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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. FDA–2013–M–0042]

Medical Devices; Neurological Devices; Classification of the Neuropsychiatric Interpretive Electroencephalograph Assessment Aid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the neuropsychiatric interpretive electroencephalograph (EEG) assessment aid into class II (special controls). The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective March 20, 2014. The classification was applicable beginning July 15, 2013.

FOR FURTHER INFORMATION CONTACT: Peter Como, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2463, Silver Spring, MD 20993–0002, 301–796–6919.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144, July 9, 2012, 126 Statute 1054), provides two procedures by which a person may request that FDA classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1) of the FD&C Act, the person requests a classification under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of "low-moderate risk" or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA will classify the device by written order within 120 days. This classification will be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing this classification.

In accordance with section 513(f)(1) of the FD&C Act, FDA issued an order on November 18, 2011, classifying the Neuropsychiatric EEG-Based Assessment Aid (NEBA) System for attention-deficit/hyperactivity disorder into class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device which was subsequently reclassified into class I or class II. On December 8, 2011, Lexicor Medical Technology, LLC, submitted a request for classification of the NEBA System under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act. FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the de novo request, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on July 15, 2013, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 882.1140 (§ 882.1440).

Following the effective date of this final classification administrative order, any firm submitting a 510(k) premarket notification for a neuropsychiatric interpretive EEG assessment aid will need to comply with the special controls named in the final administrative order.

The device is assigned the generic name neuropsychiatric interpretive electroencephalograph assessment aid,

and it is identified as a prescription device that uses a patient's EEG to provide an interpretation of the patient's neuropsychiatric condition. The neuropsychiatric interpretive EEG assessment aid is used only as an assessment aid for a medical condition for which there exists other valid methods of diagnosis.

FDA has identified the following risks to health associated with this type of device and the measures required to mitigate these risks:

TABLE 1—NEUROPSYCHIATRIC INTERPRETIVE EEG ASSESSMENT AID RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Adverse tissue reaction	Biocompatibility.
Electromagnetic incompatibility	Electromagnetic compatibility testing.
Equipment malfunction leading to injury to user/patient (shock, burn, or mechanical failure).	Electrical safety, thermal, and mechanical testing. Labeling.
False result leading to delay in treatment or unnecessary treatment due to hardware failure.	Performance testing. Hardware and software verification, validation, and hazard analysis. Technical parameters. Labeling.
False result due to incorrect artifact reduction	Operator training. Software verification and validation. Labeling.
False result due to incorrect placement of electrodes	Operator training. Clinical performance testing. Labeling.
False result when a neuropsychiatric interpretive EEG assessment aid is used for confirmatory support or support for further testing.	Clinical performance testing. Device design characteristics. Labeling.
Use error	Clinical performance testing. Labeling.

FDA believes that the following special controls, in addition to the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness:

1. The technical parameters of the device, hardware and software, must be fully characterized and must demonstrate a reasonable assurance of safety and effectiveness.

a. Hardware specifications must be provided. Appropriate verification, validation, and hazard analysis must be performed.

b. Software, including any proprietary algorithm(s) used by the device to arrive at its interpretation of the patient's condition, must be described in detail in the software requirements specification and software design specification. Appropriate software verification, validation, and hazard analysis must be performed.

2. The device parts that contact the patient must be demonstrated to be biocompatible.

3. The device must be designed and tested for electrical safety, electromagnetic compatibility, thermal, and mechanical safety.

4. Clinical performance testing must demonstrate the accuracy, precision, reproducibility, of determining the EEG-based interpretation, including any specified equivocal zones (cutoffs).

5. Clinical performance testing must demonstrate the ability of the device to function as an assessment aid for the medical condition for which the device is indicated. Performance measures must demonstrate device performance characteristics per the intended use in the intended use environment. Performance measurements must include sensitivity, specificity, positive predictive value, and negative predictive value per the device intended use. Repeatability of measurements must be demonstrated using interclass correlation coefficients and illustrated by qualitative scatter plot(s).

6. The device design must include safeguards to prevent use of the device as a stand-alone diagnostic.

7. The labeling must include the following information:

a. A warning that the device is not to be used as a stand-alone diagnostic.

b. A detailed summary of the clinical performance testing, including any adverse events and complications.

c. The qualifications and training requirements for device users including technicians and clinicians.

d. The intended use population and the intended use environment.

e. Any instructions technicians should convey to patients regarding the collection of EEG data.

f. Information allowing clinicians to gauge clinical risk associated with integrating the EEG interpretive assessment aid into their diagnostic pathway.

g. Where appropriate, validated methods and instructions for reprocessing of any reusable components.

Neuropsychiatric interpretive EEG assessment aids are prescription devices restricted to patient use only upon the authorization of a practitioner licensed by law to administer or use the device. (Proposed § 882.1440(a); see section 520(e) of the FD&C Act (21 U.S.C. 360j(e)) and § 801.109 (21 CFR 801.109) (Prescription devices).) Prescription-use restrictions are a type of general controls as defined in section 513(a)(1)(A)(i) of the FD&C Act.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification prior to marketing the device, which contains information about the neuropsychiatric interpretive EEG assessment aid they intend to market.

II. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore,

neither an environmental assessment nor an environmental impact statement is required.

III. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

IV. Reference

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov.*

1. K112711—De Novo Request per 513(f) pursuant to the Agency's NSE Determination, dated November 18, 2011, From Lexicor Medical Technology, LLC, dated December 7, 2011.

List of Subjects in 21 CFR Part 882

Medical devices, Neurological devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 882 is amended as follows:

PART 882—NEUROLOGICAL DEVICES

■ 1. The authority citation for 21 CFR part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Add § 882.1440 to subpart B to read as follows:

§ 882.1440 Neuropsychiatric interpretive electroencephalograph assessment aid.

(a) *Identification.* The neuropsychiatric interpretive electroencephalograph assessment aid is a prescription device that uses a patient's electroencephalograph (EEG) to provide an interpretation of the patient's neuropsychiatric condition. The neuropsychiatric interpretive EEG assessment aid is used only as an assessment aid for a medical condition for which there exists other valid methods of diagnosis.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The technical parameters of the device, hardware and software, must be fully characterized and must demonstrate a reasonable assurance of safety and effectiveness.

(i) Hardware specifications must be provided. Appropriate verification, validation, and hazard analysis must be performed.

(ii) Software, including any proprietary algorithm(s) used by the device to arrive at its interpretation of the patient's condition, must be described in detail in the software requirements specification and software design specification. Appropriate software verification, validation, and hazard analysis must be performed.

(2) The device parts that contact the patient must be demonstrated to be biocompatible.

(3) The device must be designed and tested for electrical safety, electromagnetic compatibility, thermal, and mechanical safety.

(4) Clinical performance testing must demonstrate the accuracy, precision, reproducibility, of determining the EEG-based interpretation, including any specified equivocal zones (cutoffs).

(5) Clinical performance testing must demonstrate the ability of the device to function as an assessment aid for the medical condition for which the device is indicated. Performance measures must demonstrate device performance characteristics per the intended use in the intended use environment. Performance measurements must include sensitivity, specificity, positive predictive value, and negative predictive value per the device intended use. Repeatability of measurements must be demonstrated using interclass correlation coefficients and illustrated by qualitative scatter plot(s).

(6) The device design must include safeguards to prevent use of the device as a stand-alone diagnostic.

(7) The labeling must include the following information:

(i) A warning that the device is not to be used as a stand-alone diagnostic.

(ii) A detailed summary of the clinical performance testing, including any adverse events and complications.

(iii) The qualifications and training requirements for device users including technicians and clinicians.

(iv) The intended use population and the intended use environment.

(v) Any instructions technicians should convey to patients regarding the collection of EEG data.

(vi) Information allowing clinicians to gauge clinical risk associated with integrating the EEG interpretive assessment aid into their diagnostic pathway.

(vii) Where appropriate, validated methods and instructions for reprocessing of any reusable components.

Dated: February 12, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03388 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–1067]

Special Local Regulation; Southern California Annual Marine Events for the San Diego Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 during the California Half Ironman Triathlon, held on March 29, 2014. This event occurs in Oceanside Harbor, Oceanside, CA. These special local regulations are necessary to provide for the safety of the participants, crew, spectators, sponsor vessels of the triathlon, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 6:40 a.m. to 9:30 a.m. on March 29, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Bryan Gollogly, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11-PF-MarineEventsSanDiego@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 in support of the annual marine event, the California Half Ironman Triathlon (Item 2 on Table 1 of 33 CFR 100.1101), held

on the last Saturday morning in March. The Coast Guard will enforce the special local regulations on the Harbor and Federal Channel in Oceanside on March 29, 2014 from 6:40 a.m. to 9:30 a.m. The triathlon course will commence at the Oceanside Harbor boat ramp then proceed outbound through the federal channel to the Oceanside Harbor Entrance, and then proceed back through the channel to the boat ramp.

Under the provisions of 33 CFR 100.1101, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 5 U.S.C. 552(a) and 33 CFR 100.1101. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this notice, he or she may use a Broadcast Notice to Mariners or other communications coordinated by the event sponsor to grant general permission to enter the regulated area.

Dated: January 13, 2014.

S.M. Mahoney,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2014–03470 Filed 2–14–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0010]

RIN 1625–AA00

Safety Zone: Maintenance Dredging 35-Foot Channel and Rock Removal; Portland Harbor, Portland, ME

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone around the blasting and dredging project taking place in Portland Harbor between Portland and South Portland, Maine. This safety zone is required to protect users of the waterway from the safety hazards associated with this blasting and dredging project, which is being undertaken to increase the water depth of the main channel to 35 feet. Entry into this safety zone is prohibited unless authorized by the Captain of the Port (COTP) Northern New England.

DATES: This rule is effective without actual notice from February 18, 2014 until March 31, 2014. For the purposes of enforcement, actual notice will be used from the date the rule was signed, February 6, 2014, until February 18, 2014.

This rule will be enforced at various dates and times to be determined (TBD) to accommodate dredging and blasting operations, and will be advertised via Local Notice to Mariners and Broadcast Notice to Mariners.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0010]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Elizabeth Gunn, U.S. Coast Guard, Sector Northern New England, Waterways Management Division, via telephone at (207) 767–0398 or email at *Elizabeth.V.Gunn@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, via telephone at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 United States Code (USC) 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency, for good cause, finds those procedures are "impracticable, unnecessary, or contrary to the public interest."

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Army Corps of Engineers (ACOE) notified the Coast Guard of the blasting operations on January 8, 2014. This notice was not received in sufficient time for the Coast Guard to solicit public comments before the start of blasting operations. Consequently, waiting for a comment period to run before publishing this rule would inhibit the Coast Guard's ability to keep the boating public safe and, thus, would be impracticable and contrary to the public interest. Because blasting and dredging operations must be completed by March 15, 2014, in accordance with Maine Department of Environmental Protection (DEP) permitting, it would not be feasible for the project to be delayed or rescheduled. Immediate action is needed to protect the maritime public from the potential hazards associated with blasting operations, which include the use of explosives below the waterline. This regulation is necessary to ensure the immediate safety of users of the waterway.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, delaying the effective date of this rule would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for the temporary rule is 33 USC 1226, 1231, 46 USC Chapter 701, 3306, 3703; 50 USC 191, 195; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define safety zones.

As part of the Maintenance Dredging 35-Foot Channel and Rock Removal Project, the Army Corps of Engineers must blast and dredge in portions of the Portland Harbor near Portland and South Portland, Maine. Due to inherent dangers associated with blasting and dredging operations, a safety zone is necessary to help ensure the safety of the maritime public operating near the work site. The potential explosive arc for each blasting site has been calculated to be approximately 600 feet.

The project is also required to comply with applicable state laws.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone on the navigable waters, from the surface to the bottom of Portland Harbor, in the vicinity of the Army Corps of Engineers' Maintenance Dredging 35-Foot Channel and Rock Removal Project work site between Portland and South Portland, Maine, from the Portland Fish Pier at 43°39′03″ N, 70°15′09″ W across to the Coast Guard Base Pier at 43°38′47″ N, 70°14′53″ W then downstream to the Maine State Pier at 43°39′20″ N, 70°14′48″ W and across to Portland Pipeline Pier 1 at 43°39′11″ N, 70°14′35″ W. This safety zone will encompass multiple blasting sites within a concentrated area of Portland Harbor. The safety zone will be enforced only within 600 feet of each blast site, and only for a short duration of time prior to, during, and after each detonation. Notice of the safety zone enforcement will be advertised via Local Notice to Mariners, Safety Marine Information Broadcast (SMIB) broadcast over Channel 16, and by actual notice on site. Vessels will be able to transit areas outside of the 600 yard radius surrounding each blast site. In addition, vessels may be able to transit through the enforced portions of the safety zone with permission of the COTP or his designated representative. To request permission to transit within the safety zone, the COTP can be contacted via telephone at (207) 767–0303, or by radio on VHF Marine Band Radio, channel 16. The safety zone will be in effect from 12:01 a.m. on February 10, 2014 to 11:59 p.m. on March 31, 2014.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard has made this determination based primarily on the fact that maritime traffic will be allowed to transit the safety zones with permission from the COTP so there should be little to no economic impact. Further, the safety zone will only be enforced for short durations before and during the actual blasting activity.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 USC 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 USC 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The following entities may be affected by this rule, some of which may be small entities: The owners and operators of vessels intending to operate, transit, or anchor in a portion of Portland Harbor during the effective times of the safety zone. The safety zone will not have a significant impact on a substantial number of small entities for the following reasons. The enforcement area of the safety zone will be limited to those areas where actual blasting is taking place. Vessels will be able to transit all other areas inside the safety zone where active blasting activities are not taking place. The Coast Guard will make enforcement notifications via maritime advisories so mariners can adjust their plans accordingly. The safety zone will only be enforced for short durations before and during the actual blasting activity.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves regulations regarding safety zones. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. This rule involves creation of a temporary safety zone for a limited period of time. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 USC 1226, 1231; 46 USC 701, 3306, 3703; 50 USC 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0010 to read as follows:

§ 165.T01–0010 Safety Zone; Maintenance Dredging 35-Foot Channel and Rock Removal; Portland Harbor, Portland, ME.

(a) *Location.* The following area is a safety zone: All navigable waters, from the surface to the bottom of Portland Harbor, from the Portland Fish Pier at 43°39′03″ N, 70°15′09″ W across to the Coast Guard Base Pier at 43°38′47″ N, 70°14′53″ W then downstream to the Maine State Pier at 43°39′20″ N, 70°14′48″ W and across to Portland Pipeline Pier 1 at 43°39′11″ N, 70°14′35″ W.

(b) *Definitions.* The following definitions apply to this section:

(1) "Designated representative" means any U.S. Army Corps of Engineers personnel, any commissioned, warrant, or petty officer of the U.S. Coast Guard, and any member of the Coast Guard Auxiliary who has been designated by the Captain of the Port (COTP) Sector Northern New England, to act on the COTP's behalf.

(2) "Official patrol vessel" means any Coast Guard, Coast Guard Auxiliary, Army Corp of Engineers, state, or local law enforcement vessel assigned or approved by the COTP.

(c) *Effective Period.* This section is effective from February 10, 2014 to March 31, 2014.

(d) *Regulations.* (1) The general regulations in 33 CFR 165.23 apply.

(2) Entry, transit, diving, dredging, dumping, fishing, trawling, conducting salvage operations, remaining or anchoring within a 600 foot radius of blasting operations within the safety zone is prohibited unless authorized by the COTP.

(3) Upon being hailed by a U.S. Coast Guard vessel, U.S. Army Corps of Engineers vessel or a designated representative, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(4) Vessel operators desiring to enter, transit, dive, dredge, dump, fish, trawl, conduct salvage operations, remain within, or anchor within the safety zone must contact the COTP or the designated representative via the Sector Northern New England Command Center by VHF channel 16 or by phone at (207) 767–0303.

(5) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the designated representative.

Dated: February 6, 2014.

A.J. Ceraolo,

Commander, U.S. Coast Guard Acting Captain of the Port Sector Northern New England.

[FR Doc. 2014–03464 Filed 2–14–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0362]

RIN 1625–AA00

Safety Zones; Eleventh Coast Guard District Annual Fireworks Events

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending several permanent safety zones located in the Eleventh Coast Guard District that are established to protect public safety during annual firework displays. These amendments will standardize the safety zone language, update listed events, delete events that are no longer occurring, add new annual fireworks events, and establish a standardized format using a table to list these recurring annual fireworks events. When these safety zones are activated, and thus subject to enforcement, this rule will limit the movement of vessels within the established firework display area.

DATES: This rule is effective March 20, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0362. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Junior Grade Blake Morris, Eleventh Coast Guard District Prevention Division, Waterways Management Branch, U.S. Coast Guard; telephone 510–437–3801, email *Blake.J.Morris@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On December 10th, 2013, we published a NPRM entitled Eleventh Coast Guard District Annual Fireworks Events, in the **Federal Register** (78 FR 74048). One comment was received in response to the NPRM and there were no requests for a public meeting. A public meeting was not held.

The comment that was received stressed that public safety should be the first priority during any fireworks event, making it necessary for the Coast Guard to establish and enforce safety zones that are apparent and clear to the public. The author also believes better clarity can be achieved by using standardized language when publishing regulations.

B. Basis and Purpose

The Coast Guard is conducting this rulemaking under the authority of 33 U.S.C. 1231.

Fireworks displays are held annually on a recurring basis on the navigable waters within the Eleventh Coast Guard District. Many of the annual fireworks events that require safety zones do not currently reflect some of the required information pertinent to the events such as the dates of the events and other required information that is described below. These safety zones are necessary to provide for the safety of the crew, spectators, participants in the event, participating vessels, and other users and vessels of the waterway from the hazards associated with firework displays. This rule will also provide the public with current information on safety zone locations, size, and length of time the zones will be active.

The effect of these safety zones will be to restrict general navigation in the vicinity of the events, from the start of each event until the conclusion of that event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to keep all spectators and vessels a safe distance away from the fireworks displays.

C. Discussion of Comments, Changes and the Final Rule

We received one comment and no requests for a public meeting after publishing the NPRM for this rule. The comment that was received stressed that public safety should be the first priority during any fireworks event, making it necessary for the Coast Guard to establish and enforce safety zones that are apparent and clear to the public. The comment was not adverse in nature, therefore, no changes have been made to the regulatory text of this rule.

The Coast Guard has reviewed 33 CFR part 165 sections 1123, 1124, and 1191 for accuracy. The Coast Guard is amending Table 1 in sections 1123, 1124, and 1191 of Title 33 CFR as follows: existing events are being updated with current information; unlisted events are being added; and listed events that the Coast Guard has been unable to verify as still in existence are being deleted.

The Coast Guard is amending the annual fireworks events for the San Diego Captain of the Port zone listed in 33 CFR part 165 section 1123 as follows: 4 events require updating to reflect current sponsor information and event location. These events are the "San Diego CA POPS Fireworks Display", "Fourth of July Fireworks, Mission Bay", "Coronado Glorietta Bay Fourth of July Fireworks", and "San Diego Parade of Lights Fireworks Display." Through this rulemaking, three new safety zones are being added for the following events. The first new safety zone is for the "Big Bay Boom Fourth of July Fireworks" event occurring one evening during the first week of July in San Diego Bay. This event requires four 1,000 foot radius safety zones around barges located at Shelter Island, Harbor Island, Embarcadero, and Seaport Village. The second new safety zone is for the "MIDWAY Fireworks" event occurring on various evenings throughout the year on the USS MIDWAY in San Diego Bay. The safety zone will be 800 feet in radius around a barge located immediately to the west of the USS MIDWAY at approximately 32 42′46″ N, 117 10′47″ W. The third new safety zone is for the "Sea World Fireworks" event in Mission Bay occurring nightly between Memorial Day and Labor Day, and on approximately 10 evenings between Labor Day and Memorial Day. The safety zone at Sea World, Mission Bay, will be 800 feet in radius around a barge located at approximately 32 46′03″ N, 117 13′11″ W. Sea World Fireworks events will also be scheduled between Thanksgiving and New Year's Day as conditions allow.

The Coast Guard is amending the annual fireworks events listed in 33 CFR 165 section 1124 within the San Diego Captain of the Port zone for the Colorado River, between Davis Dam (Bullhead City, AZ) and Headgate Dam (Parker, AZ) as follows: 4 events require updating with current sponsor information and event locations. These events are the "Avi Resort & Casino Memorial Day Fireworks", "Laughlin/ Bullhead City Rockets Over the River Fireworks", "Avi Resort & Casino Independence Day Fireworks", and the "Avi Resort & Casino Labor Day Fireworks." Through this rulemaking, two new safety zones are being added for the following events. The first new safety zone is for the "Colorado Belle & Edgewater Hotel/Casino Thanksgiving Fireworks" event occurring in the lower Colorado River at Laughlin, NV. The safety zone will encompass the following coordinates: 35 09′51″ N, 114 34′08″ W; 35 09′53″ N, 114 34′15″ W along the shoreline to 35 09′31″ N, 114 34′17″ W; 35 09′33″ N, 114 34′08″ W along the shoreline to 35 09′51″ N, 114 34′08″ W. The second new safety zone is for the "Colorado Belle & Edgewater Hotel/Casino New Years Eve Fireworks" event occurring on the lower Colorado River at Laughlin, NV. The safety zone will encompass the following coordinates: 35 09′51″ N, 114 34′08″ W; 35 09′53″ N, 114 34′15″ W along the shoreline to 35 09′31″ N, 114 34′18″ W; 35 09′33″ N, 114 34′08″ W along the shoreline to 35 09′51″ N, 114 34′08″ W.

The Coast Guard is amending the annual fireworks events listed in 33 CFR 165 section 1191 within the San Francisco Captain of the Port zone for the Northern California and Lake Tahoe Area as follows: 14 events require updating to reflect current sponsor information and event location. The Coast Guard is updating the following 14 numerically listed events in Table 1 of this section: (1), (4), (5), (6), (7), (9), (11), (13), (14), (15), (16), (20), (24), (25). Through this rulemaking, two new safety zones are being added for the following events. The first new safety zone is for the "Jameson Beach Fourth of July Fireworks" event, occurring at South Lake Tahoe near Jameson Beach. This safety zone will be 560 feet in radius around the fireworks barge. The second new safety zone is for the "Feast of Lanterns Fireworks" event, occurring on the last Saturday in July near Lovers Point Park in Pacific Grove. This safety

zone will be 490 feet in radius around the launch platform located on the beach at approximately 36°37′26″ N, 121°54′54″ W. Finally, the Coast Guard is deleting three safety zones for events that no longer take place within the San Francisco Captain of the Port zone. Those three events are: the "Fourth of July Fireworks, City of Monterey", the "Jack London Square Fourth of July Fireworks", and the "Independence Day Celebration, City of Stockton."

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This rule is not a significant regulatory action because the regulations exist for a limited period of time on a limited portion of the waterways. Further, individuals and vessels desiring to use the affected portion of the waterways may, upon permission from the Patrol Commander, use the affected areas.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

We expect this rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to fish, transit, or anchor in the waters affected by these safety zones. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: Small vessel traffic will be able to pass safely around the area and vessels engaged in event activities, sightseeing and commercial fishing have ample space outside of the area governed by the safety zones to engage in these activities. Small entities and the maritime public will be advised of the activation of these safety zones via public notice to mariners or notice of implementation published in the **Federal Register.**

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

This rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing, updating, or removing temporary safety zones for fireworks displays. The fireworks are launched from navigable waters of the United States and may have potential for negative impact on the safety or other interest of waterway users and near shore activities in the event area. The activites include fireworks launched from barges near the shoreline that generally rely on the use of navigable waters as a safety buffer to protect the public from fireworks fallouts and premature detonations. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES.** We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Revise Table 1 to § 165.1123 to read as follows:

§ 165.1123 Southern California Annual Firework Events for the San Diego Captain of the Port Zone.

* * * * *

TABLE 1 TO § 165.1123

[All coordinates referenced use datum NAD 83]

1. San Diego, CA POPS Fireworks Display	
Sponsor	San Diego Symphony
Event Description	Fireworks Display.
Date	Friday/Saturday/Sunday last weekend of June through first weekend of September.
Location	San Diego Bay South Embarcadero, San Diego, CA
Regulated Area	800-foot radius safety zone around tug/barge combination located at approximately: 32°42′16″ N, 117°09′59″ W.
2. Fourth of July Fireworks, Mission Bay	
Sponsor	Mission Bay Yacht Club
Event Description	Fireworks Display.
Date	One evening; the first week in July.
Location	Mission Bay, San Diego, CA.
Regulated Area	800-foot radius safety zone around tug/barge combination located at approximately 32°47′00″ N, 117°14′45″ W.
3. Coronado Glorietta Bay Fourth of July Fireworks	
Sponsor	Coronado, CA.
Event Description	Fireworks Display.
Date	One evening; the first week in July.
Location	Glorietta Bay, CA.
Regulated Area	800-foot radius safety zone around a tug/barge combination located at approximately: 32°40′43″ N, 117°10′14″ W.
4. San Diego Parade of Lights Fireworks Display	
Sponsor	Greater Shelter Island Association.
Event Description	Boat Parade/Fireworks display.
Date	Two evenings in December.
Location	San Diego Harbor, San Diego, CA.
Regulated Area	800-foot radius safety zone around a tug/barge combination in the northern portion of the San Diego Main Ship Channel off of Harbor Island located at approximately: 32°43′25″ N, 117°11′50″ W. (Note: see also 33 CFR 100.1101, Table 1, for related marine event).
5. Big Bay Boom Fourth of July Fireworks	
Sponsor	Port of San Diego.
Event Description	Fireworks Display.
Date	One evening; first week in July
Location	San Diego Bay, San Diego, CA.

TABLE 1 TO § 165.1123—Continued

[All coordinates referenced use datum NAD 83]

Regulated Area	1000-foot radius safety zone around four tug/barge combinations located at approximately: Shelter Island Barge: 32°42′48″ N, 117°13′12″ W; Harbor Island Barge: 32°43′00″ N, 117°12′00″ W; Embarcadero Barge: 32°42′45″ N, 117°10′47″ W; Seaport Village Barge: 32°42′02″ N, 117°10′00″ W.
6. MIDWAY Fireworks	
Sponsor	USS MIDWAY Association.
Event Description	Fireworks Display.
Date	Evening shows throughout the year.
Location	San Diego Bay off the USS MIDWAY, San Diego, CA.
Regulated Area	800-foot radius safety zone around either the tug/barge combination immediately to the west of the USS MIDWAY located at approximately: 32°42′46″ N, 117°10′47″ W or off of the western end of the flight deck of the USS MIDWAY.
7. Sea World Fireworks	
Sponsor	Sea World.
Event Description	Fireworks Display.
Date	Nightly; between Memorial Day and Labor Day. Approximately 10 evening shows between Labor Day and Memorial Day, primarily on weekend evenings. Between Thanksgiving and New Year's Day as conditions allow.
Location	Mission Bay/Fiesta Island, San Diego, CA.
Regulated Area	800-foot radius safety zone around a tug/barge combination located at approximately: 32°46′03″ N, 117°13′11″ W.

■ 3. Revise Table 1 to § 165.1124 to read as follows:

§ 165.1124 Annual Firework Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona).

* * * * *

TABLE 1 TO § 165.1124

[All coordinates referenced use datum NAD 83]

1. Avi Resort & Casino Memorial Day Fireworks	
Sponsor	Avi Resort & Casino.
Event Description	Fireworks Display.
Date	Sunday before Memorial Day.
Location	Laughlin, NV.
Regulated Area	River closure from 8 p.m.–10 p.m. The safety zone includes all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°01′05″ N, 114°38′20″ W; 35°01′05″ N, 114°38′15″ W; along the shoreline to 35°00′50″ N, 114°38′13″ W; 35°00′49″ N, 114°38′18″ W; along the shoreline to 35°01′05″N, 114°38′20″ W.
2. Laughlin/Bullhead City Rockets Over the River Fireworks	
Sponsor	Laughlin Tourism Committee.
Event Description	Fireworks Display. Two events over the 4th of July Weekend. One will be on the 4th and the other will be on a weekend evening closest to the 4th of July.
Date	First week in July.
Location	Laughlin, NV./Bullhead City, AZ.
Regulated Area	The temporary safety zone is specifically defined as all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°09′53″ N, 114°34′15″ W; 35°09′53″ N, 114°34′07″ W; along the shoreline to 35°09′25″ N, 114°34′09″ W; 35°09′06″ N, 114°34′17″ W; along the shoreline to 35°09′53″ N, 114°34′15″ W.
3. Avi Resort & Casino Independence Day Fireworks	
Sponsor	Avi Resort & Casino.
Event Description	Fireworks Display.
Date	First week in July.
Location	Laughlin, NV.
Regulated Area	River closure from 8 p.m.–10 p.m. The safety zone includes all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°01′05″ N, 114°38′20″ W; 35°01′05″ N, 114°38′14″ W; along the shoreline to 35°00′50″ N, 114°38′13″ W; 35°00′49″ N, 114°38′18″ W; along the shoreline to 35°01′05″ N, 114°38′20″ W.
4. Avi Resort & Casino Labor Day Fireworks	
Sponsor	Avi Resort & Casino.

