systems. TVA determined that such actions are not foreseeable.

Comment: Several commenters expressed concern with proposed CE 47, regarding modifications of TVA rate structure. According to two

commenters, TVA bases its claim that actions in this category would not have any significant impacts off previous internal reviews of four NEPA filings, wherein TVA stated that the proposed changes could have ''negligible or minor effects on environmental resources.'' While the scope of those prior rate structure modifications may have been minor, these commenters assert, TVA's intention to pursue a broad rate adjustment and rate change in 2018 may have impacts that are more dramatic.

Response: During the public review period for this rulemaking, TVA made public its intention to consider modifications to its rate structure in 2018. TVA received numerous comments expressing concerns that CE 47 would be used for the 2018 rate change. Although such comments relating to a specific proposal are not within the scope of this rulemaking, TVA notes that it did not propose the CE with any specific proposed modifications to the rate structure in mind. The new CE was proposed based solely on past experience. In the case of the proposed 2018 rate change, TVA completed an EA for the proposal and provided opportunity for public review of the analysis; the EA further supports TVA's conclusion that such actions would not normally result in significant environmental impacts.

Comment: CE 47 would reverse TVA's longstanding practice of analyzing rate changes with rigorous environmental analysis and EISs. The timing of proposing the CE is concerning, given TVA's plan to update their rate structure in 2018 to specifically address the proliferation of distributed energy resources and energy efficiency across their service territory. It is worrisome that TVA would try to exempt rate changes from environmental analysis just months before a proposed rate change that might affect how renewables and energy efficiency are priced.

Response: As noted above, TVA did not propose the CE with any specific future proposed modifications to rate structure in mind and completed an EA in 2018 to consider the 2018 rate change proposal. TVA NEPA staff first identified the category for consideration as a potential CE more than five years ago, after completing numerous reviews of similar proposals that TVA concluded would result in no significant impacts.

TVA's experience in reviewing prior rate changes serves to support the conclusion that such actions do not typically result in significant environmental impacts. According to CEQ, such longstanding practices can be used to provide supporting information for the establishment of a CE.

Based on further internal deliberation and consideration of public input, TVA revised CE 47 to simplify it and to omit from the CE's scope any modification that results in minor increases in energy generation. TVA had proposed to apply a reasonable interpretation of the term ''minor increases'' when applying the CE in the future. However, TVA determined that further limiting the use of the CE to only actions that result in no predicted increase overall TVA-system electricity consumption is more appropriate and ensures that no significant impacts would result from the action.

Although a proposed action may meet the definition of a CE (*i.e.,* may fall within the category of actions), TVA may determine that it would be more appropriate to conduct a more thorough review. According to the final rule, TVA staff would first review the proposal to ensure that it meets the definition of the CE and its limitations. Then, TVA would review the proposal and determine whether any of the extraordinary circumstances defined in § 1318.201 may occur. As described in the Supporting Documentation, TVA interdisciplinary staff completes a Categorical Exclusion Checklist to verify that there are no extraordinary circumstances and to ensure that the action has no potential for significant environmental impacts. If extraordinary circumstances are present and cannot be resolved or the potential for significant impacts exist, TVA would complete a more rigorous analysis in an EA or EIS of the proposed action. Under the final rule, TVA may consider providing public notice when a CE is used if it is determined that the public may have relevant and important information relating to the proposal that will assist TVA in its decisionmaking.

Comment: The definition of CE 47 lacks specificity for ''minor'' increases and the scope of extraordinary circumstances that would constitute the need for an EA or EIS.

Response: As noted above, TVA has revised the CE's definition to exclude proposals that may result in increases in overall energy use. TVA's procedures directing staff to consider whether the ''significance of the environmental impacts . . . is or may be highly controversial'' are consistent with CEQ's significance criterion (40 CFR 1508.27(4)), which directs agencies to consider ''the degree to which the effects on the quality of the human environment are likely to be highly controversial.'' Guided by existing case law as to what constitutes ''highly controversial'' actions, TVA will consider controversy over the nature and scale of the impacts (*e.g.,* scientific disagreement relating to the potential impacts), as opposed to mere opposition to a federal project. TVA agrees that it may not be appropriate to use a CE for certain rate change proposals if extraordinary circumstances are present, if TVA finds there to be potential for significant impacts, or if additional review is needed to improve the decision-making process.

Comment: TVA's claim in its Supporting Documentation that CE 47 would have similar scope as the DOE CE is inaccurate because the DOE CE includes limitations that CE 47 does not include (referring to DOE CE B1.1 and DOE CE B3.4).

Response: The new CE established by TVA for minor rate modifications is based on TVA's own past experience. The DOE's experience provides additional support for the establishment of a CE for TVA rate change proposals with certain limitations applied. TVA acknowledges that the DOE's mission differs from its own, and the Bonneville Power Authority region differs from the Tennessee Valley region. TVA acknowledges that there are differences in the scope of the DOE CEs and TVA's CE 47. As addressed in the Supporting Documentation, DOE analysis of its CEs draws similar conclusions as TVA's analysis of CE 47: That impacts to the environment would occur only if the rate change involved changes to the operation of generation resources. Accordingly, TVA has limited use of this CE to actions that result in no predicted increases in overall energy use (including any change that may result in system-wide demand reduction). Because of the limitation, and based on its own experience, TVA has determined that such actions do not result in significant environmental impacts.

D. Comments on Subpart D—Environmental Assessments

Comment: TVA's NEPA procedures addressing the circulation of findings of no significant impacts for public comment are inconsistent with the CEQ Regulations and guidance.

Response: To ensure consistency with CEQ regulations at 40 CFR 1501.4(e)(2), TVA revised § 1303(d)(1) in the final rule. As previously noted, TVA's procedures do not supersede the CEQ regulations.

Comment: TVA's NEPA procedures for EAs discourage early public involvement in projects and are contrary to the CEQ Regulations, which requires agencies to consider whether public

comment is ''practicable,'' not whether the public has already been involved. TVA procedures do not reflect CEQ requirements to provide public review of an EA. Where TVA decides that an action described in § 1318.400(a) does not need an EIS, the agency must discuss the basis for this decision in a document that is made available to the public ''upon request.'' Under § 1318.301(c), the EA will be circulated to the public for review and comment, but under § 1318.400(b), the public has to request the document containing the basis for the agency's decision not to prepare an EIS (normally provided for in an EA), and no public comment occurs. TVA should fix this contradiction.

Response: The comments address a contradiction between §§ 1318.301(c) and 1318.400(b). TVA has deleted the phrase ''upon request'' from § 1318.400(b) to make clear that the EA that forms the basis for not preparing an EIS for actions falling within the categories specified in § 1318.400(a) will be made available for public review.

Further, § 1318.301(a) of the proposed rule has been revised to include text from TVA's previous procedures, established in 1980, regarding public involvement in the preparation of an EA that TVA had proposed to remove from this section. After considering public input on § 1318.301(a), TVA decided to include the text (with minor edits) because it provides general guidance for determining the appropriate level of public involvement in the EA process. In the final rule, TVA also retains the sentence providing that the public's prior involvement may be also considered because often, a TVA EA process occurs concurrently with another regulatory process or environmental review by another agency. During other regulatory processes, the public is often provided a meaningful opportunity to comment on the environmental impacts of a proposal. When this occurs, TVA will integrate the public review opportunity provided by the other regulatory process into its NEPA review. Consideration of this is consistent with CEQ's regulations requiring an agency to involve environmental agencies, applicants and the public to the extent practicable (40 CFR 1501.4(b)), to reduce delays in the NEPA process (40 CFR 1500.5), and to integrate the requirements of NEPA with other planning and environmental review procedures (40 CFR 1500.2).

Comment: TVA's procedures for supplementing EAs are inconsistent with NEPA and the CEQ regulations.

Response: TVA revised § 1318.304(a) in the final rule to clarify that TVA would consider supplementing an EA when there are ''important components of the proposed action that remain to be implemented.'' This text was also added under § 1318.406 addressing supplementing EISs. TVA will continue to comply with CEQ regulations addressing the supplementation of NEPA documents, including those relating to circulating supplemental documents for public review.

Comment: TVA's procedures are flawed because TVA arbitrarily and inaccurately paraphrases the scope of analysis required in EAs and EISs.

Response: TVA's NEPA implementing procedures supplement but do not supersede CEQ's NEPA regulations. Under § 1318.302(b) of the procedures, TVA elaborates on the requirements for EAs and addresses each of the CEQ requirements. TVA's use of the term ''reasonable alternatives'' is consistent with CEQ guidance on the consideration of alternatives (see CEQ's Forty Most Asked Questions (questions 1 and 2) and Attachment A of its 2016 guidance regarding ''Emergencies and the National Environmental Policy Act'').

CEQ regulations describe EAs as ''concise'' documents that offer brief discussions of environmental impacts, sufficient to determine whether preparation of an EIS is required and to aid in compliance with NEPA when no EIS is necessary. TVA agrees that determining whether significant impacts may occur from an action is the proper scope of the EA. In the final rule, TVA revised the statement of the proposed rule that EAs should address ''important environmental issues'' (§ 1318.300(a)) to state that EAs should address ''issues that are potentially significant.'' TVA will continue to conduct reviews that avoid discussions of trivial or irrelevant matters, consistent with CEQ regulations and guidance.

The final rule does not substantively revise procedures relating to the scope of EISs. TVA notes that § 1318.400(d) cites to CEQ regulations addressing the scope and detail of the EIS (40 CFR 1502.10–1502.18).

E. Comments on Subpart E—Environmental Impact Statements

Comment: Contrary to the requirements of NEPA and the CEQ regulations, TVA proposes to prepare EISs only for a very narrow category of major Federal actions.

Response: When determining the scope of its revision to these procedures, TVA considered whether additional categories of actions should be added to the list of actions normally requiring an EIS. Some revisions were proposed and included in the final rule under § 1318.400(a). After further consideration and review of public comments, TVA includes two new actions that will normally require an EIS in the final rule: the development of integrated resource plans for power generation and system-wide reservoir operations plans.

TVA notes that the first two actions listed under § 1318.400(a) include a variety of types of projects. TVA also notes that examples provided by the commenter of categories of projects addressed by TVA in recent NEPA reviews include several that TVA found would result in no significant impacts to the environment.

Comment: Wind turbine projects are actions that should normally require an EIS.

Response: Comment noted. The appropriate level of NEPA review would be determined by TVA in accordance with §§ 1318.101 and 1318.400. The size and location of proposed generating facilities would be considered prior to determining whether an EIS would be required.

Comment: The procedures addressing the adoption of environmental reviews of other agencies are inconsistent with NEPA and the CEQ regulations. TVA applies under § 1318.407(b), the wrong factors in determining whether an EIS may be adopted, and TVA's procedure relating to what it must do if it is determined that the EIS may not be adopted is inconsistent with CEQ regulations. TVA's procedure under § 1318.407(c), when serving as a cooperating agency, conflicts with CEQ regulations (40 CFR 1506.3(c)).