TABLE 1 TO § 165.1124—Continued

[All coordinates referenced use datum NAD 83]

Event Description	Fireworks Display.
Date	Sunday before Labor Day.
Location	Laughlin, NV.
Regulated Area	River closure from 8 p.m.–10 p.m. The safety zone includes all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°01′05″ N, 114°38′20″ W; 35°01′05″ N, 114°38′15″ W; along the shoreline to 35°00′20″ N, 114°38′13″ W; 35°00′49″ N, 114°38′18″ W; along the shoreline to 35°01′05″N, 114°38′20″ W.
5. Colorado Belle & Edgewater Hotel/Casino Thanksgiving Fireworks	
Sponsor	Edgewater Hotel & Casino
Event Description	Fireworks Display.
Date	One evening during Thanksgiving week.
Location	Laughlin, NV.
Regulated Area	The temporary safety zone is specifically defined as all navigable waters of the lower Colorado River at Laughlin, NV, from 10 p.m.–12:30 a.m., encompassed by the following coordinates: 35°09′51″ N, 114°34′08″ W; 35°09′53″ N, 114°34′15″ W, along the shoreline to 35°09′31″ N, 114°34′17″ W; 35°09′33″ N, 114°34′08″ W along the shoreline to 35°09′51″ N, 114°34′08″ W.
6. Colorado Belle & Edgewater Hotel/Casino New Years Eve Fireworks	
Sponsor	Edgewater Hotel & casino.
Event Description	Fireworks Display.
Date	New Years Eve.
Location	Laughlin, NV.
Regulated Area	The temporary safety zone is specifically defined as all navigable waters of the lower Colorado River at Laughlin, NV, from 10 p.m.–12:30 a.m., encompassed by the following coordinates: 35°09′51″ N, 114°34′08″ W; 35°09′53″ N, 114°34′15″ W along the shoreline to 35°09′ 31″ N, 114°34′18″ W; 35°09′33″ N, 114°34′08″ W along the shoreline to 35°09′51″ N, 114°34′08″ W.

■ 4. Revise Table 1 to § 165.1191 to read as follows:

§ 165.1191 Northern California and Lake Tahoe Area Annual Fireworks Events.

* * * * *

TABLE 1 TO § 165.1191

[All coordinates referenced use datum NAD 83]

1. San Francisco Giants Fireworks	
Sponsor	San Francisco Giants Baseball Team.
Event Description	Fireworks display in conjunction with baseball season home games.
Date	All season home games at AT&T Park.
Location	700 feet off of Pier 48, San Francisco, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 700-foot radius upon commencement of the fireworks display.
2. KFOG KaBoom	
Sponsor	KFOG Radio, San Francisco, CA.
Event Description	Fireworks Display.
Date	Second or Third Saturday in May.
Location	1,200 feet off Candlestick Point, San Francisco, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
3. Fourth of July Fireworks, City of Eureka	
Sponsor	City of Eureka, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Humboldt Bay, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
4. Fourth of July Fireworks, Crescent City	
Sponsor	Crescent City, CA.
Event Description	Fireworks Display.

TABLE 1 TO § 165.1191—Continued

[All coordinates referenced use datum NAD 83]

Date	July 4th.
Location	Crescent City Harbor, Crescent City, CA.
Regulated Area	Crescent City Harbor in the navigable waters within a 700-foot radius of the launch platform located on the West Jetty.

5. Pillar Point Harbor Fireworks

Sponsor	Various sponsors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Half Moon Bay, CA.
Regulated Area	Pillar Point Harbor Beach.

6. Fourth of July Fireworks, Redwood City

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Redwood City, CA.
Regulated Area	600-foot radius around the fireworks launch platform located on the pier at the Port of Redwood City.

7. San Francisco Independence Day Fireworks

Sponsor	The City of San Francisco.
Event Description	Fireworks Display.
Date	July 4th.
Location 1	A barge located approximately 1000 feet off San Francisco Pier 39 at approximately 37°48′49″ N, 122°24′46″ W.
Location 2	Land based launch at the end of the San Francisco Municipal Pier at Aquatic Park at approximately 37°48′38″ N, 122°25′28″ W.
Regulated Area 1	1. 100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 1,000-foot radius upon commencement of the fireworks display.
Regulated Area 2	2. The area of navigable waters within a 1,000-foot radius of the launch platform located on the Municipal Pier.

8. Fourth of July Fireworks, Berkeley Marina

Sponsor	Berkeley Marina.
Event Description	Fireworks Display.
Date	July 4th.
Location	Berkeley Pier, Berkeley, CA.
Regulated Area	The area of navigable waters within a 1,000-foot radius of the launch platform located on the Berkeley Pier.

9. Fourth of July Fireworks, City of Richmond

Sponsor	City of Richmond.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Richmond Harbor, Richmond, CA.
Regulated Area	The area of navigable waters within a 560-foot radius of the launch platform located at Lucretia Edwards Park.

10. Fourth of July Fireworks, City of Sausalito

Sponsor	City of Sausalito.
Event Description	Fireworks Display.
Date	July 4th.
Location	1,000 feet off-shore from Sausalito, CA waterfront, north of Spinnaker Restaurant.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

11. Fourth of July Fireworks, City of Martinez

Sponsor	City of Martinez.
Event Description	Fireworks Display.
Date	July 4th.
Location	Carquinez Strait, CA
Regulated Area	The area of navigable waters within a 560-foot radius of the launch platform located near Waterfront Park.

TABLE 1 TO § 165.1191—Continued

[All coordinates referenced use datum NAD 83]

12. Fourth of July Fireworks, City of Antioch	
Sponsor	City of Antioch.
Event Description	Fireworks Display.
Date	July 4th.
Location	San Joaquin River, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the moving fireworks display.
13. Fourth of July Fireworks, City of Pittsburg	
Sponsor	City of Pittsburg.
Event Description	Fireworks Display.
Date	July 4th.
Location	Suisun Bay, CA.
Regulated Area	The area of navigable waters within a 560-foot radius of the launch platform located on a Pittsburg Marina Pier.
14. Delta Independence Day Celebration Fireworks	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	San Joaquin River, near Mandeville Island, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
15. Fourth of July Fireworks, Tahoe City, CA	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Off-shore from Common Beach, Tahoe City, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
16. Fourth of July Fireworks, Glenbrook NV	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Off-shore Glenbrook Beach, NV.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
17. Independence Day Fireworks, Kings Beach, CA	
Sponsor	North Tahoe Business Association.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Off-shore from Kings Beach, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
18. Lights on the Lake Fourth of July Fireworks, South Lake Tahoe, CA	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Off South Lake Tahoe, CA near the NV Border.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
19. Red, White, and Tahoe Blue Fireworks, Incline Village, NV	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.

TABLE 1 TO § 165.1191—Continued

[All coordinates referenced use datum NAD 83]

Location	500–1,000 feet off Incline Village, NV in Crystal Bay.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
20. Labor Day Fireworks, South Lake Tahoe, CA	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Labor Day.
Location	Off South Lake Tahoe, California near the Nevada Border.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
21. Fleet Week Fireworks	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Second Friday and Saturday in October.
Location	1,000 feet off Pier 3, San Francisco, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
22. Monte Foundation Fireworks	
Sponsor	Monte Foundation Fireworks.
Event Description	Fireworks Display.
Date	Second Saturday in October.
Location	Sea Cliff State Beach Pier in Aptos, CA.
Regulated Area	1,000-foot safety zone around the navigable waters of the Sea Cliff State Beach Pier.
23. Rio Vista Bass Derby Fireworks	
Sponsor	Rio Vista Chamber of Commerce.
Event Description	Fireworks Display.
Date	Second Saturday in October.
Location	500 feet off Rio Vista, CA waterfront.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
24. San Francisco New Years Eve Fireworks	
Sponsor	City of San Francisco.
Event Description	Fireworks Display.
Date	New Years Eve, December 31st.
Location	1,000 feet off the Embarcadero near the Ferry Plaza, San Francisco, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
25. Sacramento New Years Eve Fireworks	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	New Years Eve, December 31st.
Location	Near Tower Bridge, Sacramento River.
Regulated Area	The navigable waters of the Sacramento River within 700 feet of the two shore-based launch locations in approximate positions 38°34′48″ N, 121°30′38″ W and 38°34′49″ N, 121°30′29″ W.
26. Jameson Beach Fourth of July Fireworks	
Sponsor	Various Sponsors
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	South Lake Tahoe near Jameson Beach.
Regulated Area	100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 560-foot radius upon commencement of the fireworks display.
27. Feast of Lanterns Fireworks	
Sponsor	Feast of Lanterns, Inc.

TABLE 1 TO § 165.1191—Continued

[All coordinates referenced use datum NAD 83]

Event Description	Fireworks Display.
Date	Last Saturday of July.
Location	Near Lover's Point Park in Pacific Grove, CA.
Regulated Area	The area of navigable waters within a 490-foot radius of the launch platform located on the beach near Lover's Point Park in approximate position 36°37′26″ N, 121°54′54″ W.

Dated: January 21, 2014.

K.L. Schultz,

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

[FR Doc. 2014–03468 Filed 2–14–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–1055; FRL–9906–65–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Transportation Conformity and General Conformity Requirements for Bernalillo County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the Governor of New Mexico on November 18, 2010, May 24, 2011 and October 11, 2012 on behalf of the Albuquerque-Bernalillo County Air Quality Control Board (AQCB). These revisions serve to incorporate recent changes to the Federal Transportation Conformity and General Conformity rules into the state conformity SIP for Bernalillo County. EPA is approving these revisions in accordance with the requirements of the Federal Clean Air Act (CAA).

DATES: This rule is effective on April 21, 2014 without further notice, unless EPA receives relevant adverse comment by March 20, 2014. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2010–1055, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions.
- Email: Michelle Peace at *peace.michelle@epa.gov.*
- Mail or delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2010–1055. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

City of Albuquerque Environmental Health Department, Air Quality Division, Office of Air Quality, One Civic Plaza Northwest, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Michelle Peace, telephone (214) 665–7430, email *peace.michelle@epa.gov.* Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, fax number 214–665–7263.

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

Outline

I. What is transportation conformity?

Transportation conformity is required under section 176(c) of the Clean Air Act to ensure that Federally supported highway and transit projects are consistent with (conform to) the purpose of the approved SIP. Conformity currently applies to areas that are designated nonattainment, and those areas redesignated to attainment after 1990 (maintenance areas), with plans developed under section 175A of the Clean Air Act for the following transportation related criteria pollutants: Ozone, particulate matter ($PM_{2.5}$ and PM_{10}), carbon monoxide (CO), and nitrogen dioxide (NO_2). Conformity with the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant National Ambient Air Quality Standards (NAAQS). The Federal transportation

conformity regulations are found in 40 CFR part 93 and provisions related to conformity SIPs are found in 40 CFR 51.390.

II. What is general conformity?

General conformity is also required under section 176(c) of the Clean Air Act to ensure that all other Federally supported actions outside of highway and transit projects are consistent with the purpose of the approved SIP. General conformity requirements currently apply to the following criteria pollutants: Ozone, particulate matter ($PM_{2.5}$ and PM_{10}), carbon monoxide (CO), and nitrogen dioxide (NO_2), sulfur dioxide (SO_2) and Lead. The Federal general conformity regulations are found in 40 CFR part 93 and provisions related to general conformity SIPs are found in 40 CFR 51.851.

III. What is the background for this action?

States adopt transportation conformity SIPs to enable an area to implement and enforce the Federal transportation conformity requirements per 40 CFR part 51 subpart T and 40 CFR part 93 subpart A. The AQCB initially complied with this requirement by submitting a SIP to EPA on December 19, 1994; we approved this SIP on November 8, 1995 (60 FR 56241). Since the November 8, 1995 approval, the Governor of New Mexico has submitted a number of revisions to the conformity SIP. The most recent of these revisions were submitted on November 18, 2010, and October 11, 2012. The November 18, 2010 submittal consists of amendments to 20.11.3 NMAC, Transportation Conformity reflecting federally promulgated changes that affect PM 2.5 and PM 10 nonattainment and maintenance areas (75 FR 14260). The October 11, 2012 Transportation Conformity submittal includes the current transportation conformity rule that reflects all transportation conformity rulemakings promulgated by EPA as of April 2012, including the Restructuring Amendments final rulemaking (77 FR 14979).

States adopt general conformity SIPs to enable an area to implement and enforce the Federal general conformity requirements per 40 CFR part 51 subpart W and 40 CFR part 93 subpart B. The AQCB initially complied with this requirement by submitting a SIP to EPA on October 1, 2002 and approved by EPA on December 30, 2004 (69 FR 78314). EPA promulgated amendments to the Federal general conformity rule on April 5, 2010 (75 FR 17254). AQCB's May 24, 2011 revision serves to update Albuquerque's regulations found in 20.11.4 NMAC, General Conformity and bring them in line with these most recent changes to the Federal general conformity rule. Because 40 CFR part 51, subpart W (§§ 51.850–51.860) essentially duplicates the regulations promulgated at 40 CFR part 93, subpart B (§§ 93.150–93.160), EPA has deleted all of subpart W except for § 51.851. In the revision to § 51.851, EPA requires that if a state or tribe submits a General Conformity SIP or TIP that it be consistent with the requirements of 40 CFR part 93, subpart B. The EPA added paragraph (f) to 40 CFR 51.851 to allow the states and tribes to develop their own "presumed to conform" list for actions covered by their conformity SIPs or TIPs." AQCB has not used this provision to develop a "presumed to conform" list for its conformity SIP.

IV. What did the state submit and how did we evaluate it?

On November 18, 2010 and October 11, 2012, the Governor of New Mexico submitted a revision to the Bernalillo County, New Mexico State Implementation Plan (SIP) for Transportation Conformity purposes. The November 18, 2010 SIP revision consists of language to address the April 23, 2010 federal changes to address $PM_{2.5}$ and PM_{10} nonattainment areas. The October 11, 2012 submittal addresses EPA's March 14, 2012 revisions to the Federal rule by restructuring two sections of the conformity rule, 20.11.3.109 NMAC (40 CFR 93.109) and 20.11.3.119 NMAC (40 CFR 93.119), so that the existing rule requirements clearly apply to areas designated for future new or revised NAAQS.

On May 24, 2011, The Governor of New Mexico submitted a revision to the Bernalillo County SIP for General Conformity purposes. The SIP revision consists of language to address the April 5, 2010 federal changes to update and streamline the general conformity determination process.

The practice of the AQCB is to incorporate federal language into its local rules and customize such rules to meet the standard required by the New Mexico Administrative Code (NMAC) style guidance, rather than to incorporate by reference the federal rules. This approach is consistent with 40 CFR 51 subparts T and W, which allow a state's conformity SIPs to contain criteria and procedures more stringent than the federal requirements. EPA reviewed the sections of the NMAC found in Tables 1 and 2 for consistency with the Federal Regulations. We found that the revised NMAC sections accurately reflect the current content of corresponding sections of the Federal transportation and general conformity rules they are intended to address, as well as adds specific language to further clarify roles and responsibilities in the Bernalillo County consultation process. Table 1 highlights the sections of NMAC Chapter 20 that were revised to address EPA's March 24, 2010 federal transportation conformity rulemaking (75 FR 14260). Table 2 highlights the sections of NMAC Chapter 20 that were revised to address EPA's March 14, 2012 federal transportation conformity rulemaking (77 FR 14979). Table 3 highlights the sections of NMAC Chapter 20 that correspond to the revisions to the federal general conformity rules which became effective on July 6, 2010. These NMAC revisions are reflected in the AQCB's May 24, 2011 submittal.

TABLE 1—NOVEMBER 18, 2010 REVISIONS TO NMAC CHAPTER 20, TRANSPORTATION CONFORMITY, AND CORRESPONDING SECTIONS OF 40 CFR PART 93

NMAC Ch. 20	40 CFR 93
20.11.3.2	93.102
20.11.3.7	93.101
20.11.3.103	93.103
20.11.3.104	93.104
20.11.3.105	93.105
20.11.3.106	93.106
20.11.3.107	93.107
20.11.3.108	93.108
20.11.3.109	93.109
20.11.3.110	93.110
20.11.3.111	93.111
20.11.3.112	93.112
20.11.3.113	93.113
20.11.3.114	93.114
20.11.3.115	93.115
20.11.3.116	93.116
20.11.3.117	93.117
20.11.3.118	93.118
20.11.3.119	93.119
20.11.3.120	93.120
20.11.3.121	93.121
20.11.3.122	93.122
20.11.3.123	93.123
20.11.3.124	93.124
20.11.3.125	93.125
20.11.3.126	93.126
20.11.3.127	93.127
20.11.3.128	93.128
20.11.3.129	93.129

TABLE 2—OCTOBER 11, 2012 REVISIONS TO NMAC CHAPTER 20,TRANSPORTATION CONFORMITY, AND CORRESPONDING SECTIONS OF 40 CFR PART 93

NMAC Ch. 20	40 CFR 93
20.11.3.7	93.101
20.11.3.109	93.109

TABLE 2—OCTOBER 11, 2012 REVISIONS TO NMAC CHAPTER 20, TRANSPORTATION CONFORMITY, AND CORRESPONDING SECTIONS OF 40 CFR PART 93—Continued

NMAC Ch. 20	40 CFR 93
20.11.3.118	93.118
20.11.3.119	93.119

TABLE 3—MAY 24, 2011 REVISIONS TO NMAC CHAPTER 20, GENERAL CONFORMITY, AND CORRESPONDING SECTIONS OF 40 CFR PART 93

NMAC Ch. 20	40 CFR 93
20.11.4.2	93.150
20.11.4.6	93.100
20.11.4.7	93.152
20.11.4.9	93.104
20.11.4.10	93.105
20.11.4.11	93.106
20.11.4.153	93.153
20.11.4.154	93.154
20.11.4.155	93.155
20.11.4.156	93.156
20.11.4.157	93.157
20.11.4.158	93.158
20.11.4.159	93.159
20.11.4.160	93.160
20.11.4.161	93.161
20.11.4.162	93.162
20.11.4.163	93.163
20.11.4.164	93.164
20.11.4.165	93.165

The complete federal conformity rules of 40 CFR part 93 and the complete NMAC Chapter can be found at the following Web sites: *http://www.gpoaccess.gov/cfr/index.html* for the federal rules and *http://www.nmcpr.state.nm.us/nmac/index.htm* for the local rules.

V. Final Action

EPA is approving the Bernalillo County SIP revisions for Transportation Conformity, which were submitted on November 18, 2010 and October 11, 2012. AQCB's revisions amend rule 20.11.3 NMAC *Transportation Conformity* by updating it to bring it into compliance with the amended Federal transportation conformity rule. EPA is also approving AQCB's revision to the Albuquerque SIP submitted to EPA on May 24, 2011. AQCB's revision amends rule 20.11.4 NMAC *General Conformity* to update the general conformity rule in its entirety to meet state and federal requirements. We have evaluated the State's submittals and have determined that they meet the applicable requirements of the Clean Air Act and EPA regulations, and are consistent with EPA policy.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on April 21, 2014 without further notice unless we receive adverse comment by March 20, 2014. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 21, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: January 28, 2014.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart GG—New Mexico

■ 2. In § 52.1620, the second table in paragraph (c) entitled, "EPA Approved Albuquerque/Bernalillo County, NM Regulations," is amended by revising the entries for Part 3 (20.11.3 NMAC), Transportation Conformity, and Part 4 (20.11.4 NMAC), General Conformity to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

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EPA Approved Albuquerque/Bernalillo County, NM Regulations

State citation	Title/subject	State approval/effective date	EPA approval date	Explanation
New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 11—Albuquerque/Bernalillo County Air Quality Control Board				
*	*	*	*	*
Part 3 (20.11.3 NMAC).	Transportation Conformity	11/18/2010; 10/11/2012	2/18/2014 [Insert FR page number where document begins].	
Part 4 (20.11.4 NMAC).	General Conformity	5/24/2011	2/18/2014 [Insert FR page number where document begins].	
*	*	*	*	*

* * * * *

[FR Doc. 2014–03434 Filed 2–14–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. CDC–2014–0004; NIOSH–268]

42 CFR Part 88

RIN 0920–AA50

World Trade Center Health Program; Amendments to List of WTC-Related Health Conditions; Cancer; Revision

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Interim final rule.

SUMMARY: On September 12, 2012, the Administrator of the WTC Health Program (Administrator) published a final rule in the **Federal Register** adding certain types of cancer to the List of World Trade Center (WTC)-Related Health Conditions (List) in the WTC Health Program regulations; an additional final rule was published on September 19, 2013 adding prostate cancer to the List. Through the process of implementing the addition of cancers to the List and integrating cancer coverage into the WTC Health Program, the Administrator has identified the need to amend the rule to remove the ICD codes and specific cancer sub-sites, clarify the definition of "childhood cancers," revise the definition of "rare cancers," and notify stakeholders that the Administrator is revising WTC Health Program policy related to coverage of cancers of the brain and the pancreas. No types of cancer covered by the WTC Health Program will be removed by this action; four types of cancer—malignant neoplasms of the brain, the cervix uteri, the pancreas, and the testis—are newly eligible for certification as WTC-related health conditions as a result of this action.

DATES: This interim final rule will be effective February 18, 2014. The Administrator invites written comments from interested parties on this interim final rule. Comments must be received by April 21, 2014.

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

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.

Instructions: All submissions received must include the agency name (Centers for Disease Control and Prevention, HHS) and docket number (CDC–2014–0004; NIOSH–268) or Regulation Identifier Number (0920–AA50) for this rulemaking. All relevant comments, including any personal information provided, will be posted without change to *http://www.regulations.gov*. For detailed instructions on submitting public comments, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Paul Middendorf, Senior Health Scientist, 1600 Clifton Rd. NE., MS: E–20, Atlanta, GA 30329; telephone (404) 498–2500 (this is not a toll-free number); email *pmiddendorf@cdc.gov*.

SUPPLEMENTARY INFORMATION:

This rule is organized as follows:

I. Executive Summary

A. Purpose of Regulatory Action

The purpose of this action is to amend regulatory language added to 42 CFR 88.1 in paragraph (4) of the definition of "List of WTC-related health conditions" by the final rule published in the **Federal Register** on September 12, 2012 (77 FR 56138) and announce a revision to the Administrator's decision to exclude certain types of cancer from WTC Health Program coverage. The Administrator has found that a detailed list of sub-codes unnecessarily constrains the WTC Health Program's ability to appropriately identify which members' cancers are eligible for certification. The Administrator has also identified the need to clarify that childhood cancers are cancers that are first diagnosed in a person under the age of 20 years. The current definition does not clearly indicate that the Administrator has always intended to certify cases of cancer in WTC Program members who were under the age of 20 when they were first diagnosed, even though they may be over the age of 20 when they enter the WTC Health Program. Finally, the Administrator has also identified problems with the definition of "rare cancers" established in § 88.1.[1] In application, the definition has proven confusing and imprecise, reflecting neither the intent of the Administrator nor the concern of the WTC Health Program Scientific/Technical Advisory Committee (STAC) that led the STAC to recommend adding such a category of cancers.

In addition, the Administrator has found it appropriate to reconsider and reverse the WTC Health Program policy to deny certification of cases of malignant neoplasms of the brain (brain cancer) and the pancreas (pancreatic cancer) as WTC-Related Health Conditions. With this rulemaking, these two types of cancer become eligible for certification and Program coverage.

B. Summary of Major Provisions

The Administrator is striking the regulatory language indicating that covered cancer types would be specified by medical diagnostic codes (ICD–9[2] and ICD–10[3]). The rule is further amended to remove Table 1 in its entirety and to replace it with the narrative list of 24 broadly specified cancer types by body organ or region identified by the September 2012 final rule and in a subsequent final rulemaking published September 19, 2013 adding prostate cancer to the List. Although the codes and subcodes have been removed, all of the specifically identified types of cancers that were included in Table 1 are still covered by the Program.

The Administrator is amending the definition of "childhood cancers" to clarify that childhood cancers are any type of cancer diagnosed in a person less than 20 years of age.

The Administrator is amending the definition of "rare cancers" to revise the numeric threshold which determines those cancers which are considered rare. This amendment will result in two additional types of cancer meeting the definition of "rare cancers" and being eligible for coverage—malignant neoplasm of the cervix uteri (invasive cervical cancer) and malignant neoplasm of the testis (testicular cancer). (See discussion in Section IV.B., below.)

The Administrator also announces that he has reviewed and reversed the policy of considering cancers of the brain and the pancreas ineligible for WTC Health Program coverage. With this rule, the Administrator establishes that these two types of cancer will now be considered eligible for coverage as rare cancers.

C. Costs and Benefits

The total costs and benefits resulting from this regulatory action are due to brain cancer, invasive cervical cancer, pancreatic cancer, and testicular cancer being eligible for coverage by the Program as "rare cancers." The Administrator estimates the costs of medical treatment for the four cancers now considered eligible under the definition of rare cancers, as well as screening costs associated with invasive cervical cancer, to be between $2,287,933 and $4,933,280 annually for FY 2014 through FY 2016.

II. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, opinions, recommendations, and/or data. Comments are invited on any topic related to this interim final rule. In addition, the Administrator invites comments specifically on the following question related to this rulemaking:

1. What incidence per 100,000 persons per year in the United States ("incidence rate") should be used by the WTC Health Program as the threshold for determining whether a type of cancer is rare in relation to the incidence rates for all types of cancer in the U.S. population? Please provide a justification for the suggested incidence rate.

Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. The Administrator will consider the comments submitted and may revise the final rule as appropriate.

III. Background

A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347), amended the Public Health Service Act (PHS Act) to add Title XXXIII[4] establishing the WTC Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment

[1] Rare cancers were defined in Table 1 as, "Any type of cancer affecting the [sic] populations smaller than 200,000 individuals in the Unites [sic] States, *i.e.*, occurring at an incidence rate less than 0.08 percent of the U.S. population. Rare cancers will be determined on a case-by-case basis."

[2] WHO (World Health Organization) [1978]. International Classification of Diseases, Ninth Revision. Geneva: World Health Organization.

[3] WHO (World Health Organization) [1997]. International Classification of Diseases, Tenth Revision. Geneva: World Health Organization.

[4] Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm–61. Those portions of the Zadroga Act found in Titles II and III of Public Law 111–347 do not pertain to the WTC Health Program and are codified elsewhere.

benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers (responders) who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania, and to eligible persons (survivors) who were present in the dust or dust cloud on September 11, 2001 or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area.

All references to the Administrator of the WTC Health Program in this rule mean the National Institute for Occupational Safety and Health (NIOSH) Director or his or her designee. Section 3312(a)(6) of the PHS Act requires the Administrator to conduct rulemaking to propose the addition of a health condition to the List of WTC-Related Health Conditions (List) codified in 42 CFR 88.1.

B. Rulemaking History

On September 7, 2011, the Administrator received a written petition to add a health condition to the List of WTC-Related Health Conditions (Petition 001). Petition 001 requested that the Administrator "consider adding coverage for cancer" to the List of WTC-Related Health Conditions specified in § 88.1. On October 5, 2011, the Administrator formally exercised his option to request a recommendation from the STAC regarding the petition.[5] The Administrator requested that the STAC "review the available information on cancer outcomes associated with the exposures resulting from the September 11, 2001, terrorist attacks, and provide advice on whether to add cancer, or a certain type of cancer, to the List specified in the Zadroga Act."[6] In response, the STAC submitted its recommendation on April 2, 2012. After considering the STAC's recommendation, the Administrator issued a notice of proposed rulemaking on June 13, 2012 (77 FR 35574). On September 12, 2012, the Administrator published a final rule in the **Federal Register** adding certain types of cancer[7] to the List of WTC-Related Health Conditions in 42 CFR 88.1 (77 FR 56138).[8] On May 2, 2013, the Administrator received a written petition to add prostate cancer to the List (Petition 002). After considering the petition, the Administrator published a notice of proposed rulemaking on July 2, 2013 (78 FR 39670) and a final rule on September 19, 2013 (78 FR 57505) adding prostate cancer to the List.

C. Need for Rulemaking

1. Table 1

The final rule adding certain types of cancer to the List became effective on October 12, 2012 (the addition of prostate cancer became effective October 21, 2013). Since that time, the WTC Health Program has worked to develop guidelines and procedures to incorporate those types of cancers into existing Program health condition certification practices. However, during the first year of implementation, the Program discovered that the complex process of translating the ICD–9 codes to ICD–10 codes has resulted in confusion among Program medical staff and Clinical Centers of Excellence (CCEs) and Nationwide Provider Network physicians. The Administrator finds that the detailed list of ICD codes in Table 1, including sub-codes, is inappropriately restrictive and often results in coding errors. For instance, CCE physicians have at times submitted requests for certification using a different ICD code for the listed cancer type than the Administrator used in Table 1. ICD codes are highly nuanced and, for some cancers, choosing the precise code may be a matter of professional judgment on the part of the physician making a health condition determination. When a physician submits an ICD code that differs from codes included in Table 1, the Administrator must then determine whether the specific code chosen by the physician references a type of cancer that was actually intended to be covered by the Program or could be otherwise correctly characterized. In some instances, the determining physician used a different or more-specific subcode than was included in the List; however, after review, the Administrator agreed that the type of cancer submitted by the physician fits within the intent of the final rule on cancer. A detailed list of sub-codes is unnecessary, confusing to providers, and limits the WTC Health Program's ability to appropriately identify which members' cancers are eligible for certification, therefore, the Administrator is replacing Table 1 with a narrative list of cancer categories.

2. Childhood Cancers

The Administrator has also identified the need to clarify that childhood cancers are cancers that are first diagnosed in a person under the age of 20 years. The current definition does not clearly indicate that the Administrator has always intended to certify cases of cancer in WTC Health Program members who were under the age of 20 when they were first diagnosed, even though they may be over the age of 20 when they enter the WTC Health Program. The existing language could be interpreted to mean that only a WTC Health Program member under the age of 20 years can be certified for treatment of a WTC-related childhood cancer. The revised language clarifies that a childhood cancer is defined based on age at diagnosis rather than the current age of the WTC Health Program member.

3. Rare Cancers

In addition to the detailed list of ICD codes, the Program has also identified problems with the definition of "rare cancers" established in § 88.1.[9] In application, the definition has proven confusing and imprecise, reflecting neither the intent of the Administrator nor the STAC's concern regarding difficulties identifying associations between exposure and some cancers in epidemiologic studies.

The Administrator has identified several problems with the definition of rare cancers for the purpose of identifying such conditions for WTC Health Program coverage as specified in 42 CFR 88.1. First, the original definition was derived from the Rare Diseases Act of 2002, which states that, "[r]are diseases and disorders are those which affect small patient populations, typically populations smaller than 200,000 individuals in the United States."[10] The Rare Diseases Act addresses the rarity of disease as considered against all possible types of diseases, which is different than the Administrator's intent to define the rarity of a type of cancer as considered against all types of cancer only.

Second, the Rare Diseases Act establishes the threshold for the number of cases qualifying a disease as rare using "prevalence" (*i.e.*, the number of persons in the United States living with a particular disease) instead of

[5] PHS Act, sec. 3312(a)(6)(B)(i); 42 CFR 88.17(a)(2)(i).

[6] 77 FR 35574, 35576 (June 13, 2012).

[7] Including a categorical definition of childhood cancers, which includes any type of cancer diagnosed in an individual under the age of 20 years.

[8] On October 12, 2012, the Administrator published a **Federal Register** notice to correct errors in Table 1 of the final rule (the list of cancers covered by the Program) (77 FR 62167).

[9] Rare cancers were defined in Table 1 as, "Any type of cancer affecting the [sic] populations smaller than 200,000 individuals in the Unites States, *i.e.*, occurring at an incidence rate less than 0.08 percent of the U.S. population. Rare cancers will be determined on a case-by-case basis."

[10] Public Law 107–280, sec. 2(a)(1); 42 U.S.C. 283h(c).

"incidence" (*i.e.,* the number of persons in the United States that acquire a particular disease over a given time period). Because life expectancy varies greatly across cancer types, some cancers occur infrequently but have a high survival rate and therefore a high prevalence. Similarly, cancers that occur more frequently but have a high mortality rate have a low prevalence. As a result, the prevalence of a type of cancer varies substantially depending on the life expectancy associated with the cancer type. Therefore, the Administrator finds that incidence is a more useful and appropriate indicator to select a rarity threshold for cancer.

Third, the "case-by-case basis" text is misleading. There is no case-specific approach to "determine" which cancers would qualify as rare cancers. Rare cancers will be determined based on their incidence as specified in this rule.

4. Cancers of the Brain and the Pancreas

In the preamble to the September 12, 2012 final rule, the Administrator concurred with the STAC's decision to not recommend malignant neoplasms of the brain and the pancreas for inclusion on the List of WTC-Related Health Conditions (77 FR 56138, 56147), indicating that no compelling evidence was found to support their inclusion:

> The issue of whether to recommend the addition of cancers of the * * * brain and pancreas to the List of WTC-Related Health Conditions was considered and discussed by the STAC in the open meeting on March 28, 2012. In those discussions, the STAC considered the available evidence for recommending the addition of cancers of the * * * brain and pancreas, including the epidemiologic evidence and the NTP [NIH's National Toxicology Program] and IARC reviews. Following its deliberation on the matter, the STAC voted not to include * * * brain or pancreatic cancer in its recommendation. [See STAC (World Trade Center Health Program Scientific/Technical Advisory Committee) Letter from Elizabeth Ward, Chair, to John Howard, MD, Administrator [2012].] The Administrator concurs with the decision of the STAC and is not adding these cancers to the List of WTC-Related Health Conditions at this time. The addition of these cancers may be reconsidered if additional information on the association of 9/11 exposures and those cancer outcomes becomes available.[11]

As a result of that determination, the WTC Health Program denied certification of cancers of the brain and the pancreas, even though they were found to meet the numeric threshold in the definition of rare cancers. After review, the Administrator has reconsidered that decision and determined, for the reasons discussed below, that cancers of the brain and the pancreas will be considered eligible for certification as rare cancers. With this rulemaking, a WTC Health Program member whose 9/11 exposure is found substantially likely to be a significant factor in aggravating, contributing to, or causing the individual's brain and/or pancreatic cancer, will be certified for WTC Health Program treatment services. The WTC Health Program will review and reassess cases of brain and pancreatic cancer that were denied certification prior to this rulemaking.

IV. Rare Cancers

A. STAC Recommendation

As noted above, the Administrator asked the STAC to deliberate and develop recommendations on a petition to add cancers to the List of WTC-Related Health Conditions. The STAC met on three occasions between November 2011 and March 2012, and offered its final recommendation to the Administrator on April 2, 2012.[12] The STAC expressed a sense that insufficient exposure data from the WTC terrorist attack site limited the Committee's ability to identify specific cancers definitively linked to the terrorist attacks.[13] The STAC further noted the difficulty of detecting excesses of rare cancers in epidemiologic studies, concluding that rare cancers should be covered on a precautionary basis.[14] As the Administrator understands the STAC's basis for recommending inclusion of a rare cancers category, the STAC intended for the WTC Health Program to establish a category of types of cancers that are sufficiently rare that such cancers are difficult to evaluate in epidemiologic studies in general, and 9/11 cohorts in particular.

In its April 2, 2012 letter to the Administrator, the STAC formally recommended that the Administrator add rare cancers to the List of WTC Related Health Conditions. According to the STAC:

> Excesses in rare cancers are difficult to detect in epidemiologic studies. Even large studies may have very low numbers of expected cases of rare cancers, and thus very low statistical power to detect any but very large effects. In addition, most cancer studies analyze data by organ site, and not by site and histology. This can result in inability to detect rare site and histology combinations, such as angiosarcoma of the liver, associated with vinyl chloride monomer exposure, and small cell carcinoma of the lung, associated with bischloromethyl ether. Cancers can also be defined as rare based on the patient's gender (male breast cancer), age (prostate cancer in men under 40) or race (melanoma in African Americans). Since customary study methods are unlikely to identify increased risks for rare cancers among WTC-exposed populations unless they occur in sizable clusters. Nonetheless, given the sizable number of carcinogens (and related cancer sites) present in WTC smoke and dust, it is reasonable to consider the possibility that an increased risk of specific rare cancers may occur or that the incidence of common cancers would be increased at younger ages in WTC-exposed populations. One approach that has been used is to consider rare cancers as cancers with age-adjusted incidence rates less than 15 per 100,000, which would result in defining 25% of all adult cancers in the US as rare. Additional definitions—10 cases per million per year, or 1 case per million per year—have also been examined.[15] [citations omitted]

Further, the STAC specifically referenced an incidence rate of less than 15 cases per 100,000 population to characterize the cancer rate among children as rare.[16] Based on the reference to an incidence rate of 15 cases per 100,000 persons per year in the United States, the Administrator

[11] 77 FR 56138, 56147 (September 12, 2012).

[12] The STAC premised its recommendation on evidence from four main sources: carcinogens present at the New York City attack site with limited or sufficient evidence of carcinogenicity in humans based on the International Agency for Research on Cancer (IARC) *Monographs on the Evaluation of Carcinogenic Risks to Humans;* cancers arising from regions of the respiratory and digestive tracts where inflammatory conditions have been documented; cancers for which epidemiologic studies have found some evidence of increased risk in WTC responder and survivor populations; and findings from other sources of information relevant to 9/11 exposures and the potential occurrence of cancer, including the expert judgment and personal experiences of STAC members, and comments from the public. The STAC evaluated the only peer-reviewed study available at the time of its deliberations, an epidemiologic study of Fire Department of New York (FDNY) firefighters conducted by Rachel Zeig-Owens and colleagues, which was published in *The Lancet* in September 2011. [Zeig-Owens R, Webber MP, Hall CB, Schwartz T, Jaber N, Weakley J, Rohan TE, Cohen HW, Derman O, Aldrich TK, Kelly K, Prezant DJ [2011]. Early Assessment of Cancer Outcomes in New York City Firefighters After the 9/11 Attacks: An Observational Cohort Study. The Lancet. 378(9794):898–905.] This was also the only study available to the Administrator at the time of the Petition 001 rulemaking in June and September, 2012.

[13] STAC (World Trade Center Health Program Scientific/Technical Advisory Committee) [2012]. Letter from Elizabeth Ward, Chair, to John Howard MD, Administrator at 1–2. NIOSH Docket 257. *http://www.cdc.gov/niosh/docket/archive/docket257.html.*

[14] *Id.* at 25.

[15] STAC (World Trade Center Health Program Scientific/Technical Advisory Committee) [2012]. Letter from Elizabeth Ward, Chair to John Howard, MD, Administrator, at 25. This letter is included in NIOSH Docket 257, *http://www.cdc.gov/niosh/docket/archive/docket257.html.*

[16] STAC (World Trade Center Health Program Scientific/Technical Advisory Committee) [2012]. Letter from Elizabeth Ward, Chair to John Howard, MD, Administrator, at 6. This letter is included in NIOSH Docket 257, *http://www.cdc.gov/niosh/docket/archive/docket257.html.*

concludes that the STAC sought to identify types of cancer that are rare relative to other types of cancer rather than identifying cancers that are rare diseases compared to the universe of all diseases.

B. WTC Health Program Rare Cancers Definition and Numeric Threshold Determination

1. Rare Cancers Numeric Threshold

In the preamble to the September 2012 final rule, the Administrator developed a four-part methodology for evaluating whether to add a type of cancer to the List.[17] The definition of "rare cancers" was established under Method 4, which requires that the STAC provide a reasonable basis for the inclusion of a type or category of cancer. The Administrator found the STAC's recommendation to develop a categorical definition of rare cancers to be reasonable, and at that time thought it appropriate to establish a numeric threshold derived from the Rare Diseases Act of 2002.[18] However, in hindsight, the definition of rare cancers created in the September 2012 WTC Health Program final rule established a numeric threshold that reflected neither the Administrator's nor the STAC's intent.

In order to revise the definition of "rare cancers" and develop a threshold better suited to WTC Health Program purposes, the Administrator reconsidered the STAC's recommendation, and evaluated the incidence rates used by research organizations in the United States and Europe, including the North American Association of Central Cancer Registries (NAACCR), the National Institutes of Health (NIH), the International Rare Cancers Initiative (IRCI), the European Society for Medical Oncology (ESMO), and RARECARE.

There is no single, universally agreed-upon, quantitative definition of "rare cancers." A rarity threshold is a matter on which informed experts differ; established rarity thresholds also depend on the purpose for which the definition is applied. The different thresholds used by the various organizations were developed to stimulate epidemiologic studies and clinical research on rare cancer therapeutics; the Administrator was unable to identify any incidence rate used by any other organizations for purposes similar to the WTC Health Program. The European organizations IRCI, ESMO, and RARECARE use lower incidence thresholds for rare cancers than do researchers in the United States: IRCI uses a threshold of less than or equal to 2 cases per 100,000 persons per year;[19] ESMO uses a threshold of less than or equal to 5 cases per 100,000 persons per year;[20] and RARECARE uses a threshold of less than or equal to 6 cases per 100,000 persons per year.[21] By contrast, the incidence rate employed by NAACCR is less than 15 cases per 100,000 persons per year.[22] This rate of less than 15 cases per 100,000 persons per year is also used by NIH's Office of Rare Diseases (ORD) and the National Cancer Institute's Epidemiology and Genomics Research Program (EGRP).[23] During a May 2007 ORD/EGRP workshop, "Synergizing Epidemiologic Research on Rare Cancers," meeting participants noted:

> [r]are cancers were defined as those cancers for which the incidence rate is less than 15 cases per 100,000 population or fewer than 40,000 new cases per year in the United States. Although these numbers are relatively small, all rare cancers combined account for 27 percent of cancers diagnosed each year and 25 percent of cancer-related deaths, and the morbidity and mortality that they cause are increasing.[24]

The Administrator has determined that the incidence rate used by U.S. researchers—less than 15 cases per 100,000 persons per year in the United States—is most representative of his intent and that of the STAC. The Administrator has further determined that, because incidence rates change from year-to-year, rare cancers will be identified using average annual data from the 2005–2009 period which has been age-adjusted[25] to the U.S. population in 2000.[26] In other words, the Administrator will identify each rare cancer type based on its average incidence rate during the years 2005–2009; therefore, for each rare cancer type, the incidence rate is static and will not be adjusted to reflect current incidence rates. Accordingly, the threshold incidence rate for rare cancers will be less than 15 cases per 100,000 persons per year in the United States.

2. Application of Rare Cancers Numeric Threshold

All types of cancer that are not listed in 42 CFR 88.1 and that meet the threshold of less than of 15 cases per 100,000 persons per year (based on age-adjusted 2005–2009 average annual data)[27] will be considered rare cancers and eligible for certification by the Program; members whose cancers are certified by the WTC Health Program will receive medical treatment and services.

The revised numeric threshold in the definition of rare cancers will result in two types of cancer becoming newly eligible for consideration as rare cancers. Under the former numeric threshold in the definition of rare cancers (prevalence of fewer than 200,000 persons), malignant neoplasms of the cervix uteri (invasive cervical cancer) and the testis (testicular cancer) were not eligible for coverage because their respective prevalence estimates are greater than the threshold of 200,000 persons in the United States with these conditions. Both invasive cervical cancer and testicular cancer, however, will be considered rare cancers under the new definition because their incidence rates are less than 15 cases per 100,000 persons per year in the United States based on age-adjusted 2005–2009 average annual data.[28] Moreover, all types of cancer which are considered rare under the former prevalence-based definition based on the Rare Diseases Act definition are also considered rare under the new incidence-based definition.

V. Cancers of the Brain and the Pancreas

A. STAC Recommendation

During a meeting held on March 28, 2012, STAC members discussed

[17] 77 FR 56138, 56143.

[18] 77 FR 35574, 35592 (June 13, 2012).

[19] International Rare Cancers Initiative. *http://www.irci.info/abouttheinitiative/.*

[20] European Society for Medical Oncology. Improving Rare Cancer Care in Europe; Recommendation on Stakeholder Actions and Public Policies. *http://www.rarecancerseurope.org/IMG/pdf/ESMO_Rare_Cancers_RECOMMENDATIONS_FINAL.pdf.*

[21] RARECARE. *http://www.rarecare.eu/rarecancers/rarecancers.asp.*

[22] Greenlee RT, Goodman MT, Lynch CF, Platz CE, Havener LA, Howe HL [2010]. The Occurrence of Rare Cancers in U.S. Adults, 1995–2004. Public Health Reports 125:28–43.

[23] NCI Epidemiology and Genomics Research Program. Synergizing Epidemiologic Research on Rare Cancers, May 10–11, 2007, Bethesda, MD. *http://epi.grants.cancer.gov/Synergizing/.*

[24] *Id.*

[25] An age-adjusted incidence rate is a weighted average of the age-specific rates, where weighted in proportion to the number of individuals in the corresponding age groups of a standard population. The potential confounding effect of age is reduced when comparing age-adjusted rates computed using the same standard population.

[26] Copeland G, Lake A, Firth R, Wohler B, Wu XC, Stroup A, Russell C, Boyuk K, Schymura M, Hofferkamp J, Kohler B (eds) [2012]. Cancer in North America: 2005–2009. Volume One: Combined Cancer Incidence for the United States, Canada and North America. Springfield, IL: North American Association of Central Cancer Registries, Inc.

[27] Copeland G, Lake A, Firth R, Wohler B, Wu XC, Stroup A, Russell C, Boyuk K, Schymura M, Hofferkamp J, Kohler B (eds) [2012]. Cancer in North America: 2005–2009. Volume One: Combined Cancer Incidence for the United States, Canada and North America. Springfield, IL: North American Association of Central Cancer Registries, Inc.

[28] *Id.*

evidence of associations between 9/11 exposures and cancers of the brain and the pancreas, and voted to not recommend cancers of the brain or the pancreas for inclusion as specifically-identified cancers on the List of WTC-Related Health Conditions. The Committee Chair acknowledged that coverage of brain cancer as a rare cancer would depend on the categorical definition of rare cancer adopted by the Administrator; however, the matter of whether brain and pancreatic cancers should be eligible for consideration as "rare cancers" was not brought to a formal vote.[29] The Administrator understands that the STAC was distinguishing between the standard for a specific cancer type to be named to the List, and the relatively lower standard for a cancer type to fall under the definition of rare cancers, which is predicated on the condition that those cancers occur so infrequently that epidemiologic study would be difficult and usually inconclusive.

B. WTC Health Program Determination

When applying the Administrator's four-part methodology established in the September 12, 2012 final rule, neither cancers of the brain nor the pancreas were found to satisfy any of the four methods.[30] Additionally, although the STAC voted specifically not to recommend adding malignant neoplasms of either the brain or the pancreas to the List of WTC-Related Health Conditions, the STAC did recommend that the Administrator establish a definition of rare cancers (as discussed above, rare cancers were added to the List using Method 4, which requires that the STAC provide a reasonable basis for inclusion).[31] Considering the numeric thresholds in both the former and revised definitions of rare cancers, malignant neoplasms of both the brain and the pancreas meet the definition of rare cancers. As discussed below, after reconsideration of the STAC recommendation and re-evaluation of the available scientific evidence, the Administrator finds it appropriate to revise his prior decision to exclude cancers of the brain and the pancreas from consideration under the rare cancers category and allow these two cancers to be recognized as "rare," for the purposes of the WTC Health Program, and therefore eligible for certification.

The rationale provided by the STAC for the inclusion of rare cancers as a category on the List was that there is large uncertainty in associating a rare cancer to a specific exposure. Most rare cancers have not been adequately investigated in epidemiologic studies and the relatively small number of cases of such cancers may preclude epidemiologic study in the future. Moreover, future epidemiologic study of the small number of expected cancer cases in the 9/11-exposed population would be of little help in determining an association between 9/11 exposures and most types of cancer. Although malignant neoplasms of the brain and the pancreas qualify as rare cancers under various numeric thresholds,[32] the Administrator determined, pursuant to the September 2012 final rulemaking, that neither type of cancer would be considered a rare cancer within the WTC Health Program. That determination was premised on the availability of numerous published studies which did not support an association between brain and pancreatic cancers and environmental agents, including certain agents identified in 9/11 exposure assessment studies. In the September 2012 final rule, the Administrator distinguished malignant neoplasms of the brain and the pancreas from other rare cancers for which evidence of causation by environmental or occupational exposure is lacking and for which there is little likelihood that statistically significant evidence of association with 9/11 exposures can be obtained through epidemiologic studies. Other rare cancers were considered WTC-related health conditions because limitations in the available information did not allow their relationships to the September 11, 2001, terrorist attacks to be adequately studied in the published epidemiologic studies and are not likely to be adequately studied in the near future.

At the time of the September 2012 final rulemaking, in accordance with the STAC's stated basis for recommending the inclusion of a rare cancers category (see prior discussion, Section IV.A.), the Administrator had interpreted the presence of many studies addressing brain and pancreatic cancer as an indication that they could be studied, and that associations would be identified if present; he originally determined that those studies indicate that neither cancers of the brain nor the pancreas are associated with the exposures experienced by WTC responders and survivors, and therefore they could not be considered WTC-related.

In the process of revising the definition of rare cancers, the Administrator re-visited the STAC's rationale for including the category of rare cancers. During its March 2012 meeting, the STAC considered the exposure data collected in the days following the September 11, 2001, terrorist attacks, and found it extremely limited. STAC members acknowledged the difficulties in attempting to identify associations between 9/11 exposures and specific cancer types. This sentiment was clearly expressed by the STAC Chair, who stated, "we know something but we don't know everything" with regard to 9/11 exposures.[33] Following his review of the STAC's findings, the Administrator has reconsidered his previous determination. He concurs with concerns expressed by the STAC, including one STAC member's recognition that for many types of cancer, such as brain cancer, there are difficulties in identifying associations with environmental and occupational exposures.[34] Upon further reflection, the Administrator finds it appropriate to take a more cautious approach when excluding rare cancers from WTC Health Program coverage.

The Administrator now finds that while brain cancer or pancreatic cancer may be evaluated in a number of epidemiologic studies, the limitations of those studies are substantial, leading the Administrator to conclude that the uncertainties surrounding the causes of brain and pancreatic cancers are not unlike the uncertainties surrounding other rare cancers. The Administrator reviewed epidemiologic studies of brain and pancreatic cancers involving some of the carcinogens involved in 9/11 exposures and identified five significant study limitations: (1) The low frequency of and difficulty in diagnosing cancers of the brain and pancreas; [35] (2) the

[29] STAC (World Trade Center Health Program Scientific/Technical Advisory Committee) March 28, 2012 meeting transcript at 102. NIOSH Docket 248. *http://www.cdc.gov/niosh/docket/archive/docket248.html.*

[30] 77 FR 56138 (September 12, 2012).

[31] *Id.* at 56144 (September 12, 2012).

[32] Brain and pancreatic cancers each meet both the previous prevalence-based numeric threshold and the new incidence-based numeric threshold established in this interim final rule to be considered rare within the WTC Health Program.

[33] STAC (World Trade Center Health Program Scientific/Technical Advisory Committee) February 15, 2012 meeting transcript at 160. NIOSH Docket 248. *http://www.cdc.gov/niosh/docket/archive/docket248.html.*

[34] STAC (World Trade Center Health Program Scientific/Technical Advisory Committee) March 28, 2012 meeting transcript at 45. NIOSH Docket 248. *http://www.cdc.gov/niosh/docket/archive/docket248.html.*

[35] Anntila A, Pukkala E, Sallmen M, Hernberg S, Hemminki K [1995]. Cancer incidence among Finnish workers exposed to halogenated hydrocarbons. JOEM 37:797–806; Blair A, Grauman

Continued

difficulty in identifying appropriate referent populations (ideally, referent populations would have very similar demographic characteristics and exposures except for the agent being studied);[36] (3) the difficulty of conducting studies of brain or pancreatic cancers, which typically have long latency periods, before disease symptoms might manifest in exposed individuals;[37] (4) inaccurate or inconsistent exposure assessment;[38] and (5) observations of multiple health effects which may identify statistically significant increases in brain or pancreatic cancers by chance.[39] The limitations identified in this review are consistent with the findings from other reviews of rare cancers.[40]

Upon re-evaluation of these studies, the Administrator finds that brain or pancreatic cancer may be associated with an exposure, but the studies' limitations prevent adequate evaluation of this association. Accordingly, the Administrator has determined that the availability of numerous studies evaluating the associations between brain and pancreatic cancers and environmental exposures should not be given more weight in his decision-making than the inherent limitations of these studies. While the Administrator previously relied on the lack of an identified association between environmental exposures and brain or pancreatic cancers in these epidemiologic studies to conclude that they should not be considered WTC-related, he now determines that those studies are not likely to identify associations because of study limitations and concludes that, because the uncertainty associated with brain and pancreatic cancers is similar to the uncertainty associated with other rare cancers, they should be similarly eligible for consideration as WTC-related.

For the reasons discussed above, the Administrator has determined that brain and pancreatic cancers are considered rare cancers, and that they are eligible for WTC Health Program certification.

VI. Effects of Rulemaking on Federal Agencies

Title II of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347) reactivated the September 11th Victim Compensation Fund (VCF). Administered by the U.S. Department of Justice (DOJ), the VCF provides compensation to any individual or representative of a deceased individual who was physically injured or killed as a result of the September 11, 2001, terrorist attacks or during the debris removal. Eligibility criteria for compensation by the VCF include a list of presumptively covered health conditions, which are physical injuries determined to be WTC-related health conditions by the WTC Health Program. Pursuant to DOJ regulations, the VCF Special Master is required to update the list of presumptively covered conditions when the List of WTC-Related Health Conditions in 42 CFR 88.1 is updated.[41]

VII. Issuance of an Interim Final Rule With Immediate Effective Date

In accordance with the provisions of the Administrative Procedure Act at 5 U.S.C. 553(b)(3)(B), the Administrator finds good cause to waive the use of prior notice and comment procedures for issuing this interim final rule (IFR), and that the use of such procedures would be contrary to the public interest. This IFR amends 42 CFR 88.1 to remove Table 1 and replace it with a narrative list of covered cancers, clarify the definition of childhood cancers, and revise the definition of rare cancers; it also notifies stakeholders that the Administrator now considers malignant neoplasms of the brain and the pancreas to be eligible for coverage as rare cancers. The Administrator has determined that it is contrary to the public interest to delay these necessary amendments. Postponement of the implementation of these amendments could result in real harm to those individuals who are currently suffering from a subtype of cancer that was inadvertently excluded from the detailed list of cancer codes, or from a rare cancer that was not identified by the former prevalence-based numeric threshold (U.S. population size of 200,000 persons), or from cancer of the brain or the pancreas. Thus, the Administrator is waiving the prior notice and comment procedures in the interest of protecting the health of WTC Health Program members whose cancer may now be eligible for certification.

The amendments to replace Table 1 with a narrative list of covered cancers and clarify the definition of childhood cancers will not result in any substantive change to the types of cancers added to the List of WTC-Related Health Conditions by the final rule published on September 12, 2012 (77 FR 56138) or by the final rule published on September 19, 2013 adding prostate cancer (78 FR 57505); however, changing the numeric threshold for rare cancers will result in of two types of cancer becoming newly eligible for consideration as rare cancers. Additionally, cancers of the brain and the pancreas may now be considered for certification as rare cancers. The Administrator expects that most stakeholders will be supportive of the amendments, because the determinations established in this rulemaking will result in more WTC Health Program members becoming eligible for certification of a WTC-

DJ, Lubin JH, Fraumeni JF [1983]. Lung cancer and other causes of death among licensed pesticide applicators. JNCI 71:31–37; Davis JR, Brownson, Garcia, R, Bentz BJ, Turner A [1993]. Family pesticide use and childhood brain cancer. Arch Environ Contam Toxicol 24:87–92; Garabrant DH, Held J, Langholz B, Bernstein L [1988]. Mortality of aircraft manufacturing workers in Southern California. Am J Ind Med 13:683–693; IARC (International Agency for Research on Cancer) [2009]. IARC monographs on the evaluation of carcinogenic risks to humans. Vol 100 Part C: Arsenic, metals, fibres and dusts. Lyon, France; Li J, Cone JE, Kahn AR, Brackbill RM, Farfel MR, Greene CM, Hadler JL, Stayner LT, Stellman ST [2012]. Association between World Trade Center exposure and excess cancer risk. JAMA 308:2479–2488; Pesatori AC, Sontag JM, Lubin JH, Consonni D, Blair A [1994]. Cohort mortality and nested case-control study of lung cancer among structural pest control workers in Florida (United States). Cancer Cause Control 5:310–318; Spirtas R, Steward PA, Lee JS, Marano DE, Forbes, CD, Grauman DJ, Pettigrew HM, Blair A, Hoover RN, Cohen JL [1991]. Retrospective cohort mortality study of workers at an aircraft maintenance facility. I Epidemiologic results. Br J Ind Med 48:515–530; Stroup NE., Blair A, Erikson GE [1986]. Brain cancer and other causes of death in anatomists. JNCI 77:1217–1224; Zeig-Owens R, Webber MP, Hall CB, Schwartz T, Javer N, Weakley J, Rohan TE, Cohen HW, Derman O, Aldrich TK, Kelly K, Prezant DJ [2011]. Early assessment of cancer outcomes in New York City firefighters after the 9/11 attacks: an observational cohort study. The Lancet 378:898–905.