Response: Based on this comment as well as further deliberation, TVA has revised § 1318.407 in the final rule to ensure that the procedures conform to CEQ regulations. TVA agrees with the commenter that the last sentence of the proposed procedure under § 1318.407(b), which addressed what action TVA would take if it determines that it is not appropriate to adopt an agency's EIS, conflicted with CEQ requirements. TVA revised this statement in the final rule to conform to CEQ requirements. Regarding the comment relating to § 1318.407(c) of the proposed rule, TVA does not find it necessary to restate the CEQ regulation in this case. When TVA concludes that another agency's EIS adequately addresses TVA's proposed action, it is implicit that TVA has determined that the agency addressed TVA's input in a satisfactory manner. Because of revisions, § 1318.407(c) of the proposed rule is now § 1318.407(d) in the final rule.

Comment: The procedures addressing records of decision is inconsistent with NEPA and the CEQ regulations.

Response: TVA made the requested edit in the final rule, omitting the word ''normally'' in § 1318.405(d). TVA notes that § 1318.405(d) and CEQ regulations allow certain preliminary activities that do not result in adverse impacts or limit the choice of reasonable alternatives to occur prior to the issuance of the Record of Decision (40 CFR 1506.1(a)).

Comment: The procedures for developing EISs inappropriately give TVA unfettered discretion and deprive the public of input into key portions of the NEPA process, including scoping, alternatives analysis, and RODs.

Response: Except for minor edits to reflect current TVA organization names, TVA proposed no substantive changes to § 1318.402(a). TVA notes that its procedures clearly state that the initial descriptions of alternatives, environmental issues, and schedules for environmental review are ''tentative.'' Such early descriptions provided by TVA are essential to initial project planning (including identifying needed resources of funds or staff to conduct the review) and represent good governance; they are critical as well in verifying whether an EIS is appropriate.

Based on TVA's experience, it is usually ineffective to initiate scoping for public input without providing the public with basic information about a project or how TVA intends to review the proposal. TVA and other federal agencies find that providing such information during scoping improves the public scoping process and, ultimately, the decision-making process. When conducting scoping, TVA will continue to communicate to the public that its determinations about the proposal are preliminary and that scoping is intended to inform and engage the public in order to receive input. In addition, TVA will continue to comply with CEQ regulations by determining when it is appropriate to hold scoping meetings.

Comment: The procedures addressing the supplementation of EISs are not consistent with NEPA or CEQ's regulations.

Response: In response to this comment, TVA revised the first sentence under § 1318.406. The phrase ''and important decisions related to the proposed action remain to be made'' has been changed to ''and important components of the proposed action remain to be implemented . . . .'' As noted above, TVA made a similar change to § 1318.304(a) for consistency. TVA will continue to comply with CEQ regulations addressing the supplementation of NEPA documents, including those relating to circulating supplemental documents for public review.

Comment: TVA arbitrarily and inaccurately paraphrases the alternatives analysis required in EAs and EISs. Limiting alternative analysis to merely address ''key action alternatives'' is inconsistent with CEQ regulations.

Response: TVA notes that the term ''key action alternative'' was included in TVA procedures promulgated in 1980 and was not used to limit alternative analysis. In the final rule, TVA changed the term ''key action alternatives'' to ''reasonable action alternatives'' (§ 1318.402(g)) to ensure consistency with CEQ regulations. TVA will continue to comply with CEQ regulations and guidance addressing the need to consider reasonable alternatives. The comment also addresses the inclusion of a definition of ''practicable'' in the final rule. TVA notes that its minor revision to this definition is intended to clarify its use in Subpart G of the final rule.

F. Comments on Subpart F—Miscellaneous Procedures

Comment: Procedures addressing mitigation are inconsistent with NEPA and the CEQ regulations.

Response: TVA's revision to this section of the procedures was limited to minor changes to clarify roles and responsibilities and to clarify considerations taken into account when determining whether to modify or delete previously-made mitigation commitments. TVA will continue to comply with CEQ requirements and guidance relating to mitigation. Paragraphs (a), (b), (c) and (d) of § 1318.501 reflect the obligation to identify, disclose, implement and monitor these mitigation commitments. Occasionally, circumstances have arisen that require reconsideration of mitigation commitments (in fact, CEQ addresses some of these circumstances in its 2011 guidance relating to mitigation). In those cases, as stated in the final rule, TVA would consider the environmental significance of changes to commitments before modifying or deleting the mitigation commitments (§ 1318.501(e)). This would ensure that TVA considers whether additional NEPA review is needed, including supplementing a NEPA document. prior to modifying the commitment.

TVA notes that § 1318.501 also addresses the identification of mitigation measures in FONSIs and, under § 1318.501(a), all measures that mitigate expected significant adverse impacts must be identified in the EA and FONSI. The section also addresses the roles and responsibilities associated with tracking and monitoring the progress of implementing the commitments. If TVA makes changes to mitigation measures that serve as a basis of a FONSI, TVA would reevaluate the FONSI and post the revised FONSI for public review.

Comment: The procedures addressing programmatic NEPA reviews are inconsistent with NEPA and the CEQ regulations because they would allow TVA to implement actions prior to completion of the NEPA review and they do not address CEQ guidance relating public involvement and transparency while conducting environmental reviews.

Response: It is not the intent of the final rule to allow interim actions under consideration to be implemented prior to the conclusion of a NEPA review. Section 1318.503(c) addresses implementing actions that have been previously planned and approved by TVA under NEPA. Based on the comment, TVA has revised § 1318.503(c) to make its intent clearer and to reflect that the criteria at 40 CFR 1506.1(c) must be met.

Comments related to the need to incorporate CEQ guidance relating to public involvement and transparency are noted. TVA will continue to complete programmatic NEPA reviews for policies, plans, programs or suite of projects in a manner consistent with CEQ regulations and guidance. TVA finds these reviews to be particularly valuable when establishing program priorities and plans, determining how policies may best be implemented, and planning proposals that may have broad geographic influence. Public involvement in these reviews would comply with CEQ requirements as well as the applicable TVA procedures. When minor actions are proposed that may implement TVA programs, such activities would properly be reviewed to determine an appropriate level of NEPA review. In some cases, actions may fall within a category of actions and a CE may be used. In others, an EA or EIS may be prepared.

The commenter also suggested adding numerous provisions to the final rule to incorporate the CEQ guidance. These comments are noted. TVA will continue to consider the CEQ's guidance to ensure good NEPA practices are employed during programmatic reviews.

Comment: Procedures in Subpart F regarding emergency actions and ''unforeseen situations'' are inconsistent with NEPA and the CEQ regulations.

Response: In response to the comment, TVA has revised § 1318.510 to make clear that these procedures apply only to emergencies. The term ''unforeseen situations'' was removed. TVA also made additional minor revisions to this section to ensure consistency with CEQ regulations addressing emergency circumstances.

G. Comments on Subpart G—Floodplains and Wetlands

Comment: TVA's proposed rule improperly sidelines the public in TVA's decisionmaking regarding floodplains and wetlands because it states that ''[p]ublic notice of actions affecting floodplains or wetlands is not required if the action is categorically excluded under Section 1318.200.''

Response: Although TVA did not propose any revisions to the sentence addressed in this comment, TVA considered the comment and, after further deliberation, revised the first paragraph of § 1318.603 to state that public notice will be provided for proposed actions affecting floodplains or wetlands that are subject to the applicable E.O.s, including categorically excluded actions.

Comment: TVA must implement directives in E.O. 11988 for the Management of Flood Risk in Federal Infrastructure.

Response: TVA's Class Review of Certain Repetitive Actions in the 100-Year Floodplain (46 FR 22845–46, April 21, 1981) includes a provision that ''[a]ll activities will adhere to the minimum standards of the National Flood Insurance Program published at 44 CFR 60.1–60.8, and any future amendments thereto, and comply with local floodplain regulations.'' TVA applies the process provided in the Class Review to every proposed action subject to NEPA. The current TVA NEPA procedures pertaining to the disposition of real property were brought forward without change to § 1318.604(a) and (b) and address property in the floodplain conveyed by TVA. Additionally, TVA requires flood-damageable structures and facilities along TVA reservoirs to be located at or above the 0.2-annual-chance (500-year) flood elevation.

Comment: TVA should use an informed, science-based approach to evaluate the impacts of its actions on all floodplains and wetlands.

Response: Science-based methods and tools for wetland identification, delineations, and assessment are integral for an accurate analysis to meet NEPA standards. For all proposed projects, TVA specialists conduct an initial wetland review. This initial wetland assessment is conducted using National Wetland Inventory mapping, current aerial imagery depicting land use/land cover, and soils maps. Where deemed necessary, TVA conducts field surveys of wetlands to map wetland boundaries and collect additional information for NEPA effects determinations. Wetland determinations are performed according to U.S. Army Corps of Engineers standards, which require documentation of hydrophytic (wet-site) vegetation, hydric soil, and wetland hydrology. Wetland condition is assessed using a regional wetland assessment method, the TVA Rapid Assessment Method, which was developed using the same ecological metrics as the Ohio Rapid Assessment Method and calibrated to reflect regional wetland differences specific to the TVA region.

Environmental effects of proposed actions upon wetlands are assessed for site-specific wetland conditions and include an analysis of cumulative impacts to wetlands within a watershed and ecoregion context. Regional wetland status and trends data is obtained through land use/land cover analysis. These wetland evaluation methods utilize current best practices and are fundamentally based on botany, hydrology, pedology, ecology, and geomorphology. These methods are also tied to regulatory-standards for wetland identification and delineation; these standards are developed by multiple national advisory teams and undergo periodic evaluation and updates based on changes in wetland science.

Comment: TVA should update its flood frequency analysis, while continuing to analyze hydrology for the TVA region. TVA should continue to utilize its approach on flood risk management and its proposed determination chart.

Response: Comment noted. TVA recognizes the need to review and update, as appropriate, its flood frequency analyses and resultant flood elevations based on newer modeling techniques, improved hydrologic methods, additional years of observed data, and newly available climate tools. TVA has created an industry-leading probabilistic flood hazard analysis (PFHA) platform. This platform handles a wide range of factors probabilistically to better understand our flood risk up to extreme flooding levels. This PFHA system gives TVA a robust understanding of the probabilities for flood elevations due to a wide range of factors. Updates to TVA flood frequency analyses would incorporate the PFHA platform.

Comment: When TVA published its proposed rule, it provided its document addressing ''Determination of Project Specific Federal Flood Risk Management Standard (FFRMS) Elevations and Their Applicability.'' This document is unclear concerning climate change and the effects of weather.

Response: During the public review of the proposed rule, TVA received comments on a document relating to how TVA would determine FFRMS elevations available to the public as supporting information relating to its proposed procedures on flood risk. TVA notes that the comments do not relate to the TVA rule itself. As previously stated, E.O. 13807 revoked E.O. 13690 relating to the FFRMS. Although the FFRMS is no longer is effect, TVA requires flood-damageable structures and facilities along TVA reservoirs to be located at or above the 0.2-annual-chance (500 year) flood elevation.

TVA has sponsored and followed research that has shown very little climate change projected for the TVA region. In order to better understand our full risk (out to extreme flooding levels), TVA has created an industry-leading PFHA platform that includes a wide range of factors probabilistically. These factors include: Storm type, precipitation frequency per storm type, storm seasonality per storm type, storm placement in space and time, rainfall-runoff relations, river routing per the TVA operating policy, and starting states sampled from the historic record re-sampled out to 1,000 years.