[36] Blair et al. [1983]; Stroup et al. [1986]; Zeig-Owens et al. [2011].

[37] Garabrant et al. [1988]; Hauptman M, Lubin JH, Stewart PA,Hayes R, Blair A [2004]. Mortality from cancers among workers in formaldehyde industries. Am J Epidemiol 159:1117–1130; Solan S, Wallenstein S, Shapiro M, Teitelbaum SL, Stevenson L, Kochman A, Kaplan J, Dellenbaugh C, Kahn A, Biro FN, Crane M, Crowley L, Gabrilove J, Gonsalves L, Harrison D, Herbert R, Luft B, Markowitz SB, Moline J, Niu X, Sacks H, Shukla G, Udasin I, Lucchini RG, Boffetta P, Landrigan PJ. [2013] Cancer incidence in World Trade Center rescue and recovery workers, 2001–2008. Environ Health Perspect 121(6):699–704; Zeig-Owens et al. [2011].

[38] Anntila et al. [1995]; Blair et al. [1983]; Coggon D, Harris EC, Poole J, Palmer KT [2003]. Extended follow-up of a cohort of British chemical workers exposed to formaldehyde. JNCI 95:1608–1615; Davis JR, Brownson, Garcia, R, Bentz BJ, Turner A [1993]. Family pesticide use and childhood brain cancer. Arch Environ Contam Toxicol 24:87–92; Hauptmann et al. [2004]; Pan SY, Ugnat AM, Mao Y [2005]. Canadian Cancer Registries Epidemiology Research Group. Occupational risk factors for brain cancer in Canada. J Occup Environ Med 47: 704–717; Solan et al. [2013]; Spirtas et al. [1991].

[39] Davis et al. [1993]; Li et al. [2012]; Pan et al. [2005]. The identification of this limitation offers further evidence of the uncertainties associated with identifying causes of brain and pancreatic cancer.

[40] Charbotel B, Fervers B, Droz JP [2013]. Occupational exposures in rare cancers: a critical review of the literature. Crit Rev Oncol/Hematol. *http://dx.doi.org/10.1016/j.critrevonc.2013.12.004.*

[41] 28 CFR 104.21.

Related Health Condition. Interested parties were given an opportunity to comment on the covered cancers during the June 2012 notice of proposed rulemaking's 30-day public comment period. During the public comment period for the initial notice of proposed rulemaking, no commenters reflected on the proposed definition of "rare cancers."

Under 5 U.S.C. 553(d)(3), the Administrator finds good cause to make this IFR effective immediately. As stated above, in order to ensure that the WTC Health Program is able to promptly respond to a member WTC responder or survivor who is suffering from a type of cancer that may now be eligible for certification, including individuals who may have been denied certification for brain or pancreatic cancer, it is necessary that the Administrator act quickly to promulgate the amendments discussed above. While the amendments to § 88.1 are effective on the date of publication of this IFR, they are interim and will be finalized following the receipt of any substantive public comments. (*See* Section II.)

VIII. Summary of Interim Final Rule

For the reasons discussed above, the Administrator of the WTC Health Program is amending 42 CFR 88.1, paragraph (4) of the definition of "List of WTC-related health conditions," to strike the former regulatory language indicating that covered cancer types would be specified by ICD–10 and ICD–9 codes. The rule is further amended to remove Table 1 in its entirety and to replace it with the narrative list of 24 broadly specified cancer types by body organ or region included in both the 2012 notice of proposed rulemaking and final rule preambles, as well as prostate cancer which was added to the List in the September 2013 rulemaking.[42] Although the codes and subcodes are removed, all of the specifically identified types of cancers that were added to the List of WTC-Related Health Conditions by the September 12, 2012 final rule, and which were identified in Table 1 (as well as prostate cancer, added by the September 19, 2013 final rule), remain covered by the Program. This amendment will have the effect of retaining all of the currently covered cancer types but will allow WTC Health Program staff to administratively determine the corresponding codes for the specific types of cancer covered by the Program, regardless of classification system (ICD–9, ICD–10, *etc.*).

For the reasons discussed above, the Administrator clarifying the definition of "childhood cancers" to replace the words "occurring in" with "diagnosed in."

Finally, the Administrator is also revising the definition of "rare cancers" to remove the 200,000 persons prevalence and 0.08 percent incidence rate in the former definition and instead reflect the revised incidence rate, less than 15 cases per 100,000 persons per year in the United States based on 2005–2009 average annual data.[43] The phrase "Rare cancers will be determined on a case-by-case basis" is stricken.

IX. Regulatory Assessment Requirements

A. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This interim final rule has been determined not to be a "significant regulatory action" under sec. 3(f) of E.O. 12866. The amendments in this rule modify the format of the list of named cancers covered by the WTC Health Program, clarify the definition of "childhood cancers," and modify the definition of "rare cancers." In addition to amendments to the rule text, in this action the Administrator also recognizes malignant neoplasms of the brain and the pancreas as rare cancers. The revised definition and determinations regarding "rare cancers," have resulted in four additional cancer types being considered eligible for coverage under the Program: Brain cancer (malignant neoplasm of the brain), invasive cervical cancer (malignant neoplasm of the cervix uteri), pancreatic cancer (malignant neoplasm of the pancreas), and testicular cancer (malignant neoplasm of the testis). Treatment and monitoring services for these four cancer types is estimated to cost the WTC Health Program between $2,287,933[44] and $4,933,280[45] annually. All of the costs to the WTC Health Program will be transfers after the implementation of provisions of the Patient Protection and Affordable Care Act (Pub. L. 111–148) on January 1, 2014.

The Administrator did not identify any costs associated with the removal of Table 1 from 42 CFR 88.1.

The rule would not interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Cost Estimates

The WTC Health Program has, to date, enrolled approximately 58,500 New York City responders and approximately 6,500 survivors, or approximately 65,000 individuals in total. Of that total population, approximately 60,000 individuals were participants in previous WTC medical programs and were 'grandfathered' into the WTC Health Program established by Title XXXIII.[46] In addition to those grandfathered WTC responders and survivors already enrolled, the PHS Act[47] sets a numeric limitation on the number of eligible members who can enroll in the WTC Health Program beginning July 1, 2011 at 25,000 new WTC responders and 25,000 new WTC survivors (*i.e.*, the statute restricts new enrollment). For the purpose of calculating a baseline estimate of cancer prevalence only, the Administrator assumed that the gradual rate of enrollment seen in the Program to date would continue, and that Program membership would remain around 58,500 WTC responders and 6,500 WTC survivors. The estimate is further based on the average U.S. cancer prevalence rate and 7 percent discount rate.

As it is not possible to identify an upper bound estimate, the Administrator has modeled another possible point on the continuum. For the purpose of calculating the impact of an increased rate of cancer on the WTC Health Program, this analysis assumes

[42] NPRM 77 FR 35574, 35589–35592 (June 13, 2012); Final rule 77 FR 56138, 56144 (September 12, 2012). A notice of proposed rulemaking proposing to add prostate cancer to the List of WTC-Related Health Conditions was published on July 2, 2013 (78 FR 39670), and a final rule was published on September 19, 2013 (78 FR 57505).

[43] Copeland G, Lake A, Firth R, Wohler B,Wu XC, Stroup A, Russell C, Boyuk K, Schymura M, Hofferkamp J, Kohler B (eds) [2012]. Cancer in North America: 2005–2009. Volume One: Combined Cancer Incidence for the United States, Canada and North America. Springfield, IL: North American Association of Central Cancer Registries, Inc.

[44] Based on a population of 65,000 at the U.S. cancer rate and discounted at 7 percent.

[45] Based on a population of 110,000 at 21 percent above the U.S. cancer rate and discounted at 3 percent.

[46] These grandfathered members were enrolled without having to complete a new member application when the WTC Health Program started on July 1, 2011 and are referred to in the WTC Health Program regulations in 42 CFR Part 88 as "currently identified responders" and "currently identified survivors."

[47] PHS Act, sec. 3311(a)(4)(A) and sec. 3321(a)(3)(A).

that the entire statutory cap for new WTC responders (25,000) and WTC survivors (25,000) will be filled. Accordingly, this estimate is based on a population of 80,000 responders (55,000 grandfathered + 25,000 new) and 30,000 survivors (5,000 grandfathered + 25,000 new). The upper cost estimate also assumes an overall increase in population cancer rates (for malignant neoplasm of the brain [brain cancer], malignant neoplasm of the cervix uteri [invasive cervical cancer], malignant neoplasm of the pancreas [pancreatic cancer], malignant neoplasm of the testis [testicular cancer]) of 21 percent due to 9/11 exposure,[48] and costs were discounted at 3 percent. The choice of a 21 percent increase in the risk of cancer of the rate found in the unexposed population is based on findings presented in the first published epidemiologic study of September 11, 2001 exposed populations.[49] Given the challenges associated with interpreting the Zeig-Owens findings,[50] this analysis uses 21 percent as a possible outcome rather than asserting the probability that 21 percent is a "likely" outcome.

The Administrator acknowledges that some cancer cases are not likely to have been caused by 9/11 exposures. The certification of individual cancer diagnoses will be conducted on a case-by-case basis. However, for the purpose of this analysis, the Administrator has estimated that all diagnosed cancers added to the List or meeting the definition of rare cancer will be certified for treatment by the WTC Health Program. Finally, because there are no existing data on cancer rates related to 9/11 exposures at either the Pentagon or in Shanksville, Pennsylvania, the Administrator has used only data from studies of individuals who were responders or survivors in the New York City disaster area.

Costs of Cancer Treatment

The Administrator estimated the treatment costs associated with covering malignant neoplasm of the brain, malignant neoplasm of the cervix uteri, malignant neoplasm of the pancreas, and malignant neoplasm of the testis in this rulemaking using the methods described below. Costs associated with cancer screening are discussed separately below.

The WTC Health Program obtained data for the cost of providing medical treatment for each cancer type. The costs of treatment for each type of cancer are described in Table A. The costs of treatment are divided into three phases: The costs for the first year following diagnosis, the costs of intervening years or continuing treatment after the first year, and the costs of treatment for the last year of life. The first year costs of cancer treatment are higher due to the initial need for aggressive medical (*e.g.*, radiation, chemotherapy) and surgical care. The costs during last year of life are often dominated by increased hospitalization costs. Therefore, this analysis uses three different treatment phase costs to estimate the costs of treatment to be able to best estimate costs in conjunction with expected incidence and long-term survival for each type of cancer.[51]

TABLE A—AVERAGE COSTS OF TREATMENT, MALE AND FEMALE (2011)

Type of cancer	Initial (first 12 months after diagnosis)	Continuing (annual)	Last year of life (last 12 months of life)
Brain	$87,319	$6,372	$101,372
Pancreas	74,205	5,270	84,809
Cervix Uteri	33,945	1,072	36,503
Testis +	13,696	2,754	43,481

+ Approximated by the costs of other tumor sites.

These cost figures were based on a study of elderly cancer patients from the Surveillance, Epidemiology, and End Results (SEER) program maintained by the National Cancer Institute using Medicare files.[52] The average costs of treatment described above are given in 2011 prices adjusted using the Medical Consumer Price Index for all urban consumers.[53]

Incident Cases of Cancer

The Administrator estimated the expected number of cases of cancer that would be observed in a cohort of responders and survivors followed for cancer incidence after September 11, 2001 using U.S. population cancer rates for the four cancer types considered eligible for coverage under the Program pursuant to this rulemaking. Demographic characteristics of the cohort were assigned since the actual data are not available for individuals in the responder and survivor populations who have not yet enrolled in the WTC Health Program. Gender and age (at the time of exposure) distributions for responders and survivors were assumed to be the same as current enrollees in the WTC Health Program. According to WTC Health Program data, males comprise 88 percent of the current responder enrollees and 50 percent of survivor enrollees. Because invasive cervical cancer occurs only in females and testicular cancer only occurs in males, the calculations take into account the applicable gender of the WTC Health Program members for the respective cancer type. The age distribution for current enrollees by gender and responder/survivor status is presented in Table B.

[48] Zeig-Owens R, Webber MP, Hall CB, Schwartz T, Jaber N, Weakley J, Rohan TE, Cohen HW, Derman O, Aldrich TK, Kelly K, Prezant DJ [2011]. Early Assessment of Cancer Outcomes in New York City Firefighters after the 9/11 Attacks: An Observational Cohort Study. The Lancet. 378 (9794): 898–905.

[49] *Id.*

[50] As Zeig-Owens *et al.* point out, the time interval since 9/11 is short for cancer outcomes, the recorded excess of cancers is not limited to specific sites, and the biological plausibility of chronic inflammation as a possible mediator between 9/11 exposure and cancer means that the outcomes remain speculative.

[51] Yabroff KR, Lamont EB, Mariotto A, Warren JL, Topor M, Meekins A, Brown ML [2008]. Cost of Care for Elderly Cancer Patients in the United States. Journal: J Natl Cancer Inst 100(9): 630–41.

[52] Surveillance, Epidemiology, and End Results (SEER) Program (*www.seer.cancer.gov*) Research Data (1973–2006), National Cancer Institute, DCCPS, Surveillance Research Program, Surveillance Systems Branch, released April 2009, based on the November 2008 submission.

[53] Bureau of Labor Statistics. Consumer Price Index *https://research.stlouisfed.org/fred2/series/CPIMEDSL/downloaddata?cid=32419*. Accessed April 23, 2012.

TABLE B—PERCENTILES OF CURRENT AGE (ON APRIL 11, 2012) FOR CURRENT ENROLLEES IN THE WTC HEALTH PROGRAM BY GENDER AND RESPONDER/SURVIVOR STATUS

Group	Age percentile (years)								
	Min	1	10	30	50	70	90	99	Max
Male responders	28	32	39	44	49	54	62	74	92
Female responders	28	30	38	44	49	54	62	76	92
Male survivors	12	23	35	46	52	58	67	81	99
Female survivors	12	21	38	49	54	60	68	84	95

The Administrator assumed race and ethnic origin distributions for responders and survivors according to distributions in the WTC Health Registry cohort:[54] 57 percent non-Hispanic white, 15 percent non-Hispanic black, 21 percent Hispanic, and 8 percent other race/ethnicity for responders and 50 percent non-Hispanic white, 17 percent non-Hispanic black, 15 percent Hispanic, and 18 percent other race/ethnicity for survivors. Follow-up for cancer morbidity for each person began on January 1, 2002 or age 15 years, whichever was later. Age 15 was considered because the cancer incidence rate file did not include rates for individuals less than 15 years of age. Follow-up ended on December 31, 2016 or the estimated last year of life, whichever was earlier. The estimated last year of life was used since not all individuals would be expected to remain alive at the end of 2016. The estimated last year of life was based on U.S. gender, race, age, and year-specific death rates from CDC Wonder (since rates are currently available through 2008, the rate from 2008 was applied to 2009 and later).[55] A life-table analysis program, LTAS.NET, was used to estimate the expected number of incident cancers for cancer types added.[56] The Administrator calculated cancer incidence rates using data through 2006 from the Surveillance Epidemiology and End Results (SEER) Program, and estimated rates for 2007–2016.[57] The Program applied the resulting gender, race, age, and year-specific cancer incidence rates to the estimated person-years at risk to estimate the expected number of cancer cases for each cancer type starting from year 2002, the first full year following the September 11, 2001, terrorist attacks, to 2016, the last year for which this Program is currently funded.

Prevalence of Cancer

To determine the potential number of individuals in the responder and survivor populations with cancer, the Administrator used the number of incident cases described above for each year starting with 2002 and estimated the prevalence of cancer using survival rate statistics for each incident cancer group through 2016.[58]

Using the incident cases and survival rate statistics for each cancer type, the Administrator has estimated the prevalence (number of individuals living with cancer) of cases during the 15 year period (2002–2016) since September 11, 2001. The resulting table provides for each year from 2002 through 2016, the number of new cases occurring in that year (incidence), the number of individuals who died from their cancer in that year, and the number of individuals surviving up to 15 years beyond their first diagnosis (prevalence).[59] For example, in 2002 there are 6.82 projected new cases of testicular cancer, which would be listed as incident cases for that year. The survival rate for testicular cancer in the first year of diagnosis is 94.68 percent.[60] Therefore the number of deceased individuals in 2002 would be $6.82 \times (1 - 0.9468) = 0.36$. For the testicular cancer prevalence table, in year 2003, the number of incident cases would be 6.61 cases. In addition to 6.61 newly diagnosed cases in 2003, there would be the one-year survivors from 2002 which would be $6.82 - 0.36$ (or 6.82×0.9468) = 6.46 cases. This computation process can be repeated for each year through year 2016. A portion of the brain, invasive cervical, pancreatic, and testicular cancers prevalence tables are provided in Table C1, C2, C3, and C4 respectively.

Prevalence tables were created for each type of covered cancer and the results are summarized in Tables E and G. This analysis considers cancers diagnosed in 2002 through 2016.

TABLE C1—PREVALENCE TABLE FOR BRAIN CANCER

[Based on 80,000 responders]

Year	Years since exposure to 9/11 agents			Years covered by WTC Health Program			
New/surv.	2002	2003	2012	2013	2014	2015	2016
1	4.38	4.54	6.18	6.43	6.70	6.94	7.20
2	.....	2.73	3.69	3.85	4.01	4.18	4.32
3	.....	.....	2.58	2.68	2.80	2.91	3.04
4	.....	.....	2.24	2.34	2.43	2.53	2.64

[54] Jordan HT, Brackbill RM, Cone JE, Debchoudhury I, Farfel MR, Greene CM, Hadler JL, Kennedy J, Li J, Liff J, Stayner L, Stellman SD [2011]. Mortality Among Survivors of the Sept 11, 2001, Word Trade Center Disaster: Results from the World Trade Center Health Registry Cohort. The Lancet 378:879–887. Note: Percentages may not sum to 100 percent due to rounding.

[55] Centers for Disease Control and Prevention, National Center for Health Statistics. Compressed Mortality File 1999–2008. CDC WONDER Online Database, compiled from Compressed Mortality File 1999–2008 Series 20 No. 2N, 2011. *http://wonder.cdc.gov/cmf-icd10.html*. Accessed February 15, 2012.

[56] Schubauer-Berigan MK, Hein MJ, Raudabaugh WM, Ruder AM, Silver SR, Spaeth S, Steenland K, Petersen MR, and Waters KM [2011]. Update of the NIOSH Life Table Analysis System: A Person-Years Analysis program for the Windows Computing Environment. American Journal of Industrial Medicine 54:915–924.

[57] National Cancer Institute, Surveillance Epidemiology and End Results (SEER). *http://seer.cancer.gov/*. Accessed May 27, 2012.

[58] *Id.*

[59] The 15-year survival limit is imposed based on the analytic time horizon established between the triggering events of September 11, 2001 and the authorization of the WTC Health Program through 2016.

[60] National Cancer Institute, Surveillance Epidemiology and End Results (SEER). *http://seer.cancer.gov/*. Accessed May 27, 2012.

TABLE C1—PREVALENCE TABLE FOR BRAIN CANCER—Continued

[Based on 80,000 responders]

Year	Years since exposure to 9/11 agents			Years covered by WTC Health Program			
New/surv.	2002	2003	2012	2013	2014	2015	2016
5	.....	.....	2.02	2.11	2.20	2.28	2.38
6	.....	.....	1.85	1.93	2.01	2.10	2.18
7	.....	.....	1.72	1.79	1.87	1.95	2.03
8	.....	.....	1.58	1.64	1.71	1.78	1.86
9	.....	.....	1.59	1.56	1.63	1.69	1.76
10	.....	.....	1.48	1.54	1.52	1.58	1.65
11	.....	.....	1.39	1.44	1.50	1.47	1.54
12	.....	.....	.....	1.36	1.41	1.47	1.45
13	.....	.....	.....	.....	1.32	1.37	1.42
14	.....	.....	.....	.....	.....	1.30	1.35
15	.....	.....	.....	.....	.....	.....	1.25
Live cases from previous years	.....	.....	20.15	22.25	24.39	26.61	28.85
Prevalence	.....	.....	26.32	28.68	31.09	33.55	36.05
Last year of life	1.65	2.46	4.07	4.29	4.49	4.70	4.91

TABLE C2—PREVALENCE TABLE FOR INVASIVE CERVICAL CANCER

[Based on 80,000 responders]

Year	Years since 9/11 exposures			Years covered by WTC Health Program		
New/surviving	2002	2003	2012	2014	2015	2016
1	1.17	1.21	1.24	1.23	1.22	1.22
2	.....	1.06	1.12	1.12	1.12	1.11
3	.....	.....	1.01	1.01	1.00	1.00
4	.....	.....	0.95	0.95	0.95	0.95
5	.....	.....	0.91	0.92	0.92	0.92
6	.....	.....	0.87	0.89	0.89	0.89
7	.....	.....	0.86	0.88	0.88	0.89
8	.....	.....	0.83	0.86	0.87	0.87
9	.....	.....	0.87	0.84	0.85	0.86
10	.....	.....	0.84	0.82	0.83	0.84
11	.....	.....	0.81	0.86	0.82	0.83
12	.....	.....	.....	0.83	0.85	0.81
13	.....	.....	.....	0.80	0.82	0.85
14	.....	.....	.....	.....	0.80	0.82
15	.....	.....	.....	.....	.....	0.79
Live cases from previous years	.....	.....	9.06	10.76	11.60	12.42
Prevalence	1.17	2.27	10.30	12.00	12.82	13.63
Last year of life	0.11	0.23	0.38	0.40	0.41	0.41

TABLE C3—PREVALENCE TABLE FOR PANCREATIC CANCER

[Based on 80,000 responders]

Year	Years since exposure to 9/11 agents			Years covered by WTC Health Program			
New/surv.	2002	2003	2012	2013	2014	2015	2016
1	3.43	3.80	8.93	9.73	10.56	11.34	12.21
2	.....	0.98	2.34	2.56	2.79	3.03	3.26
3	.....	.....	0.99	1.08	1.18	1.29	1.40
4	.....	.....	0.56	0.61	0.67	0.73	0.80
5	.....	.....	0.42	0.46	0.51	0.55	0.61
6	.....	.....	0.31	0.34	0.38	0.41	0.45
7	.....	.....	0.26	0.29	0.31	0.35	0.38
8	.....	.....	0.22	0.24	0.27	0.30	0.32
9	.....	.....	0.20	0.22	0.24	0.27	0.30
10	.....	.....	0.17	0.19	0.20	0.23	0.25
11	.....	.....	0.14	0.15	0.17	0.18	0.20
12	.....	.....	.....	0.13	0.14	0.16	0.17
13	.....	.....	.....	.....	0.12	0.13	0.15
14	.....	.....	.....	.....	.....	0.12	0.13
15	.....	.....	.....	.....	.....	.....	0.11
Live cases from previous years	.....	.....	5.60	6.27	6.98	7.74	8.51
Prevalence	3.43	4.78	14.53	15.87	17.28	18.67	20.17
Last year of life	2.45	3.24	8.25	9.02	9.80	10.57	11.39

TABLE C4—PREVALENCE TABLE FOR TESTICULAR CANCER

[Based on 80,000 responders]

Year	Years since 9/11 exposures			Years covered by WTC Health Program		
New/surviving	2002	2003	2012	2014	2015	2016
1	6.82	6.61	4.23	3.72	3.44	3.20
2	.....	6.46	4.24	3.76	3.52	3.26
3	.....	.....	4.27	3.80	3.56	3.34
4	.....	.....	4.41	3.93	3.71	3.48
5	.....	.....	4.60	4.13	3.89	3.67
6	.....	.....	4.80	4.33	4.10	3.86
7	.....	.....	5.02	4.55	4.32	4.09
8	.....	.....	5.20	4.78	4.54	4.31
9	.....	.....	5.47	5.00	4.77	4.54
10	.....	.....	5.65	5.19	5.00	4.77
11	.....	.....	5.78	5.42	5.14	4.96
12	.....	.....	.....	5.57	5.38	5.11
13	.....	.....	.....	5.73	5.55	5.36
14	.....	.....	.....	.....	5.70	5.53
15	.....	.....	.....	.....	.....	5.66
Live cases from previous years	.....	.....	49.45	56.18	59.19	61.93
Prevalence	6.82	13.07	53.68	59.89	62.63	65.13
Last year of life	0.36	0.68	0.75	0.70	0.70	0.68

Cost Computation

To compute the costs for each type of cancer, the Administrator assumes that all of the individuals who are diagnosed with a cancer type will be certified by the WTC Health Program for treatment services. The treatment costs for the first year of treatment (Table A, year adjusted) were applied to the predicted newly incident (Year 1) cases for each year. Likewise, the costs of treatment for the last year of life were applied in each year to the number of people predicted to die from their cancer in that year. The costs of continuing treatment from Table A were applied to the number of prevalent cases who had survived their cancers beyond their year of diagnosis, for each year of survival (Year 2–15).

Using this procedure, a cost table was constructed for each year covered by the WTC Health Program and the results are presented in Tables D1, D2, D3, and D4. The row for Year 1 in each table is the cost of incident cases for that year. Rows for Years 2–15 show the cost from continuing care for individuals surviving n-years beyond the year of diagnosis. Finally, the cost of last year of life treatment is computed by multiplying the cost for last year of life by the number of individuals dying in that year from that type of cancer from Tables C1–C4.

TABLE D1—COST PER 80,000 RESPONDERS FOR BRAIN CANCER, 2011$

Year	Years covered by the WTC Health Program		
	2014	2015	2016
1	$364,737	$377,541	$391,595
2	25,526	26,617	27,552
3	17,833	18,569	19,363
4	15,463	16,128	16,793
5	14,003	14,535	15,160
6	12,812	13,365	13,872
7	11,906	12,404	12,939
8	10,899	11,358	11,832
9	10,369	10,786	11,240
10	9,661	10,080	10,485
11	9,543	9,384	9,791
12	9,015	9,367	9,211
13	8,391	8,710	9,050
14	.....	8,261	8,574
15	.....	.....	7,967
Prevalent care	520,157	547,103	567,459
Last year of life care	454,701	476,561	497,829
Total	974,859	1,023,664	1,065,288

TABLE D2—COST PER 80,000 RESPONDERS FOR INVASIVE CERVICAL CANCER, 2011$

Year	Years covered by the WTC Health Program		
	2014	2015	2016
1	$37,922	$37,599	$37,379

TABLE D2—COST PER 80,000 RESPONDERS FOR INVASIVE CERVICAL CANCER, 2011$—Continued

Year	Years covered by the WTC Health Program		
	2014	2015	2016
2	1,200	1,198	1,188
3	1,078	1,075	1,073
4	1,021	1,022	1,019
5	984	983	984
6	951	957	956
7	938	944	951
8	919	928	933
9	902	911	920
10	880	894	903
11	917	875	889
12	893	916	873
13	858	883	906
14	.....	853	878
15	.....	.....	843
Prevalent care	49,464	50,039	49,854
Last year of life care	14,485	14,806	15,008
Total	63,949	64,845	64,862

TABLE D3—COST PER 80,000 RESPONDERS FOR PANCREATIC CANCER, 2011$

Year	Years covered by the WTC Health Program		
	2014	2015	2016
1	$224,967	$241,545	$260,083
2	14,713	15,977	17,155
3	6,232	6,791	7,374
4	3,516	3,858	4,204
5	2,671	2,908	3,190
6	1,989	2,174	2,367
7	1,660	1,818	1,988
8	1,411	1,556	1,705
9	1,273	1,411	1,556
10	1,072	1,188	1,317
11	871	957	1,061
12	757	836	919
13	627	694	767
14	.....	627	694
15	.....	.....	570
Prevalent care	261,759	282,340	304,378
Last year of life care	831,446	896,398	965,711
Total	1,093,205	1,178,738	1,270,089

TABLE D4—COST PER 80,000 RESPONDERS FOR TESTICULAR CANCER, 2011$

Year	Years covered by the WTC Health Program		
	2014	2015	2016
1	$48,191	$44,628	$41,507
2	10,348	9,691	8,974
3	10,456	9,816	9,193
4	10,817	10,208	9,584
5	11,373	10,705	10,102
6	11,930	11,294	10,630
7	12,541	11,888	11,254
8	13,152	12,512	11,859
9	13,779	13,136	12,497
10	14,303	13,779	13,136
11	14,918	14,167	13,649
12	15,327	14,829	14,082
13	15,768	15,272	14,775
14	.....	15,711	15,217
15	.....	.....	15,597

TABLE D4—COST PER 80,000 RESPONDERS FOR TESTICULAR CANCER, 2011$—Continued

Year	Years covered by the WTC Health Program		
	2014	2015	2016
Prevalent care	202,903	207,634	196,458
Last year of life care	30,644	30,588	29,604
Total	233,548	238,222	226,062

The sum of the annual costs in each table for the years 2014 through 2016 represents the estimated treatment costs to the WTC Health Program for coverage of brain, invasive cervical, pancreatic, and testicular cancers, respectively, for 80,000 responders. The cost projections in Tables D1, D2, D3, and D4 are based on an assumed responder population size of 80,000.

The same process described above was applied to the survivor cohort. Based on the incidence rate expected from the survivor cohort, prevalence tables were constructed for each covered type of cancer.

The estimated treatment costs for responders and survivors were re-computed under the following two assumptions: (1) The rate of cancer in the WTC Health Program is equal to the rate of cancer observed in the general population; and (2) the rate of cancer exceeds the general population rate by 21 percent due to their 9/11 exposures.[61]

A summary of the estimated prevalence at the U.S. population average for the assumed population of 58,500 responders and 6,500 survivors is provided in Table E. A summary of the estimated treatment costs to the WTC Health Program is provided in Table F.

A summary of the estimated prevalence using cancer rates 21 percent over the U.S. population average for the increased rate of 80,000 responders and 30,000 survivors is given in Table G. A summary of the estimated treatment costs to the WTC Health Program is provided in Table H.

TABLE E—ESTIMATED PREVALENCE BY YEAR AND CANCER TYPE BASED ON 58,500 AND 6,500 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING CANCER RATES AT U.S. POPULATION AVERAGE

Cancer type	Prevalence (incident + live cases)		
	2014	2015	2016
Based on 58,500 responder population			
Brain	22.74	24.53	26.36
Cervix Uteri	8.77	9.38	9.97
Pancreas	12.83	13.95	15.16
Testis	43.80	45.80	47.62
Total	88.14	93.66	99.11
Based on 6,500 survivor population			
Brain	2.53	2.73	2.93
Cervix Uteri	0.97	1.04	1.11
Pancreas	1.43	1.55	1.68
Testis	4.87	5.09	5.29
Total	9.79	10.41	11.01

TABLE F—ESTIMATED TREATMENT COSTS BY YEAR AND CANCER TYPE BASED ON 58,500 AND 6,500 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING CANCER RATES AT U.S. POPULATION AVERAGE (2011 $)

Cancer type	2014	2015	2016	2014–2016
Based on 58,500 responder population				
Brain	$712,865	$748,555	$778,992	$2,240,412
Cervix Uteri	46,763	47,418	47,430	153,115
Pancreas	799,406	861,952	928,753	2,590,111
Testis	170,782	174,200	165,308	552,115
Total	1,729,816	1,832,125	1,920,482	5,482,423

[61] Zeig-Owens R, Webber MP, Hall CB, Schwartz T, Jaber N, Weakley J, Rohan TE, Cohen HW, Derman O, Aldrich TK, Kelly K, Prezant DJ [2011]. Early Assessment of Cancer Outcomes in New York City Firefighters After the 9/11 Attacks: An Observational Cohort Study. The Lancet. 378(9794):898–905. Limitations of the Zeig-Owens study include: Limited information on specific exposures experienced by firefighters; short time for follow-up of cancer outcomes; speculation about the biological plausibility of chronic inflammation as a possible mediator between 9/11-exposure and cancer outcomes; and potential unmeasured confounders.

TABLE F—ESTIMATED TREATMENT COSTS BY YEAR AND CANCER TYPE BASED ON 58,500 AND 6,500 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING CANCER RATES AT U.S. POPULATION AVERAGE (2011 $)—Continued

Cancer type	2014	2015	2016	2014–2016
Based on 6,500 survivor population				
Brain	76,302	79,634	82,372	238,308
Cervix Uteri	32,741	33,935	33,944	108,512
Pancreas	116,940	124,458	132,382	373,780
Testis	13,130	13,333	12,728	42,417
Total	239,113	251,360	261,426	751,898
Total				
Brain	789,167	828,189	861,364	2,478,720
Pancreas	916,346	986,410	1,061,135	2,963,891
Cervix Uteri	79,504	81,353	81,374	261,627
Testis	183,911	187,533	178,036	594,532
Total	1,968,928	2,083,485	2,181,909	6,298,770

TABLE G—ESTIMATED PREVALENCE BY YEAR AND CANCER TYPE BASED ON 80,000 AND 30,000 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING INCIDENCE OF CANCER IS 21% HIGHER THAN THE U.S. POPULATION DUE TO 9/11 EXPOSURE

Cancer type	Prevalence (incident + live cases)		
	2014	2015	2016
Based on 80,000 responder population			
Brain	37.62	40.60	43.62
Cervix Uteri	14.52	15.52	16.50
Pancreas	21.23	23.09	25.08
Testis	72.47	75.78	78.80
Total	145.84	154.98	163.99
Based on 30,000 survivor population			
Brain	14.11	15.22	16.36
Cervix Uteri	5.44	5.82	6.19
Pancreas	7.96	8.66	9.40
Testis	27.18	28.42	29.55
Total	54.69	58.12	61.50

TABLE H—ESTIMATED TREATMENT COSTS BY YEAR AND CANCER TYPE BASED ON 80,000 AND 30,000 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING INCIDENCE OF CANCER IS 21% HIGHER THAN THE U.S. POPULATION DUE TO 9/11 EXPOSURE (2011 $)

Cancer type	2014	2015	2016	2014–2016
Based on 80,000 responder population				
Brain	1,199,076	1,259,107	1,310,304	3,768,487
Cervix Uteri	78,658	79,760	79,780	238,198
Pancreas	1,344,642	1,449,848	1,562,209	4,356,699
Testis	287,263	293,014	278,056	858,333
Total	2,909,639	3,081,728	3,230,350	9,221,717
Based on 30,000 survivor population				
Brain	355,098	370,605	383,345	1,109,048
Cervix Uteri	152,371	157,927	157,972	468,270
Pancreas	544,220	579,209	616,087	1,739,515

TABLE H—ESTIMATED TREATMENT COSTS BY YEAR AND CANCER TYPE BASED ON 80,000 AND 30,000 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING INCIDENCE OF CANCER IS 21% HIGHER THAN THE U.S. POPULATION DUE TO 9/11 EXPOSURE (2011 $)—Continued

Cancer type	2014	2015	2016	2014–2016
Testis	61,103	62,050	59,234	182,387
Total	1,112,792	1,169,790	1,216,638	3,499,221
Total				
Brain	1,554,174	1,629,712	1,693,649	4,877,535
Cervix Uteri	231,029	237,686	237,752	706,468
Pancreas	1,888,862	2,029,057	2,178,296	6,096,215
Testis	348,366	355,063	337,290	1,040,719
Total	4,022,431	4,251,519	4,446,987	12,720,937

Cost of Cancer Screening

Costs of screening have been added to the summary estimates table below. The screening indicated by this rulemaking follows U.S. Preventive Services Task Force (USPSTF) guidelines. The USPSTF recommends cervical cancer screening but does not recommend screening for brain, pancreatic, or testicular cancer. For cervical cancer, USPSTF recommends that females age 21–65 receive one Pap test every 3 years; females age 30–65, are recommended to receive one HPV screening every 5 years.[62] Costs for screening were distributed according to these recommended screening rates. The cost for cytology (Pap test) was estimated at between $26 and $78 per person and the cost for HPV screening at between $35 and $77 per person based on current FECA rates.

Summary of Costs

Because the Administrator lacks data to account for either recoupment by health insurance or workers' compensation insurance or reduction by either health insurance or Medicare/Medicaid payments, the estimates offered here are reflective of estimated WTC Health Program costs only. This analysis offers an assumption about the number of individuals who might enroll in the WTC Health Program, and estimates the impact of both a low rate of cancer (U.S. population average rate) and an increased rate (21 percent greater than the U.S. population average) on the number of cases and the resulting estimated treatment costs to the WTC Health Program. This analysis does not include administrative costs associated with certifying additional diagnoses of cancers that are WTC-related health conditions that might result from this action. Those costs were addressed in the interim final rule that established regulations for the WTC Health Program (76 FR 38914, July 1, 2011).

After the implementation of provisions of the Patient Protection and Affordable Care Act (Pub. L. 111–148) on January 1, 2014, all of the members and future members can be assumed to have or have access to medical insurance coverage other than through the WTC Health Program. Therefore, all treatment and screening costs to be paid by the WTC Health Program from 2014 through 2016 are considered transfers.

Table I describes the allocation of WTC Health Program transfer payments based on 58,500 responders and 6,500 survivors and, alternatively, 80,000 responders and 30,000 survivors.

TABLE I—BREAKDOWN OF ESTIMATED ANNUAL WTC HEALTH PROGRAM COSTS AND TRANSFERS, 58,500 AND 80,000 RESPONDERS AND 6,500 AND 30,000 SURVIVORS, 2014–2016, 2011$

	Annualized transfers for 2014–2016, 2011$	
	Discounted at 7 percent	Discounted at 3 percent
	Cancer rate	
	U.S. average	U.S. + 21%
58,500 Responders	$1,706,502	.....
6,500 Survivors	234,123	.....
Cervical cancer screening	347,368	.....
65,000 Total	2,287,993	.....
80,000 Responders	.....	$2,982,174
30,000 Survivors	.....	1,131,770
Cervical cancer screening	.....	819,336
110,000 Total	.....	4,933,280

[62] U.S. Preventive Services Task Force [2012]. Recommendation: Screening for Cervical Cancer. *http://www.uspreventiveservicestaskforce.org/uspstf/uspscerv.htm*. Accessed June 26, 2013.

Examination of Benefits (Health Impact)

This section describes qualitatively the potential benefits of the interim final rule in terms of the expected improvements in the health and health-related quality of life of potential cancer patients treated through the WTC Health Program, compared to no Program. The assessment of the health benefits for cancer patients uses the number of expected cancer cases that was estimated in the cost analysis section.

The Administrator does not have information on the health of the population that may have experienced 9/11 exposures and is not currently enrolled in the WTC Health Program. In addition, the Administrator has only limited information about health insurance and health care services for cancers caused by 9/11 exposures and suffered by any population of responders and survivors, including responders and survivors currently enrolled in the WTC Health Program and responders and survivors not enrolled in the Program. For the purposes of this analysis, the Administrator assumes that broad trends on demographics and access to health insurance reported by the U.S. Census Bureau and health care services for cancer similar to those reported by Ward *et al.*[63] would apply to the population of general responders (those individuals who are not members of the FDNY and who meet the eligibility criteria in 42 CFR Part 88 for WTC responders) and survivors both within and outside the Program. For the purposes of this analysis, the Administrator assumes that access to health insurance and health care services for FDNY responders within and outside the Program would be equivalent because this population is likely covered by employer-based health insurance.

Although the Administrator cannot quantify the benefits associated with the WTC Health Program, enrollees with cancer would have improved access to care and thereby the Program should produce better treatment outcomes than in its absence. Under other insurance plans, patients would have deductibles and copays, which impact access to care and particularly its timeliness. WTC Health Program members would have first-dollar coverage and hence are likely to seek care sooner when indicated, resulting in improved treatment outcomes.

[63] Ward E, Halpern M, Schrag N, Cokkinides V, DeSantis C, Bandi P, Siegel R, Stewart A, Jemal A [2008]. Association of Insurance with Cancer Care Utilization and Outcomes. CA Cancer J Clin 58:9–31.

Limitations

The analysis presented here was limited by the dearth of verifiable data on the cancer status of responders and survivors who have yet to apply for enrollment in the WTC Health Program. Because of the limited data, the Administrator was not able to estimate benefits in terms of averted healthcare costs. Nor was the Administrator able to estimate administrative costs, or indirect costs, such as averted absenteeism, short and long-term disability, and productivity losses averted due to premature mortality.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires each agency to consider the potential impact of its regulations on small entities including small businesses, small governmental units, and small not-for-profit organizations. The Administrator certifies that this rule has "no significant economic impact upon a substantial number of small entities" within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Paperwork Reduction Act

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, requires an agency to invite public comment on, and to obtain OMB approval of, any regulation that requires 10 or more people to report information to the agency or to keep certain records. Data collection and recordkeeping requirements for the WTC Health Program are approved by OMB under "World Trade Center Health Program Enrollment, Appeals & Reimbursement" (OMB Control No. 0920–0891, exp. December 31, 2014). The Administrator has determined that no changes are needed to the information collection request already approved by OMB.

D. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), HHS will report the promulgation of this rule to Congress prior to its effective date.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector "other than to the extent that such regulations incorporate requirements specifically set forth in law." For purposes of the Unfunded Mandates Reform Act, this interim final rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million in 1995 dollars by State, local or Tribal governments in the aggregate, or by the private sector. However, the rule may result in an increase in the contribution made by New York City for treatment and monitoring, as required by the PHS Act § 3331(d)(2). For 2013, the inflation adjusted threshold is $150 million.

F. Executive Order 12988 (Civil Justice)

This interim final rule has been drafted and reviewed in accordance with Executive Order 12988, "Civil Justice Reform," and will not unduly burden the Federal court system. This rule has been reviewed carefully to eliminate drafting errors and ambiguities.

G. Executive Order 13132 (Federalism)

The Administrator has reviewed this interim final rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have "federalism implications." The rule does not "have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, the Administrator has evaluated the environmental health and safety effects of this interim final rule on children. The Administrator has determined that the rule would have no environmental health and safety effect on children, although an eligible child who has been diagnosed with any cancer type may seek certification of the condition by the Administrator.

I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, the Administrator has evaluated the effects of this interim final rule on energy supply, distribution or use, and has determined that the rule will not have a significant adverse effect.

J. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to

the public how to comply with a requirement the Federal Government administers or enforces. The Administrator has attempted to use plain language in promulgating the interim final rule consistent with the Federal Plain Writing Act guidelines and requests public comment on this effort.

List of Subjects

42 CFR Part 88

Aerodigestive disorders, Appeal procedures, Cancer, Health care, Mental health conditions, Musculoskeletal disorders, Respiratory and pulmonary diseases.

Final Rule

For the reasons discussed in the preamble, the Department of Health and Human Services amends 42 CFR Part 88 as follows:

PART 88—WORLD TRADE CENTER HEALTH PROGRAM

■ 1. The authority citation for Part 88 continues to read as follows:

Authority: 42 U.S.C. 300mm—300mm–61, Pub. L. 111–347, 124 Stat. 3623.

■ 2. In § 88.1, revise paragraph (4) of the definition of "List of WTC-related health conditions" to read as follows:

§ 88.1 Definitions.

* * * * *

List of WTC-Related Health Conditions * * *

(4) Cancers:

(i) Malignant neoplasms of the lip, tongue, salivary gland, floor of mouth, gum and other mouth, tonsil, oropharynx, hypopharynx, and other oral cavity and pharynx.

(ii) Malignant neoplasm of the nasopharynx.

(iii) Malignant neoplasms of the nose, nasal cavity, middle ear, and accessory sinuses.

(iv) Malignant neoplasm of the larynx.

(v) Malignant neoplasm of the esophagus.

(vi) Malignant neoplasm of the stomach.

(vii) Malignant neoplasm of the colon and rectum.

(viii) Malignant neoplasm of the liver and intrahepatic bile duct.

(ix) Malignant neoplasms of the retroperitoneum and peritoneum, omentum, and mesentery.

(x) Malignant neoplasms of the trachea; bronchus and lung; heart, mediastinum and pleura; and other ill-defined sites in the respiratory system and intrathoracic organs.

(xi) Mesothelioma.

(xii) Malignant neoplasms of the peripheral nerves and autonomic nervous system, and other connective and soft tissue.

(xiii) Malignant neoplasms of the skin (melanoma and non-melanoma), including scrotal cancer.

(xiv) Malignant neoplasm of the female breast.

(xv) Malignant neoplasm of the ovary.

(xvi) Malignant neoplasm of the prostate.

(xvii) Malignant neoplasm of the urinary bladder.

(xviii) Malignant neoplasm of the kidney.

(xix) Malignant neoplasms of the renal pelvis, ureter and other urinary organs.

(xx) Malignant neoplasms of the eye and orbit.

(xxi) Malignant neoplasm of the thyroid.

(xxii) Malignant neoplasms of the blood and lymphoid tissues (including, but not limited to, lymphoma, leukemia, and myeloma).

(xxiii) Childhood cancers: Any type of cancer diagnosed in a person less than 20 years of age.

(xxiv) Rare cancers: any type of cancer [1] that occurs in less than 15 cases per 100,000 persons per year in the United States.

* * * * *

Dated: January 8, 2014.

John Howard,

Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2014–03370 Filed 2–14–14; 8:45 am]

BILLING CODE 4163–18–P

[1] Based on 2005–2009 average annual data age-adjusted to the 2000 U.S. population. *See,* Copeland G, Lake A, Firth R, Wohler B,Wu XC, Stroup A, Russell C, Boyuk K, Schymura M, Hofferkamp J, Kohler B (eds) [2012]. Cancer in North America: 2005–2009. Volume One: Combined Cancer Incidence for the United States, Canada and North America. Springfield, IL: North American Association of Central Cancer Registries, Inc.

Proposed Rules

Federal Register
Vol. 79, No. 32
Tuesday, February 18, 2014

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

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–1075]

RIN 1625–AA00

Safety Zone; Sea Plane Landing; Bayou Grande; Pensacola, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for a portion of Bayou Grande, Pensacola, FL. This action is necessary for the protection of persons and vessels, on navigable waters, during the landing of a large sea plane. Entry into, transiting in or anchoring in this zone is prohibited to all vessels, mariners, and persons unless specifically authorized by the Captain of the Port (COTP) Mobile or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before March 5, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2013–1075 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email LT Stanley A. Tarrant, Coast Guard Sector Mobile, Waterways Management Division; telephone (251) 441–5940 or email Stanley.A.Tarrant@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this proposed rulemaking (USCG–2013–1075), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number (USCG–2013–1075) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the proposed rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–1075) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES.** Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this proposed rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register.**

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1,

6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. The Naval Aviation Museum in Pensacola, FL plans to bring in a large sea plane for display at the museum. The sea plane, with a wing span of 200 feet, will land in Bayou Grande and be brought ashore near the Naval Aviation Station's runway. The landing of the plane poses significant safety hazards to both vessels and mariners operating in Bayou Grande.

C. Discussion of Proposed Rule

The COTP Mobile proposes to establish a temporary safety zone for a portion of Bayou Grande, Pensacola, FL.

The Coast Guard proposes to establish a temporary safety zone for a portion of Bayou Grande, Pensacola, FL. The proposed safety zone will be enforced for a short period during the sea plane landing and transit occurring on one day between April 21, 2014 and May 4, 2014. Notice of the specific date and times of enforcement will be provided via broadcast notice to mariners and local notice to mariners. The specific date, time, landing path and transit to the Naval Aviation Station has yet to be determined. Specific boundaries for this proposed temporary safety zone will be defined in the Temporary Final Rule to be published in the **Federal Register** following the NPRM 15 day comment period. This proposed rule will protect the safety of life and property in the Bayou Grande area. Entry into, transiting in or anchoring in the zone shall be prohibited to all vessels, mariners, and persons unless specifically authorized by the COTP Mobile or a designated representative.

The COTP may be contacted by telephone at 251–441–5976. The COTP Mobile or a designated representative will inform the public through Broadcast Notice to Mariners of changes in the effective period for the safety zone. This proposed rule would be effective from April 21, 2014 through May 4, 2014. The proposed safety zone will be enforced for a short period during the sea plane landing and transit occurring on one day between April 21, 2014 and May 4, 2014. Notice of the specific date and times of this proposed safety zone and its enforcement will be provided via broadcast notice to mariner and local notice to mariners.

The COTP anticipates minimal impact on vessel traffic due to this regulation. However, this safety zone is deemed necessary for the protection of life and property within the COTP Mobile zone. The Naval Aviation Museum has an active work group conducting meetings with federal, state, and local agencies and businesses and the Coast Guard does not anticipate any adverse comments or objections to this rulemaking.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The safety zone listed in this proposed rule will only restrict vessel traffic from entering, transiting or anchoring in a small portion of Bayou Grande, Pensacola, FL. The effect of this regulation will not be significant for several reasons: (1) this proposed rule will only affect vessel traffic for a short duration; (2) vessels may request permission from the COTP to transit through the safety zone; and (3) the impacts on routine navigation are expected to be minimal. Notifications to the marine community will be made through Local Notice to Mariners and Broadcast Notice to Mariners. These notifications will allow the public to plan operations around the affected area.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in affected portions of Bayou Grande during the landing of the sea plane. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone is limited in size, is of short duration and vessel traffic may request permission from the COTP Mobile or a designated representative to enter or transit through the zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. § 165.T08–1075 is added to read as follows:

§ 165.T08–1075 Safety Zone; Sea Plane Landing; Bayou Grande; Pensacola, FL.

(a) *Location.* The following area is a safety zone: a portion of Bayou Grande, Pensacola, FL.

(b) *Effective dates and enforcement period.* This section is effective from April 21, 2014 through May 4, 2014. This section will be enforced for a short period during one day occurring between April 21, 2014 and May 4, 2014 upon notice by the Captain of the Port Mobile or a designated representative.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) Persons or vessels desiring to enter into or passage through the zone must request permission from the Captain of the Port Mobile or a designated representative. They may be contacted on VHF–FM channels 16 or by telephone at 251–441–5976.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative.

(d) *Informational Broadcasts.* The Captain of the Port or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

Dated: January 17, 2014.

S. Walker,

Captain, U.S. Coast Guard, Captain of the Port Mobile.

[FR Doc. 2014–03467 Filed 2–14–14; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 961

Rules of Practice in Proceedings Under Section 5 of the Debt Collection Act

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: To clarify existing practice, this proposed rule contains a complete revision to the rules of practice before the Judicial Officer in proceedings under section 5 of the Debt Collection Act.

DATES: Comments must be received on or before March 20, 2014.

ADDRESSES: Mail or deliver written comments to the Office of the Judicial Officer, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Associate Judicial Officer Gary E. Shapiro, (703) 812–1910.

SUPPLEMENTARY INFORMATION:

A. Executive Summary

Part 961 of title 39, Code of Federal Regulations, contains the rules of practice in proceedings under section 5 of the Debt Collection Act of 1982, as amended, 5 U.S.C. 5514, in which the Judicial Officer or an assigned Hearing Official provides the final agency adjudication for debt collection assessments by administrative salary offset issued by the Postal Service seeking to collect a debt owed it by an employee. This authority is delegated by the Postmaster General. Although these rules provide a complete replacement for the former rules, the changes are not considered to affect the rights of the parties in a substantive way. Rather, the rules are revised to conform to current practices and to clarify the procedures.

B. Discussion of Changes

The provisions of 39 CFR part 961 have been amended as follows:

- § 961.1—This section remains unchanged.
- § 961.2—This section has been modified in minor respects to clarify the language.
- § 961.3—This section has been modified in minor respects to clarify the language.
- § 961.4—This section has been amended to explain that the petition filing deadline is subject to waiver in the discretion of the Hearing Official upon a demonstration of good cause, conforming the rule to the judicial practice. Another change reflects current practice allowing the Hearing Official to resolve the petition where the Postal Service has offset money from an employee's salary without having issued the required Notice. A requirement that the employee's petition state whether a hearing is requested, and provide related information has been deleted. Such a determination is made by the Hearing Official at a later time in the proceeding. Language explaining what information should be included in the petition has been modified for accuracy. Language regarding supplementation of the petition has been replaced with a statement that the employee shall supply additional information as directed by the Hearing Official, to reflect current practice. The section also includes minor changes in wording for purposes of clarification.
- § 961.5—This section has been modified in minor respects to clarify the language.
- § 961.6—This section has been modified to require a party filing any document with the Hearing Official to transmit a copy to the other party. Another change establishes standards and timing for time extension requests, and for representatives of parties to file notices of appearance. A further amendment reflects current practice permitting non-attorney representation of employees, to be consistent with the practice of representation for the Postal Service. The section also includes minor wording changes for purposes of clarification.
- § 961.7—This section has been changed to require specific information in the answer and to delete formerly required information in the answer to conform to current practice.
- § 961.8—This section has been modified to reflect more accurately the Hearing Official's authority and responsibilities and to conform them to current practice. Included changes clarify that the Hearing Official determines whether a hearing is conducted and that the Hearing Official may examine witnesses during a hearing. Other minor changes have been made to clarify the language.
- § 961.9—This is a new section which establishes that the Hearing Official determines whether a hearing is to be conducted and the type of hearing that is to be conducted.
- § 961.10—This section (formerly § 961.9) has been modified in minor respects to clarify the language.
- § 961.11—This section (formerly § 961.10) has been changed to conform to existing practice. This includes clarifying that a party that does not comply with the rules in a material way risks a default judgment being entered against it after an order to show cause has been issued. Other changes provide specific authority for the Hearing Official to dismiss a petition where it has been withdrawn, and to grant a petition where the Postal Service files a withdrawal of the debt determination.
- § 961.12—This section (formerly § 961.11) has been modified to be consistent with the definition of an ex parte communication included in the Administrative Procedures Act.

C. Effective Date and Applicability

These revised rules will govern proceedings under part 961 docketed on or after 30 days from their publication in final form.

List of Subjects in 39 CFR Part 961

Claims, Government employees, Wages.

For the reasons stated in the preamble, the Postal Service hereby proposes to revise 39 CFR part 961 as set forth below:

PART 961—RULES OF PRACTICE IN PROCEEDINGS UNDER SECTION 5 OF THE DEBT COLLECTION ACT

Sec.

Authority: 39 U.S.C. 204, 401; 5 U.S.C. 5514.

§ 961.1 Authority for rules.

These rules are issued by the Judicial Officer pursuant to authority delegated by the Postmaster General.

§ 961.2 Scope of rules.

The rules in this part apply to the hearing provided by section 5 of the Debt Collection Act of 1982, as amended, 5 U.S.C. 5514, challenging the Postal Service's determination of the existence or amount of an employee debt to the Postal Service, or of the terms of the employee's debt repayment schedule. In addition, these rules apply to a hearing under section 5 of the Debt Collection Act when an Administrative Law Judge or an Administrative Judge in the Judicial Officer Department is designated as the Hearing Official for a creditor Federal agency other than the Postal Service pursuant to an agreement between the Postal Service and that agency. In such cases, all references to Postal Service within these rules shall be construed to refer to the creditor Federal agency involved.

§ 961.3 Definitions.

As used in this part:

(a) *Employee* refers to a current employee of the Postal Service who is alleged to be indebted to the Postal Service; or to an employee of another Federal agency who is alleged to be indebted to that other creditor Federal agency and whose hearing under section 5 of the Debt Collection Act is being conducted under these rules.

(b) *General Counsel* refers to the General Counsel of the Postal Service, and includes a designated representative.

(c) *Hearing Official* refers to an Administrative Law Judge qualified to hear cases under the Administrative

Procedure Act, an Administrative Judge appointed under the Contract Disputes Act of 1978, or other qualified person not under the control or supervision of the Postmaster General, who is designated by the Judicial Officer to conduct the hearing under section 5 of the Debt Collection Act of 1982, as amended, 5 U.S.C. 5514.

(d) *Judicial Officer* refers to the Judicial Officer, Associate Judicial Officer, or Acting Judicial Officer of the United States Postal Service.

(e) *Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act* refers to the formal written notice required by section 5 of the Debt Collection Act, including the provision of notice of the procedures under this Part, before involuntary collection deductions can be taken from an employee's salary.

(f) *Postmaster/Installation Head* refers to the Postal Service official who is authorized under the Postal Service Employee and Labor Relations Manual to make the initial determination of employee indebtedness and to issue the "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act."

(g) *Recorder* refers to the Recorder, Judicial Officer Department, U.S. Postal Service, located at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078. The Recorder's telephone number is (703) 812–1900, and the fax number is (703) 812–1901.

§ 961.4 Employee petition for a hearing.

(a) If an employee desires a hearing, prescribed by section 5 of the Debt Collection Act, to challenge the Postal Service's determination of the existence or amount of a debt, or to challenge the involuntary repayment terms proposed by the Postal Service, the employee must file a written, signed petition with the Recorder, on or before the fifteenth (15th) calendar day following the employee's receipt of the Postal Service's "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act." The Hearing Official, in his or her discretion may waive this deadline upon a demonstration of good cause. In the event that the Postal Service initiated involuntary administrative salary offsets without having issued a Notice as required by the Debt Collection Act, the Hearing Official, in his or her discretion, may retain authority to resolve the debt assessment as if a Notice had been issued, and may order the Postal Service to return any improperly offset money.