This PFHA system gives TVA a robust understanding of the probabilities for flood elevations due to a wide range of factors. The science on how climate change might affect extreme storms is evolving. If a method to incorporate climate projections into our PFHA system becomes available, TVA would consider incorporating it. TVA agrees with the commenter that the public health and safety of the people of the Tennessee Valley are best served when the data used to develop estimates of rainfall and subsequent runoff are accurate, up-to-date, and account for potential extreme weather events.

III. Description of Changes Made

As indicated in many of the responses to public comments, TVA made changes to the procedures after considering the public comments, additional internal review, and further consultation with CEQ on the final rule. The following paragraphs contain a summary of key changes under each subpart from those published in the Notice of Proposed Rule.

TVA does not repeat discussion of procedures in this final rule that were

not changed relative to what was described in the Notice of Proposed Rule. Thus, the Notice of Proposed Rule may be consulted for further explanation regarding changes in the rule.

Subpart A—General Information

§ 1318.20 Policy. In the final rule, TVA made minor revisions to paragraph (c) to improve clarity.

§ 1318.40 Definitions. In the final rule, TVA made changes to this section because E.O. 13690 was revoked by executive action in August 2017. TVA removed the definition of ''Federally funded projects'' and deleted a sentence under ''Floodplain'' because these were proposed by TVA to address the Federal Flood Risk Management Standard in E.O. 13690. TVA also moved the definition of ''Official responsible for NEPA compliance'' from Subpart F of the proposed rule to this section.

Subpart B—Initiating the NEPA Process

§ 1318.101 NEPA determination. In the final rule, TVA revised paragraph (d) to provide additional information about how the determination that an action is already covered by an existing NEPA review will be made and documented.

Subpart C—Categorical Exclusions

In the final rule, TVA made revisions to each section of the procedures relating to CEs, including the list of CEs found in Appendix A to Subpart C, primarily because of public input, as addressed above. One section was added to the Subpart.

§ 1318.200 Purpose and scope. At the request of an interagency partner, TVA added a statement affirming that the use of a CE does not relieve TVA from compliance with other statutes and consultations, including the ESA and NHPA.

§ 1318.201 Extraordinary circumstances. At the request of an interagency partner, TVA revised the definition of one of the extraordinary circumstances to clarify the consideration given to species listed or proposed to be listed under the ESA and their designated critical habitat.

§ 1318.202 Public notice. To address public concerns and consistent with CEQ guidance, TVA added a new section to the Subpart to address when to seek public engagement and disclosure when using a CE.

Appendix A—Categorical exclusions. In the final rule, the list of CEs was revised based on public input on the proposed rule and additional internal deliberation. TVA removed two CEs and two portions of a third CE that were included in the proposed rule. As noted under Section II above, proposed CE 15 was removed because TVA's vegetation management activities along existing rights-of-way are under review, and CE 46 and two items listed under CE 45 were removed because the likelihood of TVA conducting such actions is not foreseeable. In total, TVA made changes in the final rule affecting 19 CEs, as follows:

- In the final rule, TVA carries forward the existing CE 5.2.6 as CE 6 and will not revise the CE as proposed in the proposed rule.
- In the list of example actions of CE 13, TVA revised ''soil borings'' to ''geotechnical borings'' to be consistent with the terminology used in other CEs.
- For CE 17, TVA added the adjective ''routine'' to the CE's definition, clarified that upgrades of existing transmission infrastructure would be minor, and revised the scope of the CE to exclude routine actions at existing substations and switching stations because those actions would be covered under CE 36 or CE 37.
- For CE 21, based on public input, TVA clarified that the CE may be used if future operations by TVA of existing combustion turbine or combined-cycle plants are ''within the normal operating levels of the purchased or leased facility,'' rather than ''within existing environmental permit'' levels.
- In the list of example actions of CE 22, TVA replaced ''stabilization of sites'' with ''hardening and stabilization of sites'' to include a term more familiar to TVA recreation specialists.
- TVA revised CE 25 to clarify that the CE applies only to the transfer, lease or disposal of minor property or rights.
- TVA revised CE 27 to correct a grammatical error.
- TVA decreased the general acreage limitation of CE 29 from 125 acres to 10 acres after additional consideration by TVA staff.
- As a result of public comment, TVA revised CE 34 to limit the scope of covered actions.
- TVA revised CE 35 based on public input to make it clear that the category of actions includes only low-volume water supply wells that would not impact important aquifers.
- TVA removed the terms ''substantial'' and ''substantially'' from the definition of CE 36, added an example action (b), and made minor revisions to example actions (d) and (e) for clarity.
- TVA revised the example action (d) of CE 37 to reflect that the CE only applies to ''large'' heating and air systems.
- TVA added an example of the type of infrastructure that may be included under CE 38.
- TVA made minor revisions to CEs 38, 43, 45, 46, and 49 to clarify the spatial limitations that would apply.
- TVA made a minor revision to CE 42 to clarify that examples in the CE are considered to be ''minor.''
- TVA removed ''improvements'' to access roads and parking areas from the scope of CE 43 because CE 42 would apply to such improvements.
- Items (c) and (d) were removed from CE 45's list of covered actions in response to public comment and TVA's determination that such actions are not foreseeable.
- TVA moved item (e) from the list of actions under CE 45 and added it to the list of CEs as CE 46 (replacing the proposed CE 46 that was removed); TVA revised the scope of the new CE 46 to reflect that TVA's action is the purchase of power at such facilities. TVA also removed from the CE the limitation that actions could only occur ''on or contiguous to an existing landfill or wastewater treatment plant'' because it is unnecessary; the CE definition already restricts actions to areas previously developed or disturbed by human activity.
- As a result of public comment and further internal deliberation, TVA revised CE 47 to simplify the definition and to limit the scope of covered actions.

Incorporating all of these changes has resulted in changes to the list of 28 CEs established by TVA in 1980 and 1983. In the final rule, 9 of these CEs are eliminated, the definition of 14 CEs are revised, and 5 are carried forward unchanged. The final rule establishes 31 new CEs. Incorporating these changes, TVA has 50 CEs in the final rule. TVA updated its Supporting Documentation to reflect the CEs in the final rule and posted it to TVA's website (*www.tva.gov/nepa*).

Subpart D—Environmental Assessments

§ 1318.300 Purpose and scope. In response to public comment, TVA modified text in paragraph (b) addressing what issues would be the subject of EAs. The phrase ''important environmental issues'' is replaced by ''issues that are potentially significant.'' TVA also made minor grammatical edits to paragraph (a).

§ 1318.301 Public and stakeholder participation in the EA process. As noted above, TVA received a comment questioning whether its proposed procedure relating to the consideration given to public involvement in the preparation of an EA was consistent

with CEQ regulations. After further deliberations, TVA decided to retain the procedures established in 1980 (with minor edits) and to retain the proposed text (with minor edits for grammar). TVA determined that the previous procedures provide general guidance as well as additional context for the sentence included in the proposed rule. TVA also made other minor edits to paragraphs (b) and (c) for grammar and clarification.

§ 1318.302 EA preparation. In the final rule, TVA revised this section. Notably, in paragraph (a), TVA replaced the word ''practical'' with ''practicable'' and ''should'' with ''shall.'' Paragraph (g) was revised to clarify that at the conclusion of an EA process, NEPA compliance staff may conclude that additional analysis is needed to supplement the EA.

§ 1318.303 Finding of No Significant Impact. In the final rule, paragraph (a) is revised to clarify the roles and responsibilities associated with preparation and approval of a FONSI. Paragraph (d) was revised based on public comment to clarify when a draft FONSI would be made available for public review and comment.

§ 1318.304 Supplements and adoptions. TVA revised paragraph (a) to state that TVA will consider supplementing EAs when there are ''important components of the proposed action that remain to be implemented'' rather than when there are ''important decisions remaining to be made.'' Minor grammatical edits to paragraph (b) are included in the final rule.

Subpart E—Environmental Impacts Statements

§ 1318.400 Purpose and scope. After additional internal review and in response to public comment, TVA added two types of actions that normally will require an EIS. TVA also revised two actions to clarify that the scope of the actions includes not only construction activities but operation of the facilities. TVA removed the words ''upon request'' from paragraph (b) of § 1318.400 to be consistent with § 1318.301(c) in the final rule. Minor revisions were made for clarity to paragraphs (b), (c), and (d), including replacing the word ''should'' for ''shall in two places.

§ 1318.401 Lead and cooperating agency determinations. Minor edits were made to paragraph (a) for clarity. TVA replaced ''practical'' with ''practicable'' and ''should'' with ''shall'' based on further internal review. TVA also added ''purpose and need for the proposed action'' to the list of EIS components and revised ''key action alternatives'' with ''reasonable action alternatives.''

§ 1318.402 Scoping process. In the final rule, numerous grammatical edits were made to the section to improve clarity. Paragraph (e) was revised to clarify that 30 days will be the minimum public comment period during scoping. In response to public and CEQ comments, TVA revised paragraph (g) to improve consistency with CEQ regulations and the recommended format for an EIS.

§ 1318.403 DEIS preparation, transmittal and review. In the final rule, TVA revised paragraph (b) to clarify that cooperating agencies will have the opportunity to take part in the preparation of the DEIS and not simply review it once it has been completed. Paragraph (c) was revised to reflect the roles and responsibilities associated with approval and publication of the DEIS. TVA made additional minor edits to the section for grammar.

§ 1318.403 FEIS preparation and transmittal. In the final rule, TVA incorporated input from CEQ and made numerous grammatical edits to the section. Paragraph (b) was revised to clarify which documents will be circulated if changes needed to the DEIS to complete an FEIS are minor. In addition, paragraph (d) was revised to reflect the roles and responsibilities associated with approval and publication of the FEIS.

§ 1318.405 Agency decision. In the final rule, TVA revised paragraph (a) to remove the reference to emergency circumstances, which are addressed in Subpart F. Based on public input, TVA deleted the word ''normally'' from paragraph (d) of this section to make the procedure consistent with CEQ guidance and regulations.

§ 1318.406 Supplements. In response to public comment, TVA revised this section to clarify that TVA will consider supplementing EISs when there are ''important components of the proposed action that remain to be implemented'' rather than when there are important decisions related to the proposed action that remain to be made.

§ 1318.407 EIS adoption. In response to public and CEQ input, TVA revised each paragraph of the section to ensure consistency with CEQ regulations at 40 CFR 1506.3. In the final rule, the revised paragraphs (a), (b), and (c) address corresponding sections of the CEQ regulations. Paragraphs (d) and (e) were revised in order to clarify when TVA may make a decision about its proposed action.

Subpart F—Miscellaneous Procedures

§ 1318.500 Public participation. In the final rule, TVA revised this section by eliminating paragraph (c) of the proposed rule, which related to the open meetings of the Board of Directors; TVA determined that the paragraph was not a regulatory provision and did not address the implementation of NEPA. TVA revised the paragraph addressing privacy provisions for public comments in paragraph (d) of the final rule to clarify that the public will be notified how their comments and information will become part of the public record.