(b) The hearing petition shall include the following:

(1) The words, "Petition for Hearing under the Debt Collection Act," prominently captioned at the top of the first page;

(2) The name of the employee, the employee's work address, home address, work telephone number, home telephone number, and email address, if any, or other address and telephone number at which the employee may be contacted during business hours;

(3) A statement of the date on which the employee received the "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act," and a copy of the Notice;

(4) A statement indicating whether the employee challenges: (i) The existence of the debt identified in the Notice of Involuntary Administrative Salary Offsets; (ii) the amount of the debt identified in the Notice; and/or (iii) the involuntary repayment terms identified by the Postal Service in the Notice. For each challenge, the employee's petition shall indicate the basis of the employee's disagreement. The employee should identify and explain the facts, evidence, and legal arguments which support his or her position;

(5) Copies of all records in the employee's possession which relate to the debt; and

(6) If an employee contends that the Postal Service's proposed offset schedule would result in a severe financial hardship on the employee, his or her spouse, and dependents, the employee shall identify an alternative offset schedule. As directed by the Hearing Official, the employee shall provide a statement and supporting documents indicating the employee's financial status. This statement should address total income from all sources; assets; liabilities; number of dependents; and expenses for food, housing, clothing, transportation, medical care, and exceptional expenses, if any.

(c) The employee shall file with the Recorder, any additional information directed by the Hearing Official.

§ 961.5 Effect of filing a petition.

Upon receipt and docketing of the employee's petition for a hearing, further collection activity by the Postal Service must cease, as required by section 5 of the Debt Collection Act until the petition is resolved by the Hearing Official.

§ 961.6 Filing, docketing and serving documents; computation of time; representation of parties.

(a) *Filing.* All documents relating to the Debt Collection Act hearing proceedings must be filed by the employee or the General Counsel's designee with the Recorder. (Normal Recorder office business hours are between 8:45 a.m. and 4:45 p.m., Eastern Time.) Unless otherwise directed by the Hearing Official, the party filing a document shall send a copy thereof to the opposing party.

(b) *Docketing.* The Recorder will maintain a record of Debt Collection Act proceedings and will assign a docket number to each such case. After notification of the docket number, the employee and the Postal Service's representative should refer to it on any further filings regarding the petition.

(c) *Time computation.* A filing period under the rules in this Part excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day. Requests for extensions of time shall be made in writing prior to the date on which the submission is due, state the reason for the extension request, represent that the moving party has contacted the opposing party about the request, or made reasonable efforts to do so, and indicate whether the opposing party consents to the extension. Requests for extensions of time submitted after the date on which the submission was due shall explain why the moving party was unable to request an extension prior to the deadline.

(d) *Representation of parties.* The representative of the Postal Service, as designated by the General Counsel, shall file a notice of appearance as soon as practicable, but no later than the date for filing the answer. If an employee has a representative, he or she also shall file a notice of appearance as soon as practicable, and further transmissions of documents and other communications by and with the employee shall be made through his or her representative.

§ 961.7 Answer to petition.

Within 15 days from the date of receiving the petition, the Postal Service's representative shall file an answer to the petition, and attach all available relevant records and documents in support of the Postal Service's debt claim, and/or the administrative salary offset schedule proposed by the Postal Service for collecting any such claim. The answer shall provide a clear and thorough description of the basis for the Postal Service's determination of the alleged debt, its calculation of the amount of the alleged debt, and/or its proposed offset schedule.

§ 961.8 Hearing Official authority and responsibilities.

The Hearing Official's authority includes, but is not limited to, the following:

(a) Ruling on all motions or requests by the parties.

(b) Issuing notices, orders or memoranda to the parties concerning the hearing proceedings.

(c) Conducting telephone conferences with the parties to expedite the proceedings. The Hearing Official will prepare a Memorandum of Telephone Conference, which shall be transmitted to both parties and which serves as the official record of that conference.

(d) Determining whether an oral hearing shall be conducted, the type of oral hearing to be held, and setting the place, date, and time for such hearing.

(e) Administering oaths or affirmations to witnesses.

(f) Conducting the hearing in a manner to maintain discipline and decorum while assuring that relevant, reliable and probative evidence is elicited on the issues in dispute, but irrelevant, immaterial or repetitious evidence is excluded. The Hearing Official in his or her discretion may examine witnesses to ensure that a satisfactory record is developed.

(g) Establishing the record in the case. The weight to be attached to any evidence of record will rest within the discretion of the Hearing Official. Except as the Hearing Official may otherwise order, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the written record, after notification by the Hearing Official that the record is closed. The Hearing Official may require either party, with appropriate notice to the other party, to submit additional evidence on any relevant matter;

(h) Granting reasonable time extensions or other relief for good cause shown in the Hearing Official's sole discretion.

(i) Issuing the final decision. The decision must include the determination of the amount and validity of the alleged debt and, where applicable, the repayment schedule.

§ 961.9 Opportunity for oral hearing.

An oral hearing shall be conducted in the sole discretion of the Hearing Official. An oral hearing may be conducted in-person, by telephone, by video conference, or other appropriate means as directed by the Hearing Official. When the Hearing Official determines that an oral hearing shall not be conducted, the decision shall be based solely on the written submissions. The Hearing Official shall arrange for the recording and transcription of an oral hearing, which shall serve as the official record of the hearing. In the event of an unexcused absence, the hearing may proceed without the participation of the absent party.

§ 961.10 Effect of Hearing Official's decision; motion for reconsideration.

(a) After the receipt of written submissions or after the conclusion of the hearing and the receipt of post-hearing briefs, if any, the Hearing Official shall issue a written decision, which shall include the findings of fact and conclusions of law, relied upon.

(b) The Hearing Official shall send each party a copy of the decision. The Hearing Official's decision shall be the final administrative determination on the employee's debt or repayment schedule. No reconsideration of the decision will be allowed unless a motion for reconsideration is filed within 10 days from receipt of the decision and shows good cause for reconsideration. Reconsideration will be allowed only in the discretion of the Hearing Official. A motion for reconsideration by the employee will not operate to stay a collection action authorized by the Hearing Official's decision.

§ 961.11 Consequences for failure to comply with rules.

(a) The Hearing Official may determine that the employee has abandoned the right to a hearing, and that administrative offset may be initiated if the employee files his or her petition late without good cause; or files a withdrawal of the employee's petition for a hearing.

(b) The Hearing Official may determine that the administrative offset may not be initiated if the Postal Service fails to file the answer or files the answer late without good cause; or files a withdrawal of the debt determination at issue.

(c) If a party fails to comply with these Rules or the Hearing Official's orders, the Hearing Official may take such action as he or she deems reasonable and proper under the circumstances, including dismissing or granting the petition as appropriate.

§ 961.12 Ex parte communications.

Ex parte communications are not allowed between a party and the Hearing Official or the Official's staff. *Ex parte communication* means an oral or written communication, not on the public record, with one party only with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports or procedural matters. A memorandum of any communication between the Hearing Official and a party will be transmitted to both parties.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2014–03368 Filed 2–14–14; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2013–0808; FRL–9906–62–Region-6]

Approval and Promulgation of Air Quality Implementation Plans; Withdrawal of Federal Implementation Plan; Texas; Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of two revisions to the Texas State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ) to EPA on October 5, 2010, and December 2, 2013. Together, these two SIP submittals revise the Texas Prevention of Significant Deterioration (PSD) Program to provide for the regulation of greenhouse gas (GHG) emissions and clarify the applicability of Best Available Control Technology (BACT) for all PSD permit applications. The December 2, 2013, submittal is a request for parallel processing of revisions proposed by the TCEQ on October 23, 2013. The December 2, 2013, submittal includes proposed revisions to the Texas SIP to provide the State of Texas with the express authority to regulate GHG emissions, issue PSD permits governing GHG emissions, establish appropriate emission thresholds for determining which new stationary sources and modifications to existing stationary sources become subject to Texas's PSD permitting requirements for their GHG emissions, and revises several Minor New Source Review (NSR) provisions to specify that Minor NSR permit mechanisms cannot be used for authorizing GHG emissions. The December 2, 2013, SIP revision also defers until July 21, 2014, application of the PSD permitting requirements to biogenic carbon dioxide emissions from bioenergy and other biogenic stationary sources. The October 5, 2010, submittal

revises the Texas SIP to clarify that all PSD permits must undergo BACT review consistent with the requirements in the Federal and Texas PSD programs. EPA is proposing to approve portions of the October 5, 2010, and December 2, 2013, SIP revisions to the Texas SIP and NSR permitting program as consistent with federal requirements for PSD permitting of GHG emissions. EPA is proposing to sever and take no action on the portion of the October 5, 2010, SIP revision which pertains to the Texas Minor NSR program for Qualified Facilities. EPA is also proposing to sever and take no action on the portion of the December 2, 2013, SIP revision that relates to the provisions of EPA's July 20, 2011, "Deferral for CO_2 Emissions from Bioenergy and other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs" (Biomass Deferral Rule), as the DC Circuit Court of Appeals issued an order to vacate that rule on July 13, 2013. EPA is also proposing to rescind the Federal Implementation Plan (FIP) for Texas, with three limited possibilities for retained authority, which was put in place to ensure the availability of a permitting authority for GHG permitting in Texas until final approval of the Texas SIP PSD GHG program. EPA is proposing this action under section 110 and part C of the Clean Air Act (CAA).

DATES: Comments must be received on or before March 20, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2013–0808 by one of the following methods:

- *www.regulations.gov.* Follow the online instructions for submitting comments.
- *EMail:* Ms. Adina Wiley at *wiley.adina@epa.gov.*
- *Mail or Delivery:* Ms. Adina Wiley, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2013–0808. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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

FOR FURTHER INFORMATION CONTACT: Ms. Adina Wiley (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, Dallas, TX 75202–2733. The telephone number is (214) 665–2115. Ms. Wiley can also be reached via electronic mail at *wiley.adina@epa.gov.*

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

Table of Contents

I. Background for Our Proposed Action

The CAA at section 110(a)(2)(C) requires states to develop and submit to EPA for approval into the SIP, preconstruction review and permitting programs applicable to certain new and modified stationary sources of air pollutants for attainment and nonattainment areas that cover both major and minor new sources and modifications, collectively referred to as the NSR SIP. The CAA NSR SIP program is composed of three separate programs: PSD, Nonattainment NSR (NNSR), and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the National Ambient Air Quality Standards (NAAQS)—"attainment areas"—as well as areas where there is insufficient information to determine if the area meets the NAAQS—"unclassifiable areas." The NNSR SIP program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—"nonattainment areas." The Minor NSR SIP program addresses construction or modification activities that do not emit, or have the potential to emit, beyond certain major source thresholds and thus do not qualify as "major" and applies regardless of the designation of the area in which a source is located. EPA regulations governing the criteria that states must satisfy for EPA approval of the NSR programs as part of the SIP are contained in 40 CFR sections 51.160—51.166.

Texas submitted on October 5, 2010, and December 2, 2013, a collection of regulations for approval by EPA into the Texas SIP, including some regulations specific to the Texas PSD permitting program to clarify the applicability of BACT for all PSD permit applications and to provide for regulation of GHG emissions through the Texas PSD program. The October 5, 2010, submittal included revisions to the Permit Application requirements for the Texas NSR program at 30 TAC Section 116.111

to clarify that federal BACT will be applied to all PSD permit applications, in addition to the application of Texas BACT process as required by the Texas Clean Air Act. The October 5, 2010, submittal also included revisions to the Texas Minor NSR Qualified Facilities Program, which is severable from today's proposed action on the Texas PSD program. The December 2, 2013, submittal includes revisions to the Texas SIP and the Texas NSR program to (1) establish that the State of Texas has the express authority to regulate GHG emissions, (2) provide for the issuance of PSD permits governing GHG emissions, (3) establish appropriate emission thresholds for determining which new stationary sources and modification projects become subject to Texas's PSD permitting requirements for their GHG emissions consistent with the "PSD and Title V Greenhouse Gas Tailoring Final Rule" (75 FR 31514) hereafter referred to as the "Tailoring Rule", and (4) make revisions to the Texas Minor NSR program to limit the scope of GHG permitting to the Texas PSD program. The December 2, 2013, submittal also included provisions to adopt and implement EPA's July 20, 2011, GHG Biomass Deferral.

We have evaluated the SIP submissions for whether they meet the CAA and 40 CFR Part 51, and are consistent with EPA's interpretation of the relevant provisions. Today's proposed action and the accompanying Technical Support Document (TSD) present our rationale for proposing approval of these regulations as meeting the minimum federal requirements for the adoption and implementation of the PSD SIP permitting programs. Note that Texas is currently subject to the PSD Federal Implementation Plan (FIP) at 40 CFR 52.2305. See 76 FR 25178, May 3, 2011. We are also proposing to rescind the PSD FIP for Texas when we finalize today's proposed action. EPA is proposing to sever and take no action on the portions of the October 5, 2010, submittal that pertain to the Texas Minor NSR Qualified Facilities Program. EPA is proposing to sever and take no action on the portions of the December 2, 2013, submittal that relate to the provisions of EPA's Biomass Deferral for the reasons stated above.

A. History of EPA's GHG-Related Actions

This section summarizes EPA's recent GHG-related actions. Please see the preambles for the identified GHG-related rulemakings for more information.

EPA has recently undertaken a series of actions pertaining to the regulation of GHGs that, although for the most part are distinct from one another, establish the overall framework for today's proposed action on the Texas SIP. Four of these actions include, as they are commonly called, the "Endangerment Finding" and "Cause or Contribute Finding," which EPA issued in a single final action,[1] the "Johnson Memo Reconsideration," [2] the "Light-Duty Vehicle Rule," [3] and the "Tailoring Rule." [4] Taken together and in conjunction with the CAA, these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. EPA took this last action in the Tailoring Rule, which, more specifically, established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources. PSD is implemented through the SIP system, and so in December 2010, EPA promulgated several rules to implement the new GHG PSD SIP program. Recognizing that some states had approved SIP PSD programs that did not apply PSD to GHGs, EPA issued a SIP call for 13 states (including Texas) on December 13, 2010, that would require those states with SIPs that have approved PSD programs but do not authorize PSD permitting for GHGs to submit a SIP revision providing such authority.[5] EPA advised the States that as of January 2, 2011, if the States had not submitted, and EPA had not approved, a SIP revision establishing PSD permitting for GHGs, or if EPA had not promulgated a Federal Implementation Plan (FIP) by the same time, then sources with GHG emissions could, as a practical matter, be precluded from lawfully constructing or modifying due to the lack of a permitting authority to issue the required permit.

All of the states identified in the SIP Call, except for Texas, either (i) submitted a corrective SIP revision to apply their CAA PSD programs to sources of GHG emissions promptly enough to avoid adverse impacts on their new or modifying sources, or (ii) did not object to EPA establishing a deadline for SIP revisions of December 22, 2010. For the latter states, EPA published a finding of failure to submit the required SIP revision by the specified deadline and then immediately promulgated the GHG PSD FIP to ensure the availability of a permitting authority for GHG emitting sources subject to PSD requirements in those states.[6] [7]

The State of Texas did not identify a GHG SIP revision deadline; therefore, EPA assigned a default twelve-month SIP revision deadline of December 1, 2011. This meant that, absent further action, there would be no authority in Texas to issue PSD permits starting January 2, 2011. In that case, GHG-emitting sources seeking to undertake construction or modification activities during almost all of 2011 would have no permitting authority available to issue a PSD permit until, at the earliest, December 2011.

To remedy this situation, EPA determined that pursuant to CAA Section 110(k)(6), its prior approval of Texas's PSD program "was in error" because, among other things the SIP failed to address all pollutants that would become subject to regulation in the future or provide assurance of Texas's legal authority to do so. EPA corrected its previous full approval of Texas's PSD SIP to be a partial approval and partial disapproval. The partial disapproval reflected the PSD SIP's failure to address how PSD would apply to newly regulated pollutants. At the same time, EPA promulgated a FIP that applied PSD to GHGs, which are the newly regulated pollutants presently at issue. That FIP established EPA as the permitting authority, so that as of January 2, 2011, EPA could issue PSD permits to Texas's GHG-emitting

[1] "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act." 74 FR 66496 (December 15, 2009).

[2] "Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs." 75 FR 17004 (April 2, 2010).

[3] "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule." 75 FR 25324 (May 7, 2010).

[4] Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule." 75 FR 31514 (June 3, 2010).

[5] "Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call," 75 FR 77698 (Dec. 13, 2010). Specifically, by notice dated December 13, 2010, EPA finalized a "SIP Call" that would require those states with SIPs that have approved PSD programs but do not authorize PSD permitting for GHGs to submit a SIP revision providing such authority.

[6] "Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure To Submit State Implementation Plan Revisions Required for Greenhouse Gases," 75 FR 81874 (December 29, 2010).

[7] "Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan," 75 FR 82246 (December 30, 2010).

sources that sought to undertake construction or modification activities.

EPA took this action in December 2010, through an interim final rulemaking, without a prior proposal, under the "good cause" exception of 5 U.S.C. Section 553(b)(B), in light of the need to establish a permitting authority by January 2, 2011. EPA further provided that the interim final rulemaking would expire by May 1, 2011. At the same time, EPA proposed to take the same action through notice-and-comment rulemaking. By May 1, 2011, EPA completed the notice-and-comment rulemaking by finalizing a rule that mirrored the interim final rulemaking by correcting the previous full approval of Texas's PSD SIP provision to be a partial approval and partial disapproval, and by promulgating a FIP that established EPA as the permitting authority for GHG-emitting sources.[8]

For other states, EPA recognized that many states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tpy of GHG, and that do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule. Therefore, EPA issued the GHG PSD SIP Narrowing Rule.[9] Under that rule, EPA withdrew its approval of the affected SIPs to the extent those SIPs covered GHG-emitting sources below the Tailoring Rule thresholds. EPA based its action primarily on the "error correction" provisions of CAA section 110(k)(6).

B. EPA's Biomass Deferral Rule

On July 20, 2011, EPA promulgated the final Biomass Deferral Rule. The Biomass Deferral delayed until July 21, 2014, the consideration of CO_2 emissions from bioenergy and other biogenic sources when determining whether a stationary source meets the PSD and Title V applicability thresholds. The D.C. Circuit Court issued its decision to vacate the Biomass Deferral Rule on July 12, 2013.

C. EPA's Tailoring Rule Step 3

On July 12, 2012, EPA promulgated the final "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits" (GHG Tailoring Rule Step 3 and GHG PALs). EPA's rationale for the rule is available in the notice of final rulemaking at 77 FR 41051. EPA finalized Step 3 by determining not to lower the current GHG applicability thresholds from the Step 1 and Step 2 levels because state permitting authorities had not had sufficient time and opportunity to develop the necessary infrastructure and increase their GHG permitting expertise and capacity, and the state permitting authorities and EPA had not had the opportunity to develop streamlining measures to improve permit implementation. See 77 FR 41051, 41052. The Tailoring Rule Step 3 also promulgated revisions to our regulations under 40 CFR part 52 for better implementation of the federal program for establishing PALs for GHG emissions. A PAL establishes a site-specific plantwide emission level for a pollutant that allows the source to make changes at the facility without triggering the requirements of the PSD program, provided that emissions do not exceed the PAL level. Under the EPA's interpretation of the federal PAL provisions, such PALs are already available under PSD for non-GHG pollutants and for GHGs on a mass basis, and we revised the PAL regulations to allow for GHG PALs to be established on a CO_2e basis as well. We also revised the regulations to allow a GHG-only source to submit an application for a CO_2e-based GHG PAL while also maintaining its minor source status. We believe that these actions could streamline PSD permitting programs by allowing sources and permitting authorities to address GHG emissions one time for a source and avoid repeated subsequent permitting actions for a 10-year period. See 77 FR 41051, 41052.

The revisions to the PSD PAL rules for GHG permitting are voluntary for a state to adopt and implement. The December 2, 2013, submittal from Texas does not address the Tailoring Rule Step 3 GHG PAL revisions.

II. Summary of State Submittals

A. October 5, 2010

In a letter dated October 5, 2010, Mr. Bryan W. Shaw, Ph.D., Chairman of the TCEQ, submitted revisions to the Texas SIP that were adopted on September 15, 2010, and became effective on October 7, 2010. This submittal included the following revisions that were submitted primarily to address the Texas Minor NSR Qualified Facilities Program:

- Substantive and non-substantive revisions to General Definitions for the Texas NSR Program at 30 TAC Section 116.10,
- New definitions at 30 TAC Section 116.17 for the Texas Qualified Facilities Program,
- Substantive and non-substantive revisions to the General Application Provisions for the Texas NSR Program at 30 TAC Section 116.111,
- Substantive revisions to the provisions for Changes to Facilities at 30 TAC Section 116.116 specific to qualified facilities, and
- Substantive and non-substantive revisions to the provisions for Documentation and Notification of Changes to Qualified Facilities at 30 TAC Section 116.117.

EPA's proposed action today will only evaluate the revisions to the General Application requirements at 30 TAC Section 116.111 that are necessary to support the Texas PSD program, including the permitting of GHG emissions in Texas. EPA is severing and taking no action at this time on the remaining components of the October 5, 2010, SIP submittal that address the Qualified Facilities program. By severing, we mean that the October 5, 2010 submittal of the revisions to the General Application requirements at 30 TAC Section 116.111 can be implemented independently of the portions of the submittal relating to the Texas Minor NSR Qualified Facilities program. EPA will evaluate and take action on the remaining portions of the October 5, 2010, SIP submittal at a later date.

B. December 2, 2013

In a letter dated December 2, 2013, Mr. Zak Covar, Executive Director of the TCEQ, requested parallel processing of the October 23, 2013, proposed new and amended rules to implement the requirements of Texas House Bill (HB) 788, 83rd Legislature, 2013. Texas HB 788 directed the TCEQ to adopt rules necessary to implement the requirements of EPA's GHG Tailoring Rule and limit the regulation of GHGs only to the Texas PSD program. The December 2, 2013, parallel processing submittal consisted of the following revisions:

- 30 TAC Chapter 39—Public Notice.

The rules governing public notice for applications for air quality permits are

[8] Texas, Wyoming and industry challenged the GHG PSD SIP Call rules in the D.C. Circuit. Texas and industry also challenged the Texas error correction rules in the D.C. Circuit. On July 26, 2013, the D.C. Circuit handed down a single decision for two separate cases: (1) the challenge by Texas, Wyoming and industry to three related GHG PSD SIP Call rules (*Utility Air Regulatory Group* v. *EPA*, No. 11–1037), and (2) the challenge by Texas and industry to two related Texas GHG PSD error correction and FIP rules (*Texas* v. *EPA*, No. 10–1425). The decision dismisses challenges to both of these sets of rules by holding that none of the petitioners had standing to challenge any of the rules.

[9] "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting Sources in State Implementation Plans," 75 FR 82536 (December 30, 2010). The GHG PSD SIP Narrowing Rule does not apply to Texas because the GHG PSD FIP is in place.

contained in Chapter 39. Emissions of GHGs will be covered under the Texas PSD program, and will therefore follow the same public notice provisions as other PSD permit applications in Texas. The TCEQ has made changes to indicate that certain items required by a PSD public notice may not be applicable to GHG PSD permit applications—such as an air quality analysis or a Class I impact analysis for GHGs. Additionally, Texas HB 788, from the 83rd Legislature, 2013, has specifically exempted GHG PSD permit applications from the Texas requirement to provide an opportunity for the contested case hearing process.

○ 30 TAC Section 39.411—Text of Public Notice.

The TCEQ has proposed revisions to 30 TAC Section 39.411 that will require the public notice for a GHG PSD permit application to include a statement that any person is entitled to request a public meeting or a notice and comment hearing. The TCEQ has also amended this section to include the phrase "as applicable" in reference to the air quality analyses that must be made available for review. Additionally, the TCEQ has proposed several typographical corrections throughout section 39.411.

○ 30 TAC Section 39.412—Combined Notice for Certain Greenhouse Gases Permit Applications.

The TCEQ has proposed this new section to streamline the permit application process *only* for permit applications that have been transferred from EPA after the effective date of the FIP rescission, or for permit applications that were previously filed with EPA and EPA has already published a draft permit. This new section would allow a permit applicant to issue one public notice combining the requirements of the Texas first notice (Notice of Receipt of Application and Intent to Obtain Permit (NORI)) and the Texas second notice (Notice of Application and Preliminary Decision (NAPD)).

○ 30 TAC Section 39.419—Notice of Application and Preliminary Decision.

The TCEQ has amended this section to add the phrase "as applicable" in reference to the air quality analysis that must be available for public review.

○ 30 TAC Section 39.420—Transmittal of the Executive Director's Response to Comments and Decision.

TCEQ has amended this section to include a new provision at 30 TAC Section 39.420(e)(4) that says public notice documents for GHG PSD permits do not need to include instructions on how to request a contested case hearing or requesting the commission reconsider the Executive Director's decision.

• 30 TAC Chapter 101—General Air Quality Rules.

The TCEQ has amended the definitions and general rules germane to the Texas SIP to implement the requirements of Texas HB 788 and to provide authority to regulate GHGs.

○ 30 TAC Section 101.1—Definitions.

▪ The TCEQ has proposed a new definition for GHGs at 30 TAC Section 101.1(42).

▪ The TCEQ has also proposed several amendments to the definition of Reportable Quantity at 30 TAC Section 101.1(89) to establish that there is no reportable quantity for GHGs (except for the specific individual air contaminants found in the current definition of RQ), and establish a reportable quantity of 5,000 pounds for 3-pentanone, 1,1,1,2,2,4,5,5,5-nonafluoro-4-(trifluromethyl)-, CAS No. 756–13–8 (hereafter referred to as C6 fluoroketone) rather than the default reportable quantity of 100 pounds.

▪ The TCEQ has also proposed amendments to the definition of unauthorized emissions at 30 TAC Section 101.1(108) to exclude emissions of carbon dioxide (CO_2) and methane (CH_4).

▪ The TCEQ has also proposed a number of non-substantive amendments to correct for renumbering and internal referencing to other TAC provisions.

○ 30 TAC Section 101.10—Emissions Inventory Requirements.

▪ The TCEQ has proposed amendments to 30 TAC Section 101.10(a)(3) to provide an exception for GHG emissions to the applicable criteria for which an owner or operator is required to submit emission inventories.

▪ The TCEQ has also proposed non-substantive revisions for renumbering and formatting and to update references to other TAC provisions.

○ 30 TAC Section 101.201—Emissions Event Reporting and Recordkeeping Requirements.

The TCEQ has proposed an amendment to specify that any emissions of GHG, individually or collectively, are not subject to emissions event reporting.

• 30 TAC Chapter 106—Permits by Rule.

The Texas Permits by Rule (PBR) program under 30 TAC Chapter 106, is one component of the SIP-approved Minor NSR program in Texas. The TCEQ has proposed amendments to the Minor NSR PBR program at 30 TAC Section 106.2 to clarify that emissions of GHG cannot be authorized through a PBR. Additionally, the TCEQ has proposed an amendment to 30 TAC Section 106.4 to specify that for sources that are only subject to PSD for GHG emissions, a PBR can still be used to authorize the non-PSD emissions; provided that the source obtains the GHG PSD construction permit prior to commencing construction.

• 30 TAC Chapter 116—Control of Air Pollution by Permits for New Construction or Modification.

The Texas PSD program and necessary implementing definitions are SIP-approved under 30 TAC Chapter 116. With the exception of PBR which are codified at 30 TAC Chapter 106, the remainder of the SIP-approved Texas Minor NSR program is SIP-approved at 30 TAC Chapter 116. The TCEQ has proposed several amendments to this chapter to provide for PSD permitting of GHG emissions and to limit the scope of the Texas Minor NSR programs to not include emissions of GHG. Specifically, the TCEQ has proposed the following:

○ 30 TAC Section 116.12—Nonattainment and Prevention of Significant Deterioration Definitions.

▪ The TCEQ has proposed new definitions for the "CO_2 equivalent" and the pollutant GHG.

▪ The TCEQ has also proposed revisions to the definitions of "Federally Regulated NSR pollutant," "major stationary source," and "major modifications."

▪ The TCEQ has also proposed renumbering to accommodate the proposed new definitions.

○ 30 TAC Section 116.111—General Application.

▪ The TCEQ has proposed an amendment to the general application provisions to require a PSD permit for GHG emissions that meet or exceed the thresholds for GHG PSD permitting established in new proposed section 116.164. This amendment will specify that GHG permitting is statewide, without regard to an attainment designation for GHG permitting.

○ 30 TAC Section 116.160—Prevision of Significant Deterioration Requirements.

▪ TCEQ has proposed an amendment to 30 TAC Section 116.160(a) to require new major sources of GHG emissions or major modifications of GHG emissions to comply with the PSD permitting program regardless of location of the source.

▪ TCEQ has proposed amendments to 30 TAC Section 116.160(b)(2) to include references to the netting requirements for GHG applicability thresholds established in new section 116.164.