§ 1318.501 Mitigation commitment identification, auditing, and reporting. Numerous grammatical edits were made to this section in the final rule to improve clarity.

§ 1318.503 Programmatic and generic NEPA documents. After considering comments from the public regarding paragraph (c), TVA revised the paragraph to make clear that TVA would be consistent with criteria established in CEQ regulations at 40 CFR 1506.1(c) addressing limitations on actions during the NEPA process.

§ 1318.509 Substantial compliance. After further review and in consideration of CEQ input, TVA eliminated paragraph (a) of this section as presented in the proposed rule, which addressed flexibility in implementing the procedures and reviewing proposed actions. TVA also revised paragraph (b) to address minor deviations with the procedures, who would approve such deviations, and whether they give rise to an independent cause of action.

§ 1318.510 Emergency actions. Based on public input and to clarify that the section addresses emergency situations only, TVA removed from paragraph (a) of this section the statement that procedures may be consolidated, modified or omitted because of ''unforeseen situations.'' In addition, based on public and CEQ input, paragraphs (a) and (b) were revised to improve clarity and ensure consistency with CEQ regulations at 40 CFR 1506.11.

§ 1318.512 Status reports. In the final rule, TVA revised the section to clarify that status reports pertaining only to EISs and EAs under development would be published on TVA's website.

§ 1318.513 Official response for NEPA compliance efforts. In the final rule, this section was removed from Subpart F and inserted as a definition under § 1318.40.

Subpart G—Floodplains and Wetlands

As noted above, in its proposed rule, TVA had incorporated guidance pertaining to E.O. 13690. The E.O. was revoked by executive action on August 15, 2017, during the public review of the proposed rule.

§ 1318.600 Purpose and scope. Because E.O. 13690 was revoked by executive action (E.O. 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure), TVA revised paragraph (a) to remove the reference to E.O. 13690; some minor grammatical edits were also made to improve clarity. Paragraph (b) was revised to delete the reference to the FFRMS (addressed in E.O. 13690), and a new, more general reference was added to ensure consideration of any applicable Federal flood risk management standard that may be in force at the commencement of an environmental review. TVA also revised paragraph (c) by adding ''allocation to private parties'' to the text to make TVA's procedure more consistent with E.O. 11990, regarding when the order applies to actions on non-Federal property.

§ 1318.603 Public notice. TVA removed from paragraph (a) the statement that proposed actions that may be categorically excluded will not be subject to public notice requirements. Text was added to clarify that TVA will provide public notice for proposed actions affecting floodplains or wetlands that are subject to E.O.s 11988 and 11990 and that have not been previously excluded by a class review for repetitive actions conducted by TVA. TVA also revised paragraph (b)(4) to reflect the revocation of E.O. 13690 and to generalize the language to incorporate any Federal floodplain protection standards.

IV. Administrative Requirements

A. Unfunded Mandates Reform Act and Various Executive Orders Including E.O. 12866, Regulatory Planning and Review; E.O. 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 12988, Civil Justice Reform Act; E.O. 13045, Protection of Children From Environmental Health Risks; E.O. 13132, Federalism; E.O. 13175, Consultation and Coordination With Indian Tribal Governments; E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use; and E.O. 13771, Reducing Regulation and Controlling Regulatory Costs

This rule amends TVA's procedures for the implementation of NEPA and is not subject to review by the Office of Management and Budget (OMB) under E.O. 12866. The rule contains no Federal mandates for State, local, or tribal government or for the private sector. TVA has determined that these amendments will not have a significant annual effect of $100 million or more or result in expenditures of $100 million in any one year by State, local, or tribal governments or by the private sector. Nor will the amendments have concerns for environmental health or safety risks that may disproportionately affect children, have significant effect on the supply, distribution, or use of energy, or disproportionally impact low-income or minority populations. Accordingly, the rule has no implications for any of the aforementioned authorities.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* TVA is required to prepare a regulatory flexibility analysis unless the head of the agency certifies that the proposal will not have a significant economic impact on a substantial number of small entities. TVA's Chief Executive Officer has certified that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. This determination is based on the finding that the final rule amends existing TVA procedures and do not compel any other party to take any action or interfere with an action taken by any other party. The amendments do not change the substantive requirements of TVA programs that are most likely to affect small entities (*e.g.,* TVA permitting, economic assistance and development programs).

C. Paperwork Reduction Act

This final rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

D. National Environmental Policy Act

The CEQ does not direct agencies to prepare a NEPA analysis before establishing agency procedures that supplement the CEQ regulations for implementing NEPA. TVA's NEPA procedures assist in the fulfillment of its responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular agency action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing agency NEPA procedures does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc.* v. *U.S. Forest Service,* 73 F. Supp. 2d 962, 972–73 (S.D. III. 1999), aff'd, 230 F.3d 947, 954–55 (7th Cir. 2000).

List of Subjects in 18 CFR Part 1318

Administrative practice and procedure, Environmental impact statements, Environmental protection, Floodplains, Floods, Wetlands.

■ For the reasons stated in the preamble, TVA adds part 1318 to chapter XIII of title 18 of the Code of Federal Regulations to read as follows:

PART 1318—IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Subpart A—General Information

Sec.
1318.10 Purpose.
1318.20 Policy.
1318.30 Abbreviations.
1318.40 Definitions.

Subpart B—Initiating the NEPA Process

1318.100 Action formulation.
1318.101 NEPA determination.

Subpart C—Categorical Exclusions

1318.200 Purpose and scope.
1318.201 Extraordinary circumstances.
1318.202 Public notice.
Appendix A to Subpart C of Part 1318—Categorical Exclusions

Subpart D—Environmental Assessments

1318.300 Purpose and scope.
1318.301 Public and stakeholder participation in the EA process.
1318.302 EA preparation.
1318.303 Finding of No Significant Impact.
1318.304 Supplements and adoptions.

Subpart E—Environmental Impact Statements

1318.400 Purpose and scope.

1318.401 Lead and cooperating agency determinations.
1318.402 Scoping process.
1318.403 DEIS preparation, transmittal, and review.
1318.404 FEIS preparation and transmittal.
1318.405 Agency decision.
1318.406 Supplements.
1318.407 EIS adoption.

Subpart F—Miscellaneous Procedures

1318.500 Public participation.
1318.501 Mitigation commitment identification, auditing, and reporting.
1318.502 Tiering.
1318.503 Programmatic and generic NEPA documents.
1318.504 Private applicants.
1318.505 Non-TVA EISs.
1318.506 Documents.
1318.507 Reducing paperwork and delay.
1318.508 Supplemental guidance.
1318.509 Substantial compliance.
1318.510 Emergency actions.
1318.511 Modification of assignments.
1318.512 Status reports.

Subpart G—Floodplains and Wetlands

1318.600 Purpose and scope.
1318.601 Area of impact.
1318.602 Actions that will affect floodplains or wetlands.
1318.603 Public notice.
1318.604 Disposition of real property.
1318.605 General and class reviews.

Authority: 42 U.S.C. 4321 *et seq.*

Subpart A—General Information

§ 1318.10 Purpose.

This part establishes procedures for Tennessee Valley Authority (TVA) to use for compliance with:

(a) The National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*);

(b) Other applicable guidelines, regulations and Executive orders implementing NEPA; and

(c) The Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508).

§ 1318.20 Policy.

It is the policy of TVA that:

(a) TVA incorporates environmental considerations into its decision-making processes to the fullest extent possible. These procedures ensure that actions are viewed in a manner to encourage productive and enjoyable harmony between man and the environment.

(b) Commencing at the earliest possible point and continuing through implementation, appropriate and careful consideration of the environmental aspects of proposed actions is built into the decision-making process in order that adverse environmental effects may be avoided or minimized, consistent with the requirements of NEPA.

(c) Environmental reviews under NEPA will assist decision makers in making better, more knowledgeable decisions that consider those reasonable alternatives to the proposed action that fulfill the purpose and need for the action, concisely present the environmental impacts and other information regarding the proposed action and its alternatives, are consistent with the environmental importance of the action, concentrate on truly significant environmental issues, and are practicable.

§ 1318.30 Abbreviations.

(a) CE—Categorical Exclusion
(b) CEQ—Council on Environmental Quality
(c) DEIS—Draft Environmental Impact Statement
(d) EA—Environmental Assessment
(e) EIS—Environmental Impact Statement
(f) EPA—Environmental Protection Agency
(g) FEIS—Final Environmental Impact Statement
(h) FONSI—Finding of No Significant Impact
(i) NEPA—National Environmental Policy Act
(j) ROD—Record of Decision
(k) TVA—Tennessee Valley Authority

§ 1318.40 Definitions.

The following definitions apply throughout this part. All other applicable terms should be given the same meaning as set forth in CEQ's currently effective regulations (40 CFR part 1508) unless such a reading would make the terms inconsistent with the context in which they appear.

Controversial refers to scientifically supported commentary that casts substantial doubt on the agency's methodology or data, but does not mean commentary expressing mere opposition.

Floodplain refers to the lowland and relatively flat areas adjoining flowing inland waters and reservoirs. Floodplain generally refers to the base floodplain, *i.e.,* that area subject to a 1 percent or greater chance of flooding in any given year.

Important farmland includes prime farmland, unique farmland, and farmland of statewide importance as defined in 7 CFR part 657.

Natural and beneficial floodplain and wetland values refer to such attributes as the capability of floodplains and wetlands to provide natural moderation of floodwaters, water quality maintenance, fish and wildlife habitat, plant habitat, open space, natural beauty, scientific and educational study areas, and recreation.

Official responsible for NEPA compliance refers to the TVA official who manages the NEPA compliance staff and is responsible for overall review of TVA NEPA compliance.

Practicable, as used in subpart G of this part, refers to the capability of an action being performed within existing constraints. The test of what is practicable depends on the situation and includes an evaluation of all pertinent factors, such as environmental impact, economic costs, statutory authority, legality, technological achievability, and engineering constraints.

Wetland refers to an area inundated by surface or ground water with a frequency sufficient to support, and that under normal circumstances does or would support, a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands do not include temporary human-made ponds associated with active construction projects.

Subpart B—Initiating the NEPA Process

§ 1318.100 Action formulation.

(a) Each office, group, or department (''entity'') within TVA is responsible for integrating environmental considerations into its planning and decision-making processes at the earliest possible time, to appropriately consider potential environmental effects, reduce the risk of delays, and minimize potential conflicts.

(b) Environmental analyses should be included in or circulated with and reviewed at the same time as other planning documents. This responsibility is to be carried out in accordance with the environmental review procedures contained herein.

(c) TVA's Chief Executive Officer and Board of Directors are the agency's primary decision makers for programs and actions that are likely to be the most consequential from an environmental, financial, and policy standpoint. Other TVA officials and managers are responsible for and make decisions about other TVA actions.

§ 1318.101 NEPA determination.

(a) NEPA applies to proposed actions with potential impacts on the human environment that would result in a non-trivial change to the environmental status quo.

(b) At the earliest possible time, the TVA entity proposing an action shall consult with the staff responsible for NEPA compliance and TVA legal counsel, as appropriate, to determine

whether the action requires an environmental review under NEPA and, if so, the level of environmental review.

(c) The level of review will be in one of the following categories: Categorical Exclusions, Environmental Assessments, and Environmental Impact Statements.

(d) The NEPA compliance staff shall determine whether the action is already covered under an existing NEPA review, including a programmatic or generic review. Before such an action proceeds, the NEPA compliance staff shall evaluate and adequately document whether the new action is essentially similar to the previously analyzed action, the alternatives previously analyzed are adequate for the new action, there are significant new circumstances or information relevant to environmental concerns that would substantially change the analysis in the existing NEPA review, and there are effects that would result from the new action that were not addressed in the previous analysis

(e) NEPA and its implementing regulations (both CEQ's and TVA's) provide an established, well-recognized process for appropriately analyzing environmental issues and involving the public.

(f) TVA may choose to conduct an environmental review when NEPA does not apply.

Subpart C—Categorical Exclusions

§ 1318.200 Purpose and scope.

(a) Categories of actions addressed in this section are those that do not normally have, either individually or cumulatively, a significant impact on the human environment and therefore do not require the preparation of an EA or an EIS.

(b) The TVA entity proposing to initiate an action must determine, in consultation with the NEPA compliance staff, whether the proposed action is categorically excluded.

(c) In order to find that a proposal can be categorically excluded, TVA will ensure that a larger project is not impermissibly broken down into small parts such that the use of a categorical exclusion for any such small part would irreversibly and irretrievably commit TVA to a particular plan of action for the larger project.

(d) The actions listed in appendix A of this part are classes of actions that TVA has determined do not individually or cumulatively have a significant effect on the human environment (categorical exclusions), subject to review for extraordinary circumstances.

(e) The use of a categorical exclusion for an action does not relieve TVA from compliance with other statutes or consultations, including, for example, the Endangered Species Act or the National Historic Preservation Act.

§ 1318.201 Extraordinary circumstances.

(a) An action that would normally qualify as a categorical exclusion must not be so classified if an extraordinary circumstance is present and cannot be mitigated, including through the application of other environmental regulatory processes. In order to determine whether extraordinary circumstances exist, TVA shall consider whether:

(1) The action has the potential to significantly impact environmental resources, including the following resources:

(i) Species listed or proposed to be listed under the Endangered Species Act, or the proposed or designated Critical Habitat for these species,

(ii) Wetlands or floodplains,

(iii) Cultural or historical resources,

(iv) Areas having special designation or recognition such as wild and scenic rivers, parklands, or wilderness areas, and

(v) Important farmland; and

(2) The significance of the environmental impacts associated with the proposed action is or may be highly controversial.

(b) The mere presence of one or more of the resources under paragraph (a)(1) of this section does not by itself preclude use of a categorical exclusion. Rather, the determination that extraordinary circumstances are present depends upon the finding of a causal relationship between a proposed action and the potential effect on these resource conditions, and, if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions.

§ 1318.202 Public notice.

TVA may consider providing public notice before a categorical exclusion is used if TVA determines that the public may have relevant and important information relating to the proposal that will assist TVA in its decisionmaking.

Appendix A to Subpart C of Part 1318—Categorical Exclusions

The TVA has established the following classes of actions as categorical exclusions. Individual actions must be reviewed to determine whether any of the extraordinary circumstances listed in § 1318.202 is present. If an extraordinary circumstance cannot be mitigated sufficiently to render the action's impacts not significant, an EA or an EIS must be prepared.

1. Educational or informational activities undertaken by TVA alone or in conjunction with other agencies, public and private entities, or the general public.

2. Technical and planning assistance provided to State, local and private organizations and entities.

3. Personnel actions.

4. Procurement actions.

5. Accounting, auditing, financial reports and disbursement of funds.

6. Contracts or agreements for the sale, purchase, or interchange of electricity.

7. Administrative actions consisting solely of paperwork.

8. Communication, transportation, computer service and office services.

9. Property protection activities that do not physically alter facilities or grounds, law enforcement and other legal activities.

10. Emergency preparedness actions not involving the modification of existing facilities or grounds.

11. Minor actions to address threats to public health and safety, including, but not limited to, temporary prohibition of existing uses of TVA land or property, short-term closures of sites, and selective removal of trees that pose a hazard.

12. Site characterization, data collection, inventory preparation, planning, monitoring, and other similar activities that have little to no physical impact.

13. Engineering and environmental studies that involve minor physical impacts, including but not limited to, geotechnical borings, dye-testing, installation of monitoring stations and groundwater test wells, and minor actions to facilitate access to a site.

14. Conducting or funding minor research, development and demonstration projects and programs.

15. Reserved.

16. Construction of new transmission line infrastructure, including electric transmission lines generally no more than 10 miles in length and that require no more than 125 acres of new developed rights-of-way and no more than 1 mile of new access road construction outside the right-of-way; and/or construction of electric power substations or interconnection facilities, including switching stations, phase or voltage conversions, and support facilities that generally require the physical disturbance of no more than 10 acres.

17. Routine modification, repair, and maintenance of, and minor upgrade of and addition to, existing transmission infrastructure, including the addition, retirement, and/or replacement of breakers, transformers, bushings, and relays; transmission line uprate, modification, reconductoring, and clearance resolution; and limited pole replacement. This exclusion also applies to improvements of existing access roads and construction of new access roads outside of the right-of-way that are generally no more than 1 mile in length.

18. Construction, modification and operation of communication facilities and/or equipment, including power line carriers, insulated overhead ground wires/fiber optic cables, devices for electricity transmission control and monitoring, VHF radios, and microwaves and support towers.

19. Removal of conductors and structures, and/or the cessation of right-of-way vegetation management, when existing transmissions lines are retired; or the rebuilding of transmission lines within or contiguous to existing rights-of-way involving generally no more than 25 miles in length and no more than 125 acres of expansion of the existing right-of-way.

20. Purchase, conveyance, exchange, lease, license, and/or disposal of existing substations, substation equipment, switchyards, and/or transmission lines and rights-of-way and associated equipment between TVA and other utilities and/or customers.

21. Purchase or lease and subsequent operation of existing combustion turbine or combined-cycle plants for which there is existing adequate transmission and interconnection to the TVA transmission system and whose planned operation by TVA is within the normal operating levels of the purchased or leased facility.

22. Development of dispersed recreation sites (generally not to exceed 10 acres in size) to support activities such as hunting, fishing, primitive camping, wildlife observation, hiking, and mountain biking. Actions include, but are not limited to, installation of guardrails, gates and signage, hardening and stabilization of sites, trail construction, and access improvements/controls.

23. Development of public use areas that generally result in the physical disturbance of no more than 10 acres, including, but not limited to, construction of parking areas, campgrounds, stream access points, and day use areas.

24. Minor actions conducted by non-TVA entities on TVA property to be authorized under contract, license, permit, or covenant agreements, including those for utility crossings, agricultural uses, recreational uses, rental of structures, and sales of miscellaneous structures and materials from TVA land.

25. Transfer, lease, or disposal (sale, abandonment or exchange) of (a) minor tracts of land, mineral rights, and landrights, and (b) minor rights in ownership of permanent structures.

26. Approvals under Section 26a of the TVA Act of minor structures, boat docks and ramps, and shoreline facilities.

27. Installation of minor shoreline structures or facilities, boat docks and ramps, and actions to stabilize shoreline (generally up to ½ mile in length) by TVA.

28. Minor modifications to land use allocations outside of a normal land planning cycle to: Rectify administrative errors; incorporate new information that is consistent with a previously approved decision included in the land use plan; or implement TVA's shoreline or land management policies affecting no more than 10 acres.

29. Actions to restore and enhance wetlands, riparian, and aquatic ecosystems that generally involve physical disturbance of no more than 10 acres, including, but not limited to, construction of small water control structures; revegetation actions using native materials; construction of small berms, dikes, and fish attractors; removal of debris and sediment following natural or human-caused disturbance events; installation of silt fences; construction of limited access routes for purposes of routine maintenance and management; and reintroduction or supplementation of native, formerly native, or established species into suitable habitat within their historic or established range.

30. Actions to maintain, restore, or enhance terrestrial ecosystems that generally involve physical disturbance of no more than 125 acres, including, but not limited to, establishment and maintenance of non-invasive vegetation; bush hogging; prescribed fires; installation of nesting and roosting structures, fencing, and cave gates; and reintroduction or supplementation of native, formerly native, or established species into suitable habitat within their historic or established range.

31. The following forest management activities:

a. Actions to manipulate species composition and age class, including, but not limited to, harvesting or thinning of live trees and other timber stand improvement actions (*e.g.,* prescribed burns, non-commercial removal, chemical control), generally covering up to 125 acres and requiring no more than 1 mile of temporary or seasonal permanent road construction;

b. Actions to salvage dead and/or dying trees including, but not limited to, harvesting of trees to control insects or disease or address storm damage (including removal of affected trees and adjacent live, unaffected trees as determined necessary to control the spread of insects or disease), generally covering up to 250 acres and requiring no more than 1 mile of temporary or seasonal permanent road construction; and

c. Actions to regenerate forest stands, including, but not limited to, planting of native tree species upon site preparation, generally covering up to 125 acres and requiring no more than 1 mile of temporary or seasonal permanent road construction.

32. Actions to manage invasive plants including, but not limited to, chemical applications, mechanical removal, and manual treatments that generally do not physically disturb more than 125 acres of land.

33. Actions to protect cultural resources including, but not limited to, fencing, gating, signing, and bank stabilization (generally up to ½ mile in length when along stream banks or reservoir shoreline).

34. Reburial of human remains and funerary objects under the Native American Graves Protection and Repatriation Act that are inadvertently discovered or intentionally excavated on TVA land.

35. Installation or modification (but not expansion) of low-volume groundwater withdrawal wells (provided that there would be no drawdown other than in the immediate vicinity of the pumping well and that there is no potential for long-term decline of the water table or degradation of the aquifer), or plugging of groundwater or other wells at the end of their operating life. Site characterization must verify a low potential for seismicity, subsidence, and contamination of freshwater aquifers.