▪ TCEQ has also proposed an amendment to 30 TAC Section 116.160(c) to clarify that emissions of

GHG are subject to the applicability thresholds in new section 116.164.

○ 30 TAC Section 116.164—Prevention of Significant Deterioration Applicability for Greenhouse Gases Sources.

The TCEQ has proposed a new subsection to the Texas PSD program specifically for the permitting of GHG emissions. This new subsection establishes the applicability thresholds developed by EPA in the GHG Tailoring Rule.

○ 30 TAC Section 116.169—Greenhouse Gas Transition.

The TCEQ has proposed a new subsection to the Texas PSD program to address the transition process for permit applicants upon the effective date of the rescission of the GHG PSD FIP by the EPA Administrator. The proposed subsection does not identify the actions to be taken by EPA; it only establishes that upon the rescission of the FIP, the TCEQ will accept the transfer and review of pending permit applications. The actions to be taken by EPA during the transition process will be discussed in section IV.B. of this notice.

• 30 TAC Chapter 122—Federal Operating Permits.

The TCEQ proposed several amendments to the Texas Title V program on October 23, 2013; but only the proposed revisions to 30 TAC Section 122.122—Potential to Emit—have been submitted for parallel processing into the Texas SIP. In this proposed revision, the TCEQ amends the potential to emit provisions to clarify that existing sites must certify emissions of GHG below major source thresholds. Existing sites that are currently operating will have 90 days after EPA's FIP rescission to certify emissions of GHGs to avoid applicability of Title V permitting.

• The TCEQ December 2, 2013, commitment letter also addresses the requirement that the state provide the necessary assurances of its authority to address all future federally regulated pollutants under the Texas PSD program, in order to remove the PSD FIP at 40 CFR 52.2305(c).

• The January 13, 2014, letter from TCEQ demonstrates its authority to administer the Texas PSD program for EPA issued GHG PSD permits.

III. EPA's Analysis of the State Submittals

A. Analysis of the October 5, 2010, State Submittal

As explained previously in section II.A., EPA's analysis of the October 5, 2010, submittal only addresses the submitted substantive and non-substantive revisions to the General Application provisions to the Texas NSR program at 30 Section TAC 116.111. The substantive revision to 30 TAC Section 116.111(a)(2)(C) clarifies when federal BACT will be applied to PSD permit applications. The TCAA requires the TCEQ to apply BACT to all facilities and to all contaminants emitted from said facilities that are permitted under the TCAA, including non-PSD sources and modifications. EPA refers to this process as "Texas BACT." We view the application of Texas BACT, which would include BACT for Minor NSR permitting, to be a separate requirement from the application of federal BACT as required in EPA's PSD regulations and the Texas SIP-approved PSD Program. To clarify the requirements of the TCAA and to ensure compliance with federal PSD regulations, the TCEQ has submitted revisions to the general application provisions at 30 TAC Section 116.111(a)(2)(C). Pursuant to the submitted revisions, BACT consistent with the Texas Clean Air Act (Texas BACT) will be applied to all permit applications under the TCAA. However, prior to the application of Texas BACT, if the permit application is for a new source or modification subject to PSD, then BACT consistent with the federal PSD requirements and the SIP-approved Texas PSD program must be applied. The SIP-approved Texas PSD program at 30 TAC Section 116.160(c)(1)(A) incorporates the requirements for BACT at 40 CFR 52.21(b)(12).[10] The submitted revision clearly requires that all PSD subject applications go through federal PSD BACT in addition to Texas BACT; for PSD permit applications, federal BACT requirements will govern the permitting process if there is a discrepancy between the federal BACT and Texas BACT analysis. The TCEQ also submitted several non-substantive revisions made throughout 30 TAC Section 116.111 to spell out acronyms and to clarify/update cross-references. A complete listing of all the revisions is available in the accompanying TSD for this rulemaking. EPA proposes to approve the October 5, 2010, revisions to 30 TAC Section 116.111 as consistent with the PSD requirements at 40 CFR 51.166. Further, we note that the substantive revision is consistent with and supportive of revisions to the Texas PSD program separately approved at 30 TAC Section 116.160 on September 15, 2010. See 75 FR 55978.

[10] The Texas PSD program incorporates the federal PSD definition of BACT at 40 CFR 52.21(b)(12). This means that PSD BACT will be based on the maximum degree of reduction for each pollutant subject to regulation under the Act, taking into account energy, environmental, and economic impacts and other costs. The Texas BACT process will apply to all permitted facilities and contaminants—not just major sources—and is not held to the same rigor as the federal PSD BACT analysis. For example, minor NSR applicants only have to meet controls currently permitted as compared to the federal PSD requirement to use the most stringent control technology.

B. Analysis of the December 2, 2013, State Submittal

As described in the discussion in Section II.B of this proposal notice, the TCEQ proposed revisions to several portions of the Texas Air Code to implement the requirements of Texas HB 788 and to provide TCEQ the authority to regulate GHG emissions through the Texas PSD program. Texas HB 788 required further revisions to the Texas SIP and the Minor NSR program to ensure that GHG emissions would only be regulated via the PSD program as required through EPA's GHG Tailoring Rule. The analysis in this section will be presented based on those revisions necessary for the PSD program and those that are non-PSD.

EPA is parallel processing the revisions proposed on October 23, 2013, based on the request submitted on December 2, 2013. This means that EPA is proposing approval at the same time that Texas is completing the public comment and rulemaking process at the state level. The December 2, 2013, SIP revision request will not be complete and will not meet all the adequacy criteria until the state public process is complete and the SIP revision is submitted as a final adoption with a letter from the Governor or Governor's designee. EPA is proposing to approve the SIP revision request after completion of the state public process and final submittal.

i. Analysis of the Proposed Revisions to the Texas PSD Program

Definitions To Effectuate Authority

TCEQ has proposed several new definitions in the Texas SIP to adopt and implement the permitting of GHGs consistent with federal requirements.

• TCEQ proposed new definitions at 30 TAC Sections 101.1(42) and 116.12(16) to adopt the definition of "greenhouse gases". Based on our analysis, EPA proposes to find that the new definitions of GHG are consistent with the federal PSD definition at 40 CFR 51.166(b)(48).

• The TCEQ has also proposed a new definition for "carbon dioxide equivalent (CO_2e)" at 30 TAC Section 116.12(7)(A). Based on our analysis, EPA proposes to find that the definition at 30 TAC Section 116.12(7)(A) is

consistent with the provisions at 40 CFR 51.166(b)(48)(ii)(a) and (b).

• The TCEQ also proposed revisions to the definition of "potential to emit" at 30 TAC Section 122.122. EPA proposes to find that these revisions are necessary to update the SIP-approved definition to account for the permitting of GHG emissions. The Texas PSD program relies on a source's potential to emit for establishing applicability of the PSD rules.

EPA's analysis is that the new definitions for GHG and CO_2e at 30 TAC Sections 101.1(42), 116.12(16), and 116.12(7A) are consistent with the Act and EPA regulations at 40 CFR 51.166. The proposed revisions to the definition of "potential to emit" at 30 TAC Section 122.122 are necessary to ensure that PSD permitting applicability is calculated correctly. Therefore, we propose approval of the new definitions and propose to find that the final adoption of the definitions for "greenhouse gases" and "CO_2e" will effectuate the authority for the State of Texas to regulate emissions of GHG through the Texas SIP and the Texas PSD program.

Public Notice for GHG PSD Permit Applications

The December 2, 2013, proposed revisions included revisions to the Texas Public Notice requirements for PSD permitting at 30 TAC Chapter 39. On January 6, 2014, EPA approved the Texas public notice rules for PSD permitting for inclusion in the Texas SIP. See 79 FR 551. Our final approval found that the Texas public notice process of the Notice of Receipt of Application and Intent to Obtain Permit (NORI) and the Notice of Application and Preliminary Decision (NAPD) would satisfy all PSD-specific public notice requirements at 40 CFR 51.160, 51.161 and 51.166(q). We note that Texas regulations require that non-GHG PSD permits are subject to the Texas Contested Case Hearing (CCH) process which EPA has determined is outside the scope of the Texas SIP. Texas HB 788 specifically directed the TCEQ to adopt and implement regulations to issue GHG PSD permits; however these GHG PSD permits will be exempted from the Texas CCH process. This exemption required the TCEQ to revise the PSD public notice provisions at 30 TAC Chapter 39 to address the special requirements for issuing separate GHG PSD permits. Additionally, the PSD public notice provisions were revised to accommodate the subset of pending permit applications that will be transferred to TCEQ from EPA upon the effective date of the GHG PSD FIP rescission. Because of these revisions to the PSD public notice rules, EPA finds it necessary to evaluate the Texas proposed revisions to 30 TAC Chapter 39 with respect to the federal PSD requirements at 40 CFR 51.166(q) to ensure all federal requirements continue to be satisfied in the December 2, 2013, proposed SIP revision.

Proposed 30 TAC Section 116.111(a)(2)(I)(ii) requires that a proposed facility or modification that meets or exceeds the GHG emission thresholds defined in new 30 TAC Section 116.164 must comply with all applicable requirements in 30 TAC Chapter 116 for PSD permitting. One such applicable requirement for PSD permitting is the SIP-approved requirement at 30 TAC Section 116.111(b)(2) which requires that Chapter 39 public notice provisions are followed for PSD permits declared administratively complete on or after September 1, 1999. Therefore, proposed 30 TAC Section 116.111(a)(2)(I)(ii) and the existing SIP establish that the requirements found in 30 TAC Chapter 39, Subchapters H and K apply to applications for the new major source or major modifications for facilities subject to Chapter 116, Subchapter B, Division 6, Sections 116.164 and 116.169 for GHG PSD Permitting. Every application for a new major source or major modification subject to GHG PSD permitting requirements will therefore go through public notice with both the NORI and NAPD. Note that under the SIP, as of January 6, 2014, the applicant, rather than the state permitting authority, is the legally responsible party for satisfying the public notice requirements for PSD applications. For example, the applicant continues to be legally responsible for the publication of the NORI and NAPD, using the specific notice text provided through regulations by the TCEQ. The applicant is also legally responsible for providing copies of the public notice documents to the EPA Regional Office, local air pollution control agencies with jurisdiction in the county, and air pollution control agencies of nearby states that may be impacted by the proposed new source or modification. The applicant is required to follow the Texas public notice regulations, which specify the text for the notice documents and specify the additional agencies that will receive notice.

The TCEQ has proposed revisions to the public notice text requirements at 30 TAC Section 39.411 specific to GHG PSD permit applications at Sections 39.411(e)(11), (e)(15), (e)(16), (f)(4) and (f)(8). These proposed revisions to the notice text require that, in addition to the text SIP-approved for PSD permits, the text of the public notice specifically for a GHG PSD permit must specify that any person is entitled to a public meeting or a notice and comment hearing from the commission and that the air quality analysis will be provided if applicable. Currently EPA does not require an air quality analysis for GHG PSD permits. In the event that an analysis is required in the future, the proposed revisions to the Texas Public Notice requirements will include the analysis as required without further rulemaking on the part of TCEQ. Similarly, the TCEQ has proposed revisions to the NAPD text requirements specific to GHG PSD Permit applications at 30 TAC Section 30.419(e)(1) to state that an air quality analysis will be available for public notice as applicable. The proposed revisions to 30 TAC Section 39.420(e)(4) exempt applications for GHG PSD permits from the Texas CCH process. EPA is proposing to find that the GHG PSD specific revisions as discussed above continue to meet the requirements to provide opportunity for public comment and for information availability at 40 CFR 51.161 and 51.166. The NORI and NAPD both identify locations where materials, including the draft permit and all technical materials supporting the decision, will be made available for public review. The TCEQ will also respond to each comment received when making a final permit decision. The TCEQ will provide opportunity for a public meeting on the permit application if requested. TCEQ has exempted the GHG PSD permit applications from the Texas-specific process of contested case hearings, which is outside the scope of the Texas SIP.

The TCEQ has also proposed a new public notice process for the subset of GHG PSD permit applications that are transferred to TCEQ from the EPA upon the effective date of the GHG PSD FIP Rescission and where EPA has already proposed a draft permit. Proposed new Section 30 TAC 39.412 creates an optional Combined Notice process, to be used in lieu of the current SIP-approved process of a separate NORI and NAPD, to streamline the processing of these pending permit applications. Proposed new 30 TAC Section 39.412(a) establishes the applicability of this new section specifically to the subset of applications that were previously filed with EPA and which EPA proposed a draft permit prior to transfer to the TCEQ. Proposed new 30 TAC Section 39.412(b) provides the streamlined

process for the subset of permit applications to be a Combined Notice addressing the requirements of both the NORI and NAPD in one notice document, in lieu of the SIP-approved process requiring a separate NORI and NAPD. The Combined Notice will identify a public location where the application, the preliminary determination and draft permit will be available for review and comment, in addition to a list of all the GHGs proposed to be emitted and an air quality analysis, as applicable. The Combined Notice will also provide instructions on submitting comments, a statement that a public meeting will be held if requested, and a statement that the comment period will be 30 days after the last publication of the Combined Notice. Additionally, the Combined Notice will state that any comments previously submitted to EPA regarding the GHG PSD permit application will not be included in the Executive Director's response to comments *unless* the comments are submitted to the TCEQ during the comment period identified in the Combined Notice. EPA proposes to find the Combined Notice at 30 TAC Section 39.412, specific to the subset of transferred permit applications where a draft permit was previously proposed by EPA, is consistent with all requirements of 40 CFR 51.166(q) for PSD public notice requirements.

EPA's analysis of the Texas public participation requirements, both for newly submitted GHG PSD permit applications and those transferred from EPA, demonstrates that the submitted provisions are consistent with the Act and EPA regulations at 40 CFR 51.160, 51.161 and 51.166(q). Therefore, we propose approval of the new and revised sections in 30 TAC Chapter 39, submitted for parallel processing on December 2, 2013.

Proposed Revisions To Establish PSD Authority and Appropriate Thresholds for GHG Permitting

TCEQ has proposed several new provisions in the Texas NSR Program to adopt and implement the permitting of GHG emissions consistent with federal requirements in EPA's GHG Tailoring Rule. The proposed regulations are substantively similar to the federal requirements for the permitting of GHG-emitting sources subject to PSD. The detailed analysis in our TSD demonstrates that the regulatory revisions proposed on October 23, 2013, and submitted for parallel processing on December 2, 2013, establish that Texas has the authority to issue PSD permits for GHG-emitting sources subject to PSD consistent with the federal PSD requirements of EPA's final GHG Tailoring Rule. The revisions also establish thresholds for determining which stationary sources and modification projects become subject to permitting requirements for GHG emissions under its PSD program. Specifically, the December 2, 2013, submittal satisfies the Tailoring Rule requirements in the following ways:

- TCEQ proposed a new provision in the NSR Permit Application procedures at new subsection 30 TAC Section 116.111(a)(2)(I)(ii) that explicitly requires that any proposed facility or modification that meets or exceeds the GHG thresholds established in new proposed section 30 TAC Section 116.164 must comply with all applicable requirements of Chapter 116 for PSD review. This new provision ensures that all PSD requirements such as BACT and public notice will be followed for GHG PSD permit applications. The October 5, 2010, revisions to 30 TAC Section 116.111(a)(2)(C), previously discussed in this proposed rulemaking, complement the implementation of the Texas PSD program, especially with regard to the PSD permitting of GHG emissions. While the October 5, 2010, revisions are germane to the Texas PSD program and ensure that federal BACT consistent with EPA's PSD regulations will apply to all PSD permit applications, we specifically note that the provision also applies to GHG PSD permits and ensures that federal BACT will be applied to all GHG PSD permit applications. EPA proposes to find that the October 5, 2010, revisions to 30 TAC Section 116.111(a)(2)(C) and the proposed new provision at 30 TAC Section 116.111(a)(2)(I)(ii) are necessary to implement the Texas GHG PSD permitting process.
- TCEQ proposed revisions to the Texas PSD program rules at 30 TAC Section 116.160(a) to explicitly require any new major source of GHG emissions or major modification involving GHG emissions shall comply with the applicable requirements of the Texas PSD program. TCEQ proposed further revisions to the Texas PSD program at 30 TAC Sections 116.160(b) and (c) to specify that the proposed new GHG emission thresholds established at 30 TAC Section 116.164 must be used when evaluating a proposed new source or modification for PSD applicability. EPA proposes to find that the proposed revisions to the Texas PSD program at 30 TAC Sections 116.160(a), (b), and (c) are necessary to implement the Texas GHG PSD permitting process.
- TCEQ proposed new 30 TAC Sections 116.164 to establish the PSD applicability requirements for GHG sources.
  - EPA proposes to find that proposed new 30 TAC Section 116.164(a), which establishes the applicability statement for the GHG PSD permitting thresholds, is consistent with the federal requirement at 40 CFR 51.166(b)(48)(iv) to regulate GHG emissions through the PSD program.
  - EPA proposes to find that proposed new 30 TAC Section 116.164(a)(1) is consistent with the federal requirements at 40 CFR 51.166(b)(48)(iv)(a) for the regulation of a new major stationary source that is subject to PSD requirements for a non-GHG pollutant and will emit or have the potential to emit GHG emissions above the specified thresholds.
  - EPA proposes to find that proposed new 30 TAC Section 116.164(a)(2) is consistent with the federal requirements at 40 CFR 51.166(b)(48)(iv)(b) for the regulation of an existing major stationary source that is major for non-GHG and will emit or have the potential to emit GHG emissions above the specified thresholds.
  - EPA proposes to find that proposed new 30 TAC Section 116.164(a)(3) is consistent with the federal requirement at 40 CFR 51.166(b)(48)(v)(a) for the regulation of a new major stationary source that is subject to PSD only for GHG emissions based on the specified thresholds.
  - EPA proposes to find that proposed new 30 TAC Section 116.164(a)(4) is consistent with the federal requirements at 40 CFR 51.166(b)(48)(v)(b) for the regulation of an existing stationary source that is major for GHG emissions and proposes a major modification for GHG emissions above the specified thresholds.
  - EPA proposes to find that proposed new 30 TAC Section 116.164(a)(5) is consistent with the requirement at 40 CFR 51.166(b)(1)(i)(C) for the regulation of an existing minor stationary source for non-GHG pollutants that would undertake a physical change or change in the method of operation that will cause the source to be a major stationary source by itself for GHG emissions at the specified thresholds.
  - Proposed new 30 TAC Section 116.164(b) establishes that new stationary sources or existing stationary sources that make modifications involving emissions of GHG below the thresholds established in new 30 TAC Section 116.164(a) are not required to have an authorization for the GHG emissions through a PSD permit or other Texas Minor NSR permit authorizations

such as a Standard Permit, PBR or Flexible Permit. EPA proposes to find that this new provision is consistent with EPA's GHG Tailoring Rule where we have established that emissions of GHG are *only* subject to regulation above the Tailoring Rule thresholds.

• TCEQ proposed new 30 TAC Section 116.169 to establish the authority for the TCEQ to accept the transfer of permit applications and associated materials upon the effective date of the GHG PSD FIP rescission. EPA proposes to find that new 30 TAC Section 116.169 is necessary for establishing the legal authority for TCEQ to implement the GHG PSD permitting program.

ii. Analysis of the Proposed Non-PSD Revisions to the Texas SIP

The December 2, 2013, submittal included several proposed revisions to the remainder of the Texas SIP and the Texas Minor NSR programs to satisfy the requirements of Texas HB 788 and restrict the permitting of GHG emissions only to the extent required under federal law. As such, the TCEQ proposed revisions to the definitions of "reportable quantity" at 30 TAC Section 101.1(89) to establish there is no reportable quantity for GHG emissions. TCEQ also proposed revisions to the Emission Inventory Requirements at 30 TAC Section 101.10 to specify that emissions of GHG are not subject to the reporting requirements in the Emission Inventory. Similarly, the TCEQ proposed revisions to the Emissions Event Reporting and Recordkeeping Requirements to specify that emissions of GHG are not included in emissions event reporting. EPA proposes to find that these provisions are consistent with EPA's GHG Tailoring Rule and our determination that emissions of GHG are only subject to regulation in the PSD program above the specified GHG thresholds. There are no federal requirements establishing reportable quantities or reporting requirements for emission inventories or emission events for GHG emissions.[11]

The December 2, 2013, submittal also proposed revisions to the Texas Minor NSR program at 30 TAC Sections 106.2, 106.4, 116.610, and 116.611. The proposed revisions to the Texas Minor NSR Permits by Rule (PBR) Program at 30 TAC Sections 106.2 and 106.4 clarify that a PBR cannot be used to authorize emissions of GHGs. Similarly, the proposed revisions to the Texas Minor NSR Standard Permit Program at 30 TAC Sections 116.610 and 116.611 clarify that a Standard Permit cannot be used to authorize emissions of GHGs. The Texas provisions also provide that if a source is subject to PSD requirements only for the emissions of GHGs, then a PBR or Standard Permit can be used to authorize the non-GHG pollutants. EPA proposes that the revisions to the PBR and Standard Permit are consistent with EPA's Tailoring Rule to only regulate GHG emissions through the PSD program at or above the specified GHG PSD thresholds; therefore, these proposed revisions will ensure that GHG PSD requirements will not be circumvented.

IV. EPA's Analysis for Rescinding the Texas PSD FIP

A. Evaluation of Rescission of the GHG PSD FIP at 40 CFR 52.2305(a), (b), and (c)

EPA established the final Texas GHG PSD FIP on May 3, 2011, at 40 CFR 52.2305(a), (b), and (c). These provisions remain in effect until EPA approves the state's rules to address the permitting of GHG emissions consistent with federal requirements and EPA rescinds the FIP. The analysis presented in Section III of this rulemaking and the accompanying TSD demonstrate that the October 23, 2013, proposed rules submitted for parallel processing on December 2, 2013, adequately address all federal requirements for GHG PSD permitting. In addition, Mr. Zak Covar, former Executive Director of the TCEQ, submitted a commitment letter on December 2, 2013, that addresses the requirement that the state provide necessary assurances of its authority to address all future regulated pollutants under the Texas PSD program in order to remove the PSD FIP at 40 CFR 52.2305(c). Based on the commitments in the December 2, 2013, letter and the October 23, 2013, proposed rulemaking for permitting emissions of GHG through the Texas PSD program, EPA proposes to find that the TCEQ has the authority under the Texas Clean Air Act to apply the Texas PSD program to all pollutants newly subject to regulation, including non-NAAQS pollutants into the future. EPA recognizes that the TCEQ may be required to proceed through a notice and comment rule development process, but this process in no way prevents the TCEQ from addressing the PSD requirements of the CAA. As such, we are proposing rescission of the Texas GHG PSD FIP at 40 CFR 52.2305(a), (b), and (c), with three limited possibilities for retained authority as detailed below in Section IV.B.

B. Transition Process Upon Rescission of the GHG PSD FIP for Pending GHG PSD Permit Applications and Issued GHG PSD Permits

As explained throughout this notice, EPA is proposing approval of the December 2, 2013, submittal as consistent with the requirements for PSD permitting of GHG emissions under EPA's GHG Tailoring Rule. Our analysis demonstrates the TCEQ has proposed necessary rule revisions to provide adequate authority to regulate GHG emissions using appropriate emission thresholds under the Texas PSD program. As such, EPA is simultaneously proposing to rescind the GHG PSD FIP and intends to finalize both actions simultaneously. We expect that the FIP rescission will be effective 30 days after publication of the final approval of the Texas GHG PSD revisions. EPA has developed a process for transitioning pending permit applications and EPA issued permits to the TCEQ following the rescission of the FIP. Our transition process, titled "Transition Process for Pending GHG PSD Permit Applications and Issued GHG PSD Permits Upon Rescission of the GHG PSD FIP" is available in the docket for this rulemaking and on the EPA Region 6 GHG Web site at *http://yosemite.epa.gov/r6/Apermit.nsf/AirP*. The transition process is briefly summarized below. EPA believes that the transition process will ensure a smooth transfer of permitting authorities for GHG PSD permits in Texas and inform the regulated entities. Please note that this transition process is predicated on the fact that the TCEQ will proceed with final rulemaking to adopt the GHG PSD SIP rules and submit these rules to EPA for approval into the Texas SIP. If TCEQ is unable to submit a final SIP revision, EPA will not rescind the FIP and will therefore not initiate the transition process.

EPA's transition process addresses two components of the GHG PSD program—pending permit applications and issued permits.[12] Through application of this transition process and in concert with the rescission of the GHG PSD FIP, EPA will retain GHG PSD

[11] EPA has separately promulgated mandatory reporting requirements for owners and operators of certain facilities that directly emit GHG emissions at 40 CFR part 98. See 74 FR 56260, October 30, 2009. The Emission Inventory developed and maintained by a state permitting authority under the applicable SIP is separate from the requirements under 40 CFR part 98 and is not required to include GHG emissions data.

[12] A "pending permit application" is any GHG PSD permit application submitted to EPA for which EPA has not yet issued a final permit to authorize the emissions of GHG by the signature date of EPA's final approval of the Texas SIP rules and rescission of the FIP.

permitting authority at 40 CFR 52.2305 in the following three limited instances:

1. EPA will retain GHG PSD permitting authority for any applicants who select to remain with EPA for GHG PSD permit issuance. This option will be detailed in a letter to the permit applicant and will contain a deadline by which the applicant must inform EPA of its decision to remain with EPA. EPA will also maintain a list of all pending permit applications retained under EPA's GHG PSD permitting authority on the EPA Region 6 GHG Web site, which will be referenced in any future final GHG PSD SIP approval and FIP rescission action EPA may take for Texas.

2. EPA will retain the GHG PSD permitting authority for applicants with pending permits who fail to select a permitting authority by the deadline specified in the above referenced EPA letter to each permit applicant.

3. EPA will retain GHG PSD permitting authority for issued permits for which either (a) the time for filing an administrative appeal has not expired or (b) all administrative and judicial appeal processes (including any associated remand action) have not been completed upon the signature date of any future EPA final action to approve TCEQ's SIP submittal and rescind the GHG PSD FIP. In a letter dated January 13, 2014, TCEQ requested approval to exercise its authority to administer the PSD program with respect to those sources that have final GHG PSD permits issued by EPA upon the effective date of the GHG PSD FIP rescission. This letter is available for review in the docket for this rulemaking. With respect to this transition process, a "final GHG PSD permit issued by EPA" is a permit where all final EPA actions have been taken and all administrative and judicial appeal opportunities have expired or processes have been concluded or completed.

We note that as with any PSD permit application, an applicant may withdraw a pending application for any reason before the permit is issued. With respect to the permit applications for which EPA will retain permitting authority as specified in the transition process, EPA's permitting authority will cease upon an applicant's written request withdrawing the pending permit application before a final determination is made.

For the permit applicants who elect to transfer to TCEQ for GHG PSD permit issuance, EPA will transfer the application, all related technical materials submitted by the applicant, the proposed draft permit and any comments received on the proposed draft permit to TCEQ. The TCEQ will require the applicant to comply with SIP-approved public notice rules. The applicant will either follow the current SIP-approved process of publishing a separate NORI and NAPD, or publish a combined NORI and NAPD notice pursuant to new proposed revisions at 30 TAC Section 39.412. Further, pursuant to the Texas SIP, any comments submitted to EPA on the proposed draft permit must be resubmitted to the TCEQ during the TCEQ's public comment period. EPA intends to identify on the EPA Region 6 GHG Web site which applications with proposed draft permits have been transferred to TCEQ for issuance. EPA will endeavor to notify each commenter about the need to resubmit comments under the SIP-approved Texas public comment period provisions or the newly proposed revisions at 30 TAC Section 39.412.

The TCEQ will assume full PSD responsibility for the administration and implementation of final GHG PSD permits issued by EPA upon notification from EPA that all administrative and judicial appeal processes have expired or have been completed or concluded (including any associated remand actions) for a specific permit or permit application. Assuming full PSD responsibility includes the authority to conduct general administration of these existing permits, authority to process and issue any and all subsequent PSD permit actions relating to such permits (e.g., amendments), and authority to enforce such permits. In the above referenced January 13, 2014, letter, the TCEQ explains that the provisions contained in element 1 of the Texas PSD Supplement (as adopted by the Texas Air Control Board on July 17, 1987) provide the TCEQ the authority to enforce all conditions of PSD permits issued for sources in Texas by EPA prior to full delegation of authority to implement the Texas PSD program. The TCEQ has affirmed that this provision continues to apply to the GHG PSD permits issued by EPA. Therefore, TCEQ has demonstrated it has the authority to administer EPA-issued GHG PSD permits.