36. Routine operation, repair or in-kind replacement, and maintenance actions for existing buildings, infrastructure systems, facility grounds, public use areas, recreation sites, and operating equipment at or within the immediate vicinity of TVA's generation and other facilities. Covered actions are those that are required to maintain and preserve assets in their current location and in a condition suitable for use for its designated purpose. Such actions will not result in a change in the design capacity, function, or operation. (Routine actions that include replacement or changes to major components of buildings, facilities, infrastructure systems, or facility grounds, and actions requiring new permits or changes to an existing permit(s) are addressed in CE 37). Such actions may include, but are not limited to, the following:

a. Regular servicing of in-plant and on-site equipment (including during routine outages) such as gear boxes, generators, turbines and bearings, duct work, conveyers, and air preheaters; fuel supply systems; unloading and handling equipment for fuel; handling equipment for ash, gypsum or other by-products or waste; hydropower, navigation and flood control equipment; water quality and air emissions control or reduction equipment; and other operating system or ancillary components that do not increase emissions or discharges beyond current permitted levels;

b. Regular servicing of power equipment and structures within existing transmission substations and switching stations;

c. Routine testing and calibration of facility components, subsystems, or portable equipment (such as control valves, in-core monitoring devices, transformers, capacitors, monitoring wells, weather stations, and flumes);

d. Routine cleaning and decontamination, including to surfaces of equipment, rooms, and building systems (including HVAC, septic systems, and tanks);

e. Repair or replacement of plumbing, electrical equipment, small HVAC systems, sewerage, pipes, and telephone and other communication service;

f. Repair or replacement of doors, windows, walls, ceilings, roofs, floors and lighting fixtures in structures less than 50 years old;

g. Painting and paint removal at structures less than 50 years old, including actions taken to contain, remove, or dispose of lead-based paint when in accordance with applicable requirements;

h. Recycling and/or removal of materials, debris, and solid waste from facilities, in accordance with applicable requirements;

i. Groundskeeping actions, including mowing and landscaping, snow and ice removal, application of fertilizer, erosion control and soil stabilization measures (such as reseeding and revegetation), removal of dead or undesirable vegetation with a diameter of less than 3 inches (at breast height), and leaf and litter collection and removal;

j. Repair or replacement of gates and fences;

k. Maintenance of hazard buoys;

l. Maintenance of groundwater wells, discharge structures, pipes and diffusers;

m. Maintenance and repair of process, wastewater, and stormwater ponds and

associated piping, pumping, and treatment systems;

n. Maintenance and repair of subimpoundments and associated piping and water control structures;

o. Debris removal and maintenance of intake structures and constructed intake channels including sediment removal to return them to the originally-constructed configuration; and

p. Clean up of minor spills as part of routine operations.

37. Modifications, upgrades, uprates, and other actions that alter existing buildings, infrastructure systems, facility grounds, and plant equipment, or their function, performance, and operation. Such actions, which generally will not physically disturb more than 10 acres, include but are not limited to, the following:

a. Replacement or changes to major components of existing buildings, facilities, infrastructure systems, facility grounds, and equipment that are like-kind in nature;

b. Modifications, improvements, or operational changes to in-plant and on-site equipment that do not substantially alter emissions or discharges beyond current permitted limits. Examples of equipment include, but are not limited to: Gear boxes, generators, turbines and bearings, duct work, conveyers, superheaters, economizers, air preheaters, unloading and handling equipment for fuel; handling equipment for ash, gypsum or other by-products or waste; hydropower, navigation and flood control equipment; air and water quality control equipment; control, storage, and treatment systems (*e.g.* automation, alarms, fire suppression, ash ponds, gypsum storage, and ammonia storage and handling systems); and other operating system or ancillary components;

c. Installation of new sidewalks, fencing, and parking areas at an existing facility;

d. Installation or upgrades of large HVAC systems;

e. Modifications to water intake and outflow structures provided that intake velocities and volumes and water effluent quality and volumes are consistent with existing permit limits;

f. Repair or replacement of doors, windows, walls, ceilings, roofs, floors and lighting fixtures in structures greater than 50 years old; and

g. Painting and paint removal at structures greater than 50 years old, including actions taken to contain, remove and dispose of lead-based paint when in accordance with applicable requirements.

38. Siting, construction, and use of buildings and associated infrastructure (*e.g.,* utility lines serving the building), physically disturbing generally no more than 10 acres of land not previously disturbed by human activity or 25 acres of land so disturbed.

39. Siting and temporary placement and operation of trailers, prefabricated and modular buildings, or tanks on previously disturbed sites at an existing TVA facility.

40. Demolition and disposal of structures, buildings, equipment and associated infrastructure and subsequent site reclamation, subject to applicable review for historical value, on sites generally less than 10 acres in size.

41. Actions to maintain roads, trails, and parking areas (including resurfacing, cleaning, asphalt repairs, and placing gravel) that do not involve new ground disturbance (*i.e.,* no grading).

42. Improvements to existing roads, trails, and parking areas, including, but not limited to, scraping and regrading; regrading of embankments; installation or replacement of culverts; and other such minor expansions.

43. Actions to enhance and control access to TVA property including, but not limited to, construction of new access roads and parking areas (generally no greater than 1 mile in length and physically disturbing no more than 10 acres of land not previously disturbed by human activity or 25 acres of land so disturbed) and installation of control measures such as gates, fences, or post and cable.

44. Small-scale, non-emergency cleanup of solid waste or hazardous waste (other than high-level radioactive waste and spent nuclear fuel) to reduce risk to human health or the environment. Actions include collection and treatment (such as incineration, encapsulation, physical or chemical separation, and compaction), recovery, storage, or disposal of wastes at existing facilities currently handling the type of waste involved in the action.

45. Installation, modification, and operation of the following types of renewable or waste-heat recovery energy projects which increase generating capacity at an existing TVA facility, generally comprising of physical disturbance to no more than 10 acres of land not previously disturbed by human activity or 25 acres of land so disturbed:

a. Combined heat and power or cogeneration systems at existing buildings or sites; and

b. Solar photovoltaic systems mounted on the ground, an existing building or other structure (such as a rooftop, parking lot or facility and mounted to signage lighting, gates or fences).

46. Transactions (contracts or agreements) for purchase of electricity from new methane gas electric generating systems using commercially available technology and installed within an area previously developed or disturbed by human activity.

47. Modifications to the TVA rate structure (*i.e.,* rate change) that result in no predicted increase in overall TVA-system electricity consumption.

48. Financial and technical assistance for programs conducted by non-TVA entities to promote energy efficiency or water conservation, including, but not limited to, assistance for installation or replacement of energy efficient appliances, insulation, HVAC systems, plumbing fixtures, and water heating systems.

49. Financial assistance including, but not limited to, approving and administering grants, loans and rebates for the renovation or minor upgrading of existing facilities, established or developing industrial parks, or existing infrastructure; the extension of infrastructure; geotechnical boring; and construction of commercial and light industrial buildings. Generally, such assistance supports actions that physically disturb no more than 10 acres of land not previously disturbed by human activity or no more than 25 acres of land so disturbed.

50. Financial assistance for the following actions: Approving and administering grants, loans and rebates for continued operations or purchase of existing facilities and infrastructure for uses substantially the same as the current use; purchasing, installing, and replacing equipment or machinery at existing facilities; and completing engineering designs, architectural drawings, surveys, and site assessments (except when tree clearing, geotechnical boring, or other land disturbance would occur).

Subpart D—Environmental Assessments

§ 1318.300 Purpose and scope.

(a) TVA shall prepare an EA for any proposed action not qualifying as a categorical exclusion to determine whether an EIS is necessary or a FONSI can be prepared. An EA need not be initiated (or completed) when TVA determines that it will prepare an EIS.

(b) An EA shall concisely communicate information and analyses about issues that are potentially significant and reasonable alternatives.

§ 1318.301 Public and stakeholder participation in the EA process.

(a) The NEPA compliance staff, in consultation with the initiating TVA entity and other interested offices, may request public involvement in the preparation of an EA or a revision to or a supplement thereof. The type of and format for public involvement shall be selected as appropriate to best facilitate timely and meaningful public input to the EA process. In deciding the extent of public involvement, TVA will consider whether the public has already been provided a meaningful opportunity to comment on the environmental impacts of a proposal through other coordinated, regulatory processes.

(b) TVA will also identify and involve Indian tribes and interested stakeholders including local, State and other Federal agencies.

(c) A draft EA prepared for an action listed in § 1318.400(a), for which TVA would normally prepare an EIS, shall be circulated for public review and comment.

(d) TVA will make draft (if applicable) and final EAs and FONSIs available on TVA's public website and by other means upon request to TVA.

§ 1318.302 EA preparation.

(a) As soon as practicable after deciding to prepare an EA, the initiating TVA entity, in consultation with NEPA compliance staff, shall convene an internal coordination team to discuss:

(1) Reasonable alternatives,

(2) Permit requirements,

(3) Coordination with other agencies (consistent with § 1318.401),

(4) Environmental issues,

(5) Public involvement, and

(6) A schedule for EA preparation.

(b) The EA will describe the proposed action and include brief discussions of the purpose and need for action, reasonable alternatives, the no-action alternative (consistent with § 1318.400(e)), the environmental impacts of the proposed action and alternatives, measures (if any) to mitigate such impacts, a listing of the agencies and persons consulted, and a list of permits that may be required for the proposed action.

(c) As appropriate, EAs will identify alternatives that were considered, but not addressed in further detail in the EA.

(d) The EA will address comments made during any public comment period.

(e) The EA will briefly provide sufficient data and analysis for determining whether to prepare an EIS or a FONSI.

(f) The EA will be reviewed by the NEPA compliance staff and other interested TVA entities, including TVA legal counsel.

(g) After the EA is finalized and with the concurrence of TVA legal counsel, the NEPA compliance staff will make one of the following determinations:

(1) A Finding of No Significant Impact,

(2) The action requires the preparation of an EIS, or

(3) The EA needs to be supplemented before the significance of potential impacts can be determined.

§ 1318.303 Finding of No Significant Impact.

(a) If the NEPA compliance staff concludes, based on an EA, that a proposed action does not require the preparation of an EIS, the NEPA compliance staff, in consultation with TVA legal counsel and the initiating TVA entity, will prepare a FONSI. The official responsible for NEPA compliance will sign the FONSI.

(b) A FONSI must concisely summarize the proposed action and the EA, which should be incorporated by reference, and identify any environmental mitigation measures to which TVA commits.

(c) A FONSI must be made available to the public.

(d) In the following circumstance, the NEPA compliance staff, in consultation with TVA legal counsel and the initiating TVA entity, will make a draft EA and draft FONSI available for public review and comment for 30 days before a final determination is made whether to prepare an EIS and before the proposed action may begin:

(1) The proposed action is, or is closely similar to, an action listed in § 1318.400(a),

(2) TVA has issued a Notice of Intent that the proposed action would be the subject of an EIS, or

(3) The nature of the proposed action is one without precedent.

§ 1318.304 Supplements and adoptions.

(a) If new information concerning action modifications, alternatives, or probable environmental effects becomes available and there are important components of the proposed action that remain to be implemented, the NEPA compliance staff and TVA legal counsel, in consultation with the initiating TVA entity, will consider whether an EA should be supplemented based on the significance of the new information. The NEPA compliance staff will be responsible for preparing supplements to EAs.

(b) TVA may adopt an EA prepared by another agency if it determines that the environmental impacts of TVA's action are adequately assessed in the EA. Public involvement must be provided consistent with § 1318.301. The adopted EA and the FONSI issued by TVA must be provided on TVA's public website.

Subpart E—Environmental Impact Statements

§ 1318.400 Purpose and scope.

(a) The following actions in paragraphs (a)(1) through (5) normally will require an EIS:

(1) New large water resource development and water control projects such as construction and operation of new dams or navigation locks.

(2) The construction and operation of new major power generating facilities at sites not previously used for industrial purposes.

(3) The development of integrated resource plans for power generation.

(4) The development of system-wide reservoir operations plans.

(5) Any major action whose environmental impacts are expected to be highly controversial.

(b) If TVA determines that an EIS will not be prepared for an action falling within one of these categories, the basis for the decision must be discussed in the environmental assessment or in a document that is made available to the public.

(c) An EIS shall describe the proposed action and reasonable alternatives, including no action; analyze the potential environmental impacts associated with the proposed action, alternatives, and identify any mitigation measures; and include a list of the major preparers of the EIS.

(d) The scope and detail of the EIS shall be reasonably related to the scope and the probable environmental impacts of the proposed action and alternative actions (see 40 CFR 1502.10 through 1502.18).

(e) The no-action alternative in an EIS (or an EA) should represent the environmental status quo and should be formulated to provide the environmental baseline from which the proposed action and other alternatives can be assessed even when TVA is legally required to take action. For proposed changes to existing programs or plans, continuation of the existing program or plan and associated environmental impacts should be considered the no-action alternative.

§ 1318.401 Lead and cooperating agency determinations.

(a) As soon as practicable after the decision is made to prepare an EIS (or EA), the NEPA compliance staff, in consultation with the initiating TVA entity and TVA legal counsel, shall determine whether inviting other Federal, State, or local agencies to participate in the preparation of the EIS as lead, joint lead (40 CFR 1501.5), or cooperating agencies (40 CFR 1501.6) is necessary.

(b) If TVA is requested to participate in the preparation of an EIS (or EA) of another Federal agency, the NEPA compliance staff, in consultation with other interested TVA entities, will determine if TVA should become a cooperating agency.

§ 1318.402 Scoping process.

(a) As soon as practicable after the decision to prepare an EIS is made, the NEPA compliance staff, in consultation with other TVA entities, will identify preliminary action alternatives, probable environmental issues, and necessary environmental permits, and a schedule for EIS preparation.

(b) The scoping process may include interagency scoping sessions to coordinate an action with and obtain inputs from other interested agencies (including local, State, and other Federal agencies, as well as Indian tribes).

(c) The NEPA compliance staff, in consultation with other TVA entities, will determine whether public scoping meetings should be held in addition to seeking comments by other means. Meeting types and formats should be selected to facilitate timely and

meaningful public input into the EIS process.

(d) As soon as practicable in the scoping process, the NEPA compliance staff, in consultation with the initiating TVA entity and TVA legal counsel, will prepare and publish in the **Federal Register** a notice of intent to prepare an EIS. This notice will briefly describe the proposed action, possible alternatives, and potentially affected environmental resources. In addition, the notice will identify issues that TVA has tentatively determined to be insignificant and which will not be discussed in detail in the EIS. The scoping process will be described and, if a scoping meeting will be held, the notice should state where and when the meeting is to occur if that has been determined. The notice will identify the person in TVA who can supply additional information about the action and describe how to submit comments.

(e) There will be a minimum public comment period of 30 days from the date of publication of the notice of intent in the **Federal Register** to allow other interested agencies and the public an opportunity to review and comment on the proposed scope of the EIS.

(f) On the basis of input received, the NEPA compliance staff, in consultation with other TVA entities, will determine whether to modify the schedule or scope of the EIS.

(g) At the close of the scoping process, the NEPA compliance staff, in consultation with the other TVA entities, will identify the following components in paragraphs (g)(1) through (8) for use in preparing the DEIS:

(1) Purpose and need of the proposed action.

(2) Reasonable action alternatives.

(3) Environmental issues to be addressed in detail.

(4) Environmental issues that should be mentioned but not addressed in detail.

(5) Lead and cooperating agency roles and responsibilities.

(6) Related environmental documents.

(7) Other environmental review and consultation requirements.

(8) Delegation of DEIS work assignments to TVA entities and other agencies.

(h) If a scoping report summarizing the preceding EIS components is prepared, it must be made available to the public.

§ 1318.403 DEIS preparation, transmittal, and review.

(a) Based on information obtained and decisions made during the scoping process, the NEPA compliance staff, in cooperation with the initiating TVA entity and other interested TVA entities, will prepare the preliminary DEIS using an appropriate format (see 40 CFR 1502.10).

(b) During preparation of the DEIS, the NEPA compliance staff will involve any cooperating agencies to obtain their input. If a cooperating agency's analysis of an environmental issue or impact differs from TVA's, those differences should be resolved before the DEIS is released for public comment or the cooperating agency's position should be set forth and addressed in the DEIS.

(c) After approval of the DEIS by the official responsible for NEPA compliance, the senior manager of the initiating TVA entity, and TVA legal counsel, the NEPA compliance staff will make the DEIS available to the public; other interested Federal, State, and local agencies; and other entities and individuals who have expressed an interest in the type of action or commented on the scope of the EIS. The NEPA compliance staff will then file the DEIS with EPA for publication of its notice of availability in the **Federal Register**.

(d) TVA will make the DEIS available on its public website and provide it by other means upon request.

(e) A minimum of 45 days from the date of publication of the notice of availability in the **Federal Register** must be provided for public comment. TVA may extend the public comment period in its discretion.

(f) Materials to be made available to the public should be provided to the public without charge to the extent practicable.

§ 1318.404 FEIS preparation and transmittal.

(a) At the close of the DEIS public comment period, the NEPA compliance staff, in consultation with the initiating TVA entity and other interested TVA entities, will determine what is needed for the preparation of an FEIS.

(b) If changes to the DEIS in response to comments are minor and confined to factual corrections or explanations of why the comments do not warrant additional TVA response, TVA may issue errata sheets instead of rewriting the DEIS. In such cases, only the comments, the responses (including explanations why the comments do not warrant changes to the DEIS), and the changes need be circulated. The entire document with a new cover sheet shall be filed as the FEIS (40 CFR 1506.9). If other more extensive changes are required, the NEPA compliance staff, in cooperation with other interested TVA entities, will prepare an FEIS utilizing an appropriate format (see 40 CFR 1502.10).

(c) The FEIS should address all substantive comments on the DEIS that TVA receives before the close of the public comment period by responding specifically to the comments and/or by revising the text of the DEIS. Comments that are substantively similar should be summarized and addressed together.

(d) After approval of the FEIS by the official responsible for NEPA compliance, the senior manager of the initiating TVA entity, and TVA legal counsel, the NEPA compliance staff will make the FEIS available to the public; other interested Federal, State, and local agencies; and other entities and individuals who have expressed an interest in the type of action or commented on the DEIS. The NEPA compliance staff will then file the FEIS with EPA for publication of its notice of availability in the **Federal Register**.

(e) TVA will make the FEIS available on its public website and provide it by other means upon request.

§ 1318.405 Agency decision.

(a) TVA shall not make a decision regarding a proposed action for which an EIS has been issued until 30 days after a notice of availability of the FEIS has been published in the **Federal Register** or 90 days after a notice of availability of the DEIS has been published in the **Federal Register**, whichever is later.

(b) After release of the FEIS and after TVA makes a decision about the proposed action, a ROD must be prepared by the NEPA compliance staff, in consultation with TVA legal counsel and the initiating TVA entity (see 40 CFR 1505.2). The ROD will normally include the items in the following paragraphs (b)(1) through (6):

(1) The decision;

(2) The basis for the decision and preferences among alternatives;

(3) The alternative(s) considered to be environmentally preferable;

(4) A summary of important environmental impacts;

(5) The monitoring, reporting, and administrative arrangements that have been made; and

(6) The measures that would mitigate or minimize adverse environmental impacts to which TVA commits to implement (see 40 CFR 1505.2(c)).

(c) A ROD will be made available to the public.

(d) Until a ROD is made available to the public, no action should be taken to implement an alternative that would have adverse environmental impacts or limit the choice of reasonable alternatives.

§ 1318.406 Supplements.

If TVA makes substantial changes in the proposed action that are relevant to environmental concerns or there is significant new information relevant to environmental concerns, and important components of the proposed action remain to be implemented, the NEPA compliance staff and TVA legal counsel, in consultation with the initiating TVA entity, will determine how the FEIS should be supplemented. The NEPA compliance staff will be responsible for preparing a supplement to an EIS.

§ 1318.407 EIS adoption.

(a) TVA may adopt another agency's EIS, or a portion thereof, provided that the NEPA compliance staff determines that the EIS or portion thereof meets the standards for an adequate EIS.

(b) If the NEPA compliance staff determines that the actions covered by the other agency's EIS and TVA's proposed action are substantially the same, TVA may adopt the other agency's EIS as TVA's FEIS (§ 1318.404). In making this determination, the NEPA compliance staff, in consultation with other interested TVA entities, will consider whether the scope and analyses in the other agency's EIS adequately address the TVA action. TVA will also review to ensure the scientific accuracy of the analysis and conclusions drawn. TVA must make this determination and the adopted EIS available on its public website.

(c) If the NEPA compliance staff determines that the actions covered by the other agency's EIS and TVA's proposed action are not substantially the same, TVA will supplement the other agency's EIS and treat it as TVA's DEIS, including circulating it for comment (§ 1318.403).

(d) If TVA cooperated in the preparation of an EIS that TVA determines adequately addresses its proposed action, TVA may make a decision about its proposed action no sooner than 30 days after notice of availability of the FEIS was published in the **Federal Register.** A record of that decision should be prepared consistent with § 1318.405.

(e) If TVA did not cooperate in the preparation of an EIS that TVA determines adequately addresses its proposed action and that it proposes to adopt, NEPA compliance staff will transmit notice of its adoption to EPA for publication of a notice of availability and circulate the FEIS for public comment as to its assessment of impacts as they relate to TVA's proposed action. TVA may make a decision about its proposed action no sooner than 30 days after notice of availability of the FEIS is published in the **Federal Register.** A record of decision will be prepared consistent with § 1318.405.

(f) TVA will provide notice of its adoption to other interested Federal, State, and local agencies, other entities, and individuals.

Subpart F—Miscellaneous Procedures

§ 1318.500 Public participation.

(a) TVA's policy is to encourage meaningful public participation in and awareness of its proposed actions and decisions. This policy is implemented through various mechanisms.

(b) The type of and format for public participation will be selected as appropriate to best facilitate timely and meaningful public input.

(c) TVA will maintain a public website at which it posts information about TVA activities and programs, including ongoing and recently completed EAs and EISs.

(d) When opportunities for public participation are provided, TVA will notify the public that comments submitted to TVA on the NEPA document and the names and addresses of those commenting may be made available for public inspection.

§ 1318.501 Mitigation commitment identification, auditing, and reporting.

(a) All appropriate measures to mitigate expected significant adverse environmental impacts (''mitigation measures'') must be identified in an EA or EIS. Those mitigation measures to which TVA commits must be identified in the associated FONSI or ROD (or the documentation, if any, prepared for a categorical exclusion).

(b) Each mitigation commitment that is not required under regulations will be assigned by the NEPA compliance staff to the TVA entity responsible for implementing the commitment. The NEPA compliance staff should consult with the responsible entities to resolve assignment conflicts, identify supporting offices, and determine implementation schedules.

(c) The responsible entity shall report to the NEPA compliance staff the status of mitigation commitments periodically or whenever a specific request is made.

(d) The NEPA compliance staff must ensure that commitments are met and will verify commitment progress.

(e) Circumstances may arise that warrant modifying or cancelling previously made commitments. The decision to modify or cancel a commitment will be made by the NEPA compliance staff in consultation with TVA legal counsel, after considering the environmental significance of such a change.

§ 1318.502 Tiering.

TVA may rely on tiering for the environmental review of proposed actions. Tiering involves coverage of general matters in broader EISs or EAs on programs, plans, and policies, and subsequent narrower analyses of implementing actions that incorporate by reference the broader analyses (*see* 40 CFR 1508.28).

§ 1318.503 Programmatic and generic NEPA documents.

(a) A programmatic or generic EA or EIS may be prepared to address a proposed program, policy, or plan, or a proposed action that has a wide geographic scope.

(b) A programmatic EA or EIS can support high-level or broad decisionmaking, and can provide the foundation for the efficient review of specific tiered implementing actions.

(c) Ongoing or previously planned and approved actions that are within the scope of a programmatic review may continue during the programmatic review period, so long as the criteria at 40 CFR 1506.1(c) are met.

(d) The identification of significant impacts in a programmatic EIS does not preclude the review of specific implementing actions in an EA that tiers from the programmatic EIS if the implementing actions would not result in new or different significant impacts.

§ 1318.504 Private applicants.

(a) When a private applicant, individual, or other non-Federal entity (''private entity'') proposes to undertake an action that will require TVA's approval or involvement, the contacted TVA entity will notify the NEPA compliance staff. That staff must determine, in consultation with TVA legal counsel, whether NEPA is triggered and the scope of the review of TVA's proposed action.

(b) TVA compliance staff will provide the private entity information on its responsibilities for assisting TVA in conducting the necessary NEPA review. At TVA's discretion, this can include providing TVA detailed information about the scope and nature of the proposed action, environmental analyses and studies, and copies of associated environmental permit applications submitted to other Federal, State, or local agencies.

(c) In identifying reasonable alternatives, TVA should consider the applicant's purpose and need, in addition to TVA's purpose and need.

(d) A private entity may be allowed to prepare draft and final EAs for TVA's review and approval, but TVA remains responsible for the adequacy of the

documents and the conduct of associated EA process.

(e) A private entity normally will be required to reimburse TVA for its costs in reviewing the private entity's proposed action.

(f) Participation of a private entity in a TVA NEPA review, including reimbursement of TVA's costs, does not commit TVA to favorable action on a request.

§ 1318.505 Non-TVA EISs.

(a) The NEPA compliance staff, in consultation with other interested TVA entities, will coordinate the review of any EIS provided by another Federal agency to TVA for comment.

(b) The NEPA compliance staff, in consultation with TVA legal counsel as appropriate, will prepare comments on any such EIS and transmit them to the initiating agency (see 40 CFR 1503.2 and 1503.3).

§ 1318.506 Documents.

The NEPA compliance staff must keep on file all final and approved environmental documents either in paper form or electronically, in accordance with TVA's records retention policy.

§ 1318.507 Reducing paperwork and delay.

(a) These procedures are to be interpreted and applied with the aim of reducing paperwork and the delay of both the assessment and implementation of a proposed action.

(b) Data and analyses should be commensurate with the importance of associated impacts. Less important material should be summarized, consolidated, or referenced.

(c) An environmental document may be combined with any other document to reduce duplication and paperwork.

(d) Review of a proposed action under these procedures may be consolidated with other reviews where such consolidation would reduce duplication or increase efficiency.

§ 1318.508 Supplemental guidance.

The NEPA compliance staff, in consultation with interested TVA entities and with concurrence of TVA legal counsel, may issue supplemental or explanatory guidance to these procedures.

§ 1318.509 Substantial compliance.

Substantial compliance with these procedures must be achieved. Minor deviations approved by the official responsible for NEPA compliance do not give rise to any independent cause of action.

§ 1318.510 Emergency actions.

(a) The NEPA compliance staff may consolidate, modify, or omit provisions of these procedures for actions necessary in an emergency.

(b) Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, TVA will consult with CEQ about alternative arrangements for those actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review (see 40 CFR 1506.11).

(c) The NEPA compliance staff, with the concurrence of TVA legal counsel, must determine whether such changes would substantially comply with the intent of these procedures.

(d) The official responsible for NEPA compliance shall document the determination that an emergency exists and describe the responsive action(s) taken at the time the emergency exists. The form of that documentation is within the discretion of that official.

§ 1318.511 Modification of assignments.

The assignments and responsibilities identified for TVA entities in these procedures can be modified by agreement of the entities involved or by the direction of TVA's Chief Executive Officer.

§ 1318.512 Status reports.

Information on the status of EISs and EAs under development shall be published on TVA's public website.

Subpart G—Floodplains and Wetlands

§ 1318.600 Purpose and scope.

(a) The review of a proposed action undertaken in accordance with §§ 1318.200, 1318.300, and 1318.400 that potentially affects floodplains or wetlands must include a floodplain or wetlands evaluation that is consistent with Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) pertaining to floodplains or wetlands, respectively, as required by this section.

(b) Floodplain evaluations must apply any existing Federal flood risk management standard to federally-funded projects.

(c) A wetland evaluation under Executive Order 11990 is not required for the issuance of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal lands.

§ 1318.601 Area of impact.

(a) If a proposed action will potentially occur in or affect wetlands or floodplains, the initiating TVA entity, as soon as practicable in the planning process, will request the appropriate TVA staff with expertise in floodplain or wetland impact evaluations (''TVA staff'') to determine whether the proposed action will occur in or affect a wetland or floodplain and the level of impact, if any, on the wetland or floodplain.

(b) Further floodplain or wetland evaluation is unnecessary if the TVA staff determines that the proposed action:

(1) Is outside the floodplain or wetland,

(2) Has no identifiable impacts on a floodplain or wetland, and

(3) Does not directly or indirectly support floodplain development or wetland alteration.

§ 1318.602 Actions that will affect floodplains or wetlands.

(a) When a proposed action can otherwise be categorically excluded under § 1318.200, no additional floodplain or wetland evaluation is required if:

(1) The initiating TVA entity determines that there is no practicable alternative that will avoid affecting floodplains or wetlands and that all practicable measures to minimize impacts of the proposed action to floodplains or wetlands are incorporated and

(2) The TVA staff determines that impacts on the floodplain or wetland would be minor.

(b) If the action requires an EA or an EIS, the evaluation must consider:

(1) The effect of the proposed action on natural and beneficial floodplain and wetland values and

(2) Alternatives to the proposed action that would eliminate or minimize such effects.

(c) The initiating TVA entity must determine if there is no practicable alternative to siting in a floodplain or constructing in a wetland. Upon concurrence by the NEPA compliance staff in consultation with TVA legal counsel and TVA staff with expertise in floodplain or wetland impact evaluations, this determination shall be final. If a determination of no practicable alternative is made, all practicable measures to minimize impacts of the proposed action on the floodplain or wetland must be implemented. If at any time prior to commencement of the action it is determined that there is a practicable alternative that will avoid affecting floodplains or wetlands, the proposed action must not proceed.

§ 1318.603 Public notice.

(a) Once a determination of no practicable alternative is made in accordance with § 1318.602, the initiating office must notify the public of a proposed action's potential impact on floodplains or wetlands if the proposed action is subject to executive order and not already covered by class review. Public notice of actions affecting floodplains or wetlands may be combined with any notice published by TVA or another Federal agency if such a notice generally meets the minimum requirements set forth in this section. Issuance of a draft or final EA or EIS for public review and comment will satisfy this notice requirement.

(b) Public notices must at a minimum:

(1) Briefly describe the proposed action and the potential impact on the floodplain or wetland;

(2) Briefly identify alternative actions considered and explain why a determination of no practicable alternative has been proposed;

(3) Briefly discuss measures that would be taken to minimize or mitigate floodplain or wetland impacts;

(4) State when appropriate whether the action conforms to applicable Federal, State or local floodplain protection standards;

(5) Specify a reasonable period of time within which the public can comment on the proposal; and

(6) Identify the TVA official who can provide additional information on the proposed action and to whom comments should be sent.

(c) Such notices must be issued in a manner designed to bring the proposed action to the attention of those members of the public likely to be interested in or affected by the action's potential impact on the floodplain or wetland.

(d) TVA must consider all relevant and timely comments received in response to a notice and reevaluate the action as appropriate to take such comments into consideration before the proposed action is implemented.

§ 1318.604 Disposition of real property.

When TVA property in a floodplain or wetland is proposed for lease, easement, right-of-way, or disposal to non-federal public or private parties and the action will not result in disturbance of the floodplain or wetland, a floodplain or wetland evaluation is not required. The conveyance document, however, must:

(a) Require the other party to comply with all applicable Federal, State or local floodplain and wetland regulations, and

(b) Identify other appropriate restrictions to minimize destruction, loss, or degradation of floodplains and wetlands and to preserve and enhance their natural and beneficial values, except when prohibited by law or unenforceable by TVA, or otherwise, the property must be withheld from conveyance or use.

§ 1318.605 General and class reviews.

In lieu of site-specific reviews, TVA may conduct general or class reviews of similar or repetitive activities that occur in floodplains.

Rebecca C. Tolene,

Vice President, Environment.

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Part IV

The President

Proclamation 9999—Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2020

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Presidential Documents

Title 3—

The President

Proclamation 9999 of March 24, 2020

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2020

By the President of the United States of America

A Proclamation

Our great American experiment was inspired by the ideas about liberty, self-government, and the rule of law that traced their roots to ancient Greece. On Greek Independence Day, we commemorate the rich history shared between the United States and Greece, which is fortified by our love of freedom and commitment to democratic institutions. We join the Greek people in celebrating another year of independence and unity.

The great thinkers of ancient Greece stoked the American quest for freedom and a republic founded on the fundamental truth that people have rights that cannot be denied. Decades later, the same values that catalyzed our Revolution inspired the people of Greece to seek their own freedom and independence. Recognizing the commonality between the Greeks' fight to establish a representative government and their own, many Americans supported Greek independence, forging an unbreakable bond between our two countries.

Today, this same conviction for a freer and more prosperous world bolsters the alliance between the United States and Greece. In October 2019, my Administration worked with Greek officials to strengthen and expand our defense and security partnership by updating the United States-Greece Mutual Defense Cooperation Agreement Annex. This agreement paves the way for closer collaboration on national security matters between our two countries for decades to come. We are also grateful for the commitment of Greece, a strong NATO Ally, to our naval presence at Souda Bay on the island of Crete. Through such endeavors, the partnership between our countries advances our strategic national interests in stable and peaceful Eastern Mediterranean, Black Sea, and Western Balkans regions.

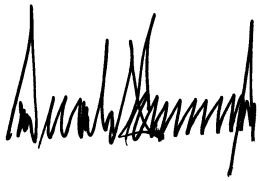
As noted at the Second United States-Greece Strategic Dialogue last year, an estimated 3 million Americans claim Greek descent. We therefore reaffirm our commitment to building firm institutional foundations that foster deep appreciation of our common ties. To that end, we are proud to have established the Future Leaders Exchange Program, which is further developing educational, cultural, and scientific cooperation between our two countries. Throughout our histories, both of our nations have prioritized interactions between our peoples, which are at the core of our cherished relationship and alliance.

The United States and Greece continue to share a long-held belief that political power belongs in the hands of the people. On this 199th anniversary of Greek independence, we confirm the pillars of governance, culture, and patriotism that have forged and continue to sustain the faithful bond our two nations enjoy.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 25, 2020, as Greek Independence Day: A National Day of Celebration of Greek and

American Democracy. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of March, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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