V. Proposed Action

EPA has made the preliminary determination that the October 5, 2010, revisions to the Texas SIP that are part of this rulemaking are approvable because they are adopted and submitted in accordance with the CAA and EPA regulations regarding NSR permitting. EPA has made the preliminary determination that the December 2, 2013, proposed revisions to the Texas SIP and request for parallel processing are in accordance with the CAA and EPA regulations regarding SIP development and GHG regulations. EPA invites the public to make comments on all aspects of the EPA proposed approval of the revisions to the Texas NSR SIP to provide for the regulation of GHG emissions and clarify the applicability of BACT for all PSD permit applications, and to submit comments by the date listed above. Therefore, under section 110 and part C of the Act, and for the reasons stated above, EPA proposes to approve the following revisions to the Texas SIP:

- Substantive and non-substantive revisions to 30 TAC Section 116.111 adopted on September 15, 2010, and submitted on October 5, 2010, to clarify the application of BACT to all PSD permit applications in the Texas NSR program;
- Substantive and non-substantive revisions proposed October 23, 2013, and submitted for parallel processing on December 2, 2013, necessary to provide the TCEQ the authority to regulate GHG emissions under the Texas PSD Program:
  - Revisions to Public Notice requirements at 30 TAC Sections 39.411(e)(11), (e)(15), (e)(16), (f)(4), (f)(8), 39.412(a)—(d), 39.419(e)(1), and 39.420(e)(4).
  - Revisions to the entirety of the General Air Quality Definitions at 30 TAC Sections 101.1.
  - Revisions to the Emission Inventory Requirements at 30 TAC Section 101.10.
  - Revisions to Emissions Event Reporting and Recordkeeping Requirements at 30 TAC Section 101.201.
  - Revisions to the Permits by Rule Minor NSR program at 30 TAC Sections 106.2 and 106.4.
  - Revisions to the Definitions for Texas NSR Permitting at 30 TAC Section 116.12.
  - Revisions to Permit Application provisions for Texas NSR Permitting at 30 TAC Section 116.111.
  - Revisions to the Texas PSD Program at 30 TAC Section 116.160.
  - Proposed new 30 TAC Section 116.164 to tailor the PSD thresholds for GHG permitting.
  - Proposed new 30 TAC Section 116.169 to establish the transition process for GHG permitting.
  - Revisions to the Standard Permit Minor NSR program at 30 TAC Sections 116.610 and 116.611.
  - Revisions to the definition of Potential to Emit at 30 TAC Section 122.122.

Texas is subject to the FIP for PSD permitting of GHG emissions. This GHG PSD FIP remains in place and EPA remains the PSD permitting authority for GHG-emitting sources in Texas until EPA finalizes our proposed approval of the October 23, 2013, proposed revisions submitted for parallel processing on December 2, 2013, to the Texas SIP. Therefore, we propose that upon finalization of today's action, EPA will rescind the GHG PSD FIP for Texas at 40 CFR 52.2305(a) and (b). However, as detailed in Sections IV.B.1–3 and our transition process, there are three limited possibilities for retained authority. First, EPA will retain GHG PSD permitting authority for any pending permit applications where the permit applicant has submitted a written request to remain with EPA for permit issuance. Second, EPA will retain GHG PSD permitting authority for any pending permit application where the applicant has not submitted a written request regarding permit authority, and EPA has made a proposed determination through a public noticed draft permit upon the signature date of EPA's rescission of the GHG PSD FIP. EPA does not intend to retain any other authority over pending permit applications. Note, even for those cases where EPA announces it will retain permitting authority over an application, this authority will cease upon an applicant's written request to EPA withdrawing the pending permit application before a final determination is made. Finally, EPA will retain GHG PSD permitting authority for any issued permit for which either the time for filing an administrative appeal has not expired or all administrative and judicial appeals processes have not been completed by the signature date of EPA's final action to approve TCEQ's SIP submittal. Texas is also subject to the FIP for PSD permitting for any other pollutants that become newly subject to regulation under the CAA after January 2, 2011. We propose to find that the TCEQ has provided necessary and adequate assurances that the Texas PSD program will be revised in the future to address pollutants that become newly regulated under the CAA after January 2, 2011, and that the TCEQ has the adequate authority under State law to regulate the new PSD pollutants. Therefore, we propose that upon finalization of today's action, EPA will rescind the PSD FIP for Newly Regulated Pollutants for Texas at 40 CFR 52.2305(c).

EPA is severing and taking no action on the remainder of the October 5, 2010, SIP submittal for the adoption and implementation of the Texas Minor NSR Qualified Facilities Program. EPA is also severing and taking no action on the portions of the December 2, 2013, submittal concerning biomass GHG emissions at 30 TAC Section 116.12(7)(B). The DC Circuit Court issued an order to vacate EPA's Biomass Deferral Rule on July 12, 2013.

VI. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: February 4, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–03429 Filed 2–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–1055; FRL–9906–64–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Transportation Conformity and General Conformity Requirements for Bernalillo County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the New Mexico State Implementation Plan (SIP) at New Mexico Administrative Code 20.11.3 and 20.11.4, concerning transportation conformity and general conformity rules for Bernalillo County, New Mexico. The plan revision is intended to ensure consistency with amendments to the federal Transportation Conformity Rule and the federal General Conformity Rule. These plan revisions meet statutory and regulatory requirements, and are consistent with EPA's guidance.

DATES: Written comments should be received on or before March 20, 2014.

ADDRESSES: Please see the related direct final rule, which is located in the "Rules and Regulations" section of this **Federal Register**, for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Michelle Peace, Facility Assessment Section (6PD–A), Environmental

Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–7430; fax number 214–665–7263; email address *peace.michelle@epa.gov.*

SUPPLEMENTARY INFORMATION:

Why is EPA issuing this proposed rule?

This document proposes to take action on SIP revisions submitted by the Governor of New Mexico on behalf of the Albuquerque Bernalillo County Air Quality, Environmental Health Department on November 18, 2010, May 24, 2011, and October 11, 2012. We have published a direct final rule approving the State's SIP revisions in the "Rules and Regulations" section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based upon this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

Dated: January 28, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–03439 Filed 2–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 81

[EPA–R05–OAR–2012–0464; FRL–9906–41–Region–5]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Redesignation of the Milwaukee-Racine 2006 24-Hour Fine Particle Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 8, 2012, the State of Wisconsin, through the Wisconsin Department of Natural Resources (WDNR) submitted a request for the Environmental Protection Agency (EPA) to redesignate the Milwaukee-Racine fine particle ($PM_{2.5}$) nonattainment area ("Milwaukee-Racine Area" or "Area") to attainment for the 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS), and to approve a state implementation plan (SIP) revision containing a maintenance plan for the Area. The Milwaukee-Racine Area is comprised of Milwaukee, Racine and Waukesha Counties. EPA is proposing to grant the state's request to redesignate the Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. EPA's proposed approval involves several additional related actions. EPA is proposing to approve the state's plan for maintaining the 2006 24-hour $PM_{2.5}$ NAAQS through 2025. EPA is proposing to approve the ammonia, volatile organic compounds (VOC), nitrogen oxides (NO_X), direct $PM_{2.5}$, and sulfur dioxide (SO_2) inventories submitted by the state as meeting the comprehensive emissions inventory requirement of the Clean Air Act (CAA). Finally, EPA finds adequate and is proposing to approve Wisconsin's NO_X, direct $PM_{2.5}$, SO_2, and VOC motor vehicle emission budgets (MVEBs) for 2020 and 2025 for the Milwaukee Area. EPA is also addressing a number of additional issues, including the effects of two decisions of the United States Court of Appeals for the District of Columbia (D.C. Circuit or Court): The Court's August 21, 2012, decision to vacate and remand to EPA the Cross-State Air Pollution Rule (CSAPR); and the Court's January 4, 2013, decision to remand two final rules implementing the 1997 annual $PM_{2.5}$ standard.

DATES: Comments must be received on or before March 20, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2012–0464, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: aburano.douglas@epa.gov.*
3. *Fax:* (312) 408–2279.
4. *Mail:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2012–0464. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Gilberto Alvarez, Environmental Scientist, at

(312) 886–6143 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Gilberto Alvarez, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6143, *alvarez.gilberto@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

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

When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. What is the background for the proposal?

Fine particulate pollution can be emitted directly from a source (direct $PM_{2.5}$) or formed secondarily through chemical reactions in the atmosphere involving precursor pollutants emitted from a variety of sources. Sulfates are a type of secondary particulate formed from SO_2 emissions from power plants and industrial facilities. Nitrates, another common type of secondary particulate, are formed from combustion emissions of NO_X from power plants, mobile sources and other combustion sources.

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

On October 17, 2006, at 71 FR 61144, EPA retained the annual $PM_{2.5}$ standard at 15 $\mu g/m^3$ (2006 annual $PM_{2.5}$ standard), but revised the 24-hour standard to 35 $\mu g/m^3$, based again on the three-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations at each monitor.

On November 13, 2009, at 74 FR 58688, EPA published air quality area designations for the 2006 24-hour $PM_{2.5}$ standard. In that rulemaking, EPA designated the Milwaukee-Racine Area as nonattainment for the 2006 24-hour $PM_{2.5}$ standard and defined the area to include Milwaukee, Racine and Kenosha Counties.

In response to legal challenges of the 2006 annual $PM_{2.5}$ standard, the D.C. Circuit remanded this standard to EPA for further consideration. See *American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA*, 559 F.3d 512 (D.C. Cir. 2009). On December 14, 2012, EPA finalized a rule revising the $PM_{2.5}$ annual standard to 12 $\mu g/m^3$ based on current scientific evidence regarding the protection of public health. EPA is not addressing the 2012 annual $PM_{2.5}$ standard in this proposal.

On April 24, 2012, and December 28, 2012, EPA proposed and reproposed, respectively, to determine that the Area was in attainment for the 2006 24-hour $PM_{2.5}$ NAAQS (77 FR 24436 and 77 FR 76427), based on certified ambient monitoring data for the 2008–2010 monitoring period.

On June 8, 2012, the Wisconsin Department of Natural Resources (WDNR), submitted a request for EPA to redesignate the Milwaukee-Racine Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS, and for EPA approval of the SIP revision containing an emissions inventory and a maintenance plan for the area.

On May 30, 2013, WDNR submitted ammonia and VOC emissions inventories to supplement previously submitted emissions inventories.

In this proposed redesignation, EPA takes into account two decisions of the D.C. Circuit. In the first of the two Court decisions, the D.C. Circuit, on August 21, 2012, in *EME Homer City Generation, L.P.* v. *EPA*, 696 F.3d 7 (D.C. Cir. 2012), vacated and remanded CSAPR and ordered EPA to continue administering the Clean Air Interstate Rule (CAIR) "pending . . . development of a valid replacement." *EME Homer City* at 38. The D.C. Circuit denied all petitions for rehearing on January 24, 2013. In the second decision, on January 4, 2013, in *Natural Resources Defense Council* v. *EPA*, the D.C. Circuit remanded to EPA the "Final Clean Air Fine Particle Implementation Rule" (72 FR 20586, April 25, 2007) and the "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)" final rule (73 FR 28321, May 16, 2008), 706 F.3d 428 (D.C. Cir. 2013).

III. What are the criteria for redesignation to attainment?

The CAA sets forth the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided that: (1) The Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable SIP for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and

enforceable emission reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

IV. What is EPA's analysis of the state's request?

A. Attainment Determination and Redesignation

As noted above, on April 24, 2012, at 77 FR 24436, EPA proposed to determine that the Milwaukee-Racine Area attained the 2006 24-hour $PM_{2.5}$ standard by the applicable attainment date. EPA is here updating and elaborating upon that proposal. We received comments and we are updating the information, based on those comments, within this proposed redesignation. EPA is proposing to determine that the area continues to attain the 2006 24-hour $PM_{2.5}$ standard with certified 2010–2012 monitoring data. EPA is also proposing to approve Wisconsin's maintenance plan for the area and to determine that the area has met all other applicable redesignation criteria under CAA section 107(d)(3)(E). The basis for EPA's proposed approval of the redesignation request is as follows:

1. The Area Has Attained the 2006 24-Hour $PM_{2.5}$ NAAQS. (Section 107(d)(3)(E)(i))

In this action EPA is proposing to redesignate the Milwaukee-Racine Area as having attained the 2006 24-hour $PM_{2.5}$ NAAQS based on quality-assured, certified data for the 2010–2012 monitoring period. Data available for 2013 indicate that the area continues to attain the standard. EPA's determination that an area has attained the 2006 24-hour $PM_{2.5}$ NAAQS is made in accordance with 40 CFR 50.13 and part 50, appendix N, based on three consecutive calendar years of complete quality-assured air quality monitoring data. For an area to attain the 2006 24-hour $PM_{2.5}$ standard, the three-year average of the 98th percentile 24-hour concentrations must not exceed 35 $\mu g/m^3$ at all relevant monitoring sites in the subject area. Under 40 CFR part 50, appendix N 4.2(a), a year of 24-Hour $PM_{2.5}$ data meets completeness requirements when at least 75 percent of the scheduled sampling days for each quarter have valid data. Section 4.2(b) provides further that "The use of less than complete data is subject to the approval of EPA which may consider factors such as monitoring site closures/moves, monitoring diligence, and nearby concentrations in determining whether to use such data for comparisons to the NAAQS."

The state's redesignation request for the Milwaukee-Racine area includes monitoring data for the 2008–2010 time period. In addition, certified monitoring data are also now available for the 2009–2011, 2010–2012 and 2013 time periods. In addition, on January 23, 2013, WDNR submitted draft 2013 data for the area. Table 1, below, provides a summary of the $PM_{2.5}$ 24-hour air quality monitoring data for the years 2008–2012. Table 2, below, provides the design values for the 2008–2010, 2009–2011 and 2010–2012 (through mid-November) time periods. Exceedances in the Milwaukee area generally occur in the first quarter of the year, so that the data that are available for 2013 are likely to be a good indication of air quality for the full year.

TABLE 1—98TH PERCENTILE 24-HOUR $PM_{2.5}$ CONCENTRATIONS FOR THE MILWAUKEE-RACINE AREA ($\mu g/m^3$)

Site name	Monitor	98th Percentile 24-hour concentrations					
		2008	2009	2010	2011	2012	2013
Milw-DNR SERHQ	550790026	27.5	39.0	32.6	21.3	24.6	19.0
Waukesha	551330027	29.9	32.0	35.9	25.3	20.9	23.6
Milw-16th CHC	550790010	27.3	39.1	30.9	27.0	30.4	23.7
Milw-FAA/College Ave.	550790058	**	*26.5	*35.3	*25.4	27.3	19.2
Virginia Street	550790043	27.4	41.7	**	**	**	**
Wells Street	550790099	29.0	40.3	**	**	30.2	19.7

2013 data are complete through mid-November.
* Indicates incomplete data.
** Indicates no data due to monitor not operating.

TABLE 2—2006 24-HOUR $PM_{2.5}$ STANDARD DESIGN VALUES FOR THE MILWAUKEE-RACINE AREA ($\mu g/m^3$)

Site name	Monitor	2008–2010	2009–2011	2010–2012
Milw-DNR SERHQ	550790026	33	31	26
Waukesha	551330027	33	31	27
Milw-16th CHC	550790010	32	32	29
Milw-FAA/College Ave.	550790058	*31	*29	*29
Virginia Street	550790043	**35/34	***	***
Wells Street	550790099	**35/34	***	***

* Indicates invalid three-year averages due to missing data.
** First value is computed from an incomplete set of monitoring data; second value also considers imputed values.
*** No averages calculated because data were missing from one or more years.

The data in Tables 1 and 2 show that all relevant $PM_{2.5}$ monitors in the Milwaukee-Racine Area have recorded $PM_{2.5}$ concentrations attaining the 2006 24-hour $PM_{2.5}$ NAAQS during the 2008–2010, 2009–2011, 2010–2012 and 2013 time periods (no violation of the 2006 24-hour $PM_{2.5}$ NAAQS has been recorded at any monitoring site). As demonstrated in Table 1, the data for 2013 through mid-November continue to support a final determination of attainment of the 24-hour $PM_{2.5}$ NAAQS for the Milwaukee area. However, because the area experienced data completeness issues due to the shutdown of two monitors (Virginia Street, 550790043 and Wells Street,

5507900099, respectively) in 2010, EPA has evaluated whether the data may still be used, pursuant to the provisions of 50 CFR Appendix N section 4.2(b). EPA conducted an analysis of the data, deriving the concentrations that might have been expected at the shutdown monitoring sites during the shutdown period, based on observed concentrations at nearby sites, as explained below.

Aside from Virginia and Wells monitors, EPA notes that the design value for the College Avenue monitor in table 2 is based on incomplete data. However, this is not the design value monitor (i.e., it is not the monitor that had the highest value at the time of designation) for the area and a comparison of the values from the remaining monitors within the nonattainment area indicate that those values are reflective of values that one would expect at College Avenue, which are all below the 2006 24-hour $PM_{2.5}$ NAAQS. As shown in Table 1, the data continue to show a decline in concentrations.

On April 24, 2012, and December 28, 2012, EPA proposed and reproposed, respectively, to determine that the area was in attainment (77 FR 24436 and 77 FR 76427), based on certified ambient monitoring data for the 2008–2010 monitoring period. EPA is here updating and elaborating upon that proposal. We received comments and we are updating the information, based on those comments, within this proposed redesignation.

EPA received two comments from one commenter, Midwest Environmental Defense Center, on our April 24, 2012, proposed rule. The first comment objected to the EPA's use of a statistical analysis to impute a design value for the Wells Street monitor (Site Number 550790099), which did not record data during 2010 and 2011, and which had previously recorded data showing nonattainment. The commenter contended that EPA erred in substituting a design value for this monitor and that EPA's analysis does not establish a direct correlation between the shut down monitors and a nearby operating monitor. On December 14, 2011, EPA requested the restart of the Wells Street monitor (Site Number 55079099). The monitor restarted operation on January 1, 2012, and it has been recording data since that time. The state was diligent in restarting the monitor in consultation with EPA. Data available to date for this monitor site through 2013 are consistent with continued attainment. Data for all four quarters of 2012 is complete and 2013 data has 3 complete quarters.

EPA relied on the data imputation technique because two of the monitors were shut down (Site Numbers 550790043 and 550790099) and did not record data during 2010. As discussed in the proposal, EPA relied on this statistical analysis technique because * * * "In situations like those in Milwaukee, where there are missing or incomplete data due to monitor shutdown or other factors, EPA believes that it is often appropriate to use historical data along with statistical techniques to impute missing data, use those imputed data to estimate the three-year design value that would likely have occurred if complete data had been obtained, and thereby determine if the monitor in question would likely have met the NAAQS." (77 FR 24436)

The commenter stated that we incorrectly implied ". . . that the compared monitors recorded similar data, when in truth, there is not a direct correlation between the data." EPA disagrees that there is not enough correlation between the shut down monitor site and the comparison monitor site. In fact, all four monitoring sites in the nonattainment area correlate very well with the replaced monitor. Wisconsin has provided EPA with an analysis comparing the correlations between the shut down monitor to the other four monitors within the nonattainment area, using data from January 1, 2012, through April 9, 2012, when all monitors collected data. The correlations from that analysis are summarized in Table 3.

EPA understands that the publicly available data we relied upon for our imputation is technically listed as "invalid", due to the shutdown of several monitors, resulting in incomplete data. However, section 4.2(b) provides that "The use of less than complete data is subject to the approval of EPA which may consider factors such as monitoring site closures/moves, monitoring diligence, and nearby concentrations in determining whether to use such data for comparisons to the NAAQS.

Therefore, based upon our statistical analysis, for the purposes of this redesignation, we believe all the monitors are meeting the 2006 24-hour $PM_{2.5}$ NAAQS. In addition, Wisconsin restarted one of the shutdown monitors, and data from 2012 and the available data from 2013 for this site show concentrations well below the standard, and these data show that concentrations at the site continue to be well correlated with concentrations at the other monitoring site from which EPA estimated imputed values for 2010. Other data available to date from 2013 and included in Table 1 are also consistent with continued attainment.

TABLE 3—CORRELATIONS ANALYSIS

Site name	Site number	Correlation factor
Milw-DNR SERHQ	550790026	0.997
Waukesha	551330027	0.919
Milw-16th CHC	550790010	0.992
Milw-FAA/College Ave.	550790058	0.997

Moreover, in order to account for the uncertainty inherent within the analysis, EPA used another statistical technique to account for the variability in the data from the original site as well as the data from the correlated comparison monitors. The statistical analysis, known as "bootstrapping" was developed by the Office of Air Quality Planning and Standards to aid in predicting annual $PM_{2.5}$ design values in areas which did not meet specific data completeness requirements. A more detailed description of the bootstrapping analysis can be found within the technical support document to our April 24, 2012, notice proposing approval of a determination of attainment (77 FR 24436). In summary, a series of mathematical equations using observations yields linear regression to relate the concentrations from the shutdown sites to a base site containing 2010 data.

The results of that analysis provided EPA with further evidence to support a final determination of attainment of the 24-hour $PM_{2.5}$ NAAQS for the Milwaukee area.

EPA's use of these data analysis techniques to address incomplete data in making attainment determinations for the $PM_{2.5}$ NAAQS is well established. See 75 FR 45076 (August 2, 2010) (New York-NJ–CT 1997 annual $PM_{2.5}$ NAAQS) and 76 FR 27290 (May 11, 2011) Huntington-Ashland (OH, WV, KY) 1997 annual $PM_{2.5}$ NAAQS.

Therefore, pursuant to 50 CFR Appendix N, section 4.2(b), EPA is expressly approving the use of less than complete data after considering relevant factors. These include site closures and moves, monitoring diligence, nearby concentrations and monitor correlations, as well as additional complete data acquired in 2012 and 2013 that show continued attainment in the area.

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D; and the Area Has a Fully Approved SIP Under Section 110(k). (Sections 107(d)(3)(E)(v) and 107(d)(3)(E)(ii))

We have determined that Wisconsin's SIP meets all applicable SIP requirements for purposes of redesignation for the Milwaukee-Racine Area under section 110 of the CAA (general SIP requirements) and all SIP requirements currently applicable for purposes of redesignation under part D of title I of the CAA, in accordance with section 107(d)(3)(E)(v). In addition, with the exception of the emissions inventory under section 172(c)(3), we have approved all applicable requirements of the Wisconsin SIP for purposes of redesignation, in accordance with section 107(d)(3)(E)(ii). As discussed below, in this action EPA is proposing to approve Wisconsin's 2006 and 2010 emissions inventories as meeting the section 172(c)(3) comprehensive emissions inventory requirement.

In making these determinations, we have ascertained which SIP requirements are applicable to the area for purposes of redesignation, and have determined that there are SIP measures meeting those requirements and that they are fully approved under section 110(k) of the CAA.

a. The Milwaukee-Racine Area Has Met All Applicable Requirements for Purposes of Redesignation Under Section 110 and Part D of the CAA

i. Section 110 General SIP Requirements

Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a state must have been adopted by the state after reasonable public notice and hearing, and, among other things, must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of any stationary source within the areas covered by the plan; (4) include provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; (5) include criteria for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. EPA holds that the requirements linked with a particular nonattainment area's designation are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, we conclude that these requirements should not be construed to be applicable requirements for purposes of redesignation.

Further, the other section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment. Only the section 110 and part D requirements that are linked with a particular area's designation are the relevant measures that we may consider in evaluating a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996) and (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati, Ohio 1-hour ozone redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania 1-hour ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed the Wisconsin SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA to the extent these requirements are applicable for purposes of redesignation. EPA has previously approved provisions of Wisconsin's SIP addressing section 110 requirements, including provisions addressing particulate matter, at 40 CFR 52.1870. On January 24, 2011, and June 29, 2012, Wisconsin submitted "infrastructure SIP" elements required by section 110(a)(2) of the CAA. EPA approved elements of Wisconsin's submittals on October 29, 2012, at 77 FR 65478. The requirements of section 110(a)(2), however, are statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Milwaukee-Racine Area. Therefore, EPA believes that these SIP requirements are not applicable for purposes of review of the state's $PM_{2.5}$ redesignation requests.

ii. Part D Requirements

EPA is proposing to determine that, upon approval of the comprehensive emissions inventories discussed in section IV.B. of this rulemaking, the Wisconsin SIP will meet the applicable SIP requirements for the Milwaukee-Racine Area applicable for purposes of redesignation under part D of the CAA. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 4 of part D, found in sections 185–190 of the CAA, provides more specific requirements for particulate matter nonattainment areas.

(1) Subpart 1

(a) Section 172 Requirements

For purposes of evaluating these redesignation requests, the applicable section 172 SIP requirements for the Milwaukee-Racine Area are contained in sections 172(c)(1)–(9) of the CAA. A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992).

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all Reasonably Available Control Measures (RACM) as expeditiously as practicable and to provide for attainment of the primary NAAQS (health-based NAAQS). EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Because attainment has been reached in the Milwaukee-Racine Area, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements are no longer considered to be applicable as long as the area continues to attain the standard until redesignation is finalized. *See* 40 CFR 51.1004(c).

The Reasonable Further Progress (RFP) requirement under section 172(c)(2) is defined as progress that

must be made toward attainment. This requirement is not relevant for purposes of redesignation because the Milwaukee-Racine Area is monitoring attainment of the 2006 24-hour $PM_{2.5}$ NAAQS. *Id.* The requirement to submit the section 172(c)(9) contingency measures is similarly not applicable for purposes of redesignation. *Id.*

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. Wisconsin submitted 2006 emissions inventories for direct $PM_{2.5}$, NO_X, SO_2 and VOC along with its redesignation request and supplemented the inventories with 2007 ammonia emissions on May 30, 2013. As discussed below in section IV.B., EPA is proposing to approve the emission inventories submitted by Wisconsin as meeting the section 172(c)(3) emissions inventory requirement for the Milwaukee-Racine Area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Wisconsin's current NSR program on January 18, 1995 (60 FR 3538). Nonetheless, since PSD requirements will apply after redesignation, the area need not have a fully-approved NSR program for purposes of redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment" (Nichols memorandum). Wisconsin has demonstrated that the Milwaukee-Racine Area will be able to maintain the standard without part D NSR in effect; therefore, the state need not have a fully approved part D NSR program prior to approval of the redesignation request. The state's PSD program will become effective in the Milwaukee-Racine Area upon redesignation to attainment. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we find that the Wisconsin SIP meets the section 110(a)(2) requirements applicable for purposes of redesignation.

(b) Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway projects, conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded, or approved under title 23 of the U.S. Code and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity).

Section 176(c) of the CAA was amended by provisions contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), which was signed into law on August 10, 2005, (Public Law 109–59). Among the changes Congress made to this section of the CAA were streamlined requirements for state transportation conformity SIPs. State transportation conformity regulations must be consistent with Federal conformity regulations and address three specific requirements related to consultation, enforcement and enforceability.

EPA interprets the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) because the requirement to submit SIP revisions to comply with the conformity provisions of the CAA continues to apply to areas after redesignation to attainment, since such areas would be subject to a section 175A maintenance plan. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment, it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. *See also* 60 FR 62748, 62749–62750 (Dec. 7, 1995) (Tampa, Florida). EPA approved Wisconsin's general and transportation conformity SIPs on July 29, 1996, (61 FR 39329) and August 27, 1996, (61 FR 43970), respectively. Wisconsin is in the process of updating its approved transportation conformity SIP, and EPA will review its provisions when they are submitted.

Wisconsin has submitted onroad MVEBs for the Milwaukee-Racine Area of 2.33 tons per winter day[1] (tpwd) and 2.16 tpwd direct $PM_{2.5}$ and 32.62 tpwd and 28.69 tpwd NO_X for the years 2020 and 2025, respectively. The area must use the MVEBs from the maintenance plan in any conformity determination that is made on or after the effective date of the adequacy finding and maintenance plan approval.

(2) Effect of the January 4, 2013, D.C. Circuit Decision Regarding $PM_{2.5}$ Implementation Under Subpart 4

(a) Background

As discussed above, on January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* the D.C. Circuit remanded to EPA the "Final Clean Air Fine Particle Implementation Rule" (72 FR 20586, April 25, 2007) and the "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)" final rule (73 FR 28321, May 16, 2008) (collectively, "1997 $PM_{2.5}$ Implementation Rule"). 706 F.3d 428 (D.C. Cir. 2013). The Court found that EPA erred in implementing the 1997 annual $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of part D of title I of the CAA, rather than the particulate-matter-specific provisions of subpart 4 of part D of title I.

Although the Court's ruling did not directly address the 2006 24-hour $PM_{2.5}$ standard, EPA is taking into account the Court's position on subpart 4 and the 1997 annual $PM_{2.5}$ standard in evaluating redesignations for the 2006 standard.

(b) Proposal on This Issue

EPA is proposing to determine that the Court's January 4, 2013, decision does not prevent EPA from

[1] Wisconsin's nonattainment violations occurred for 24-hour average time periods. Therefore, it was necessary to construct emissions inventories for a time period that is most associated with elevated levels of 24-hour $PM_{2.5}$ concentrations. A Wisconsin-specific study identified the meteorological winter months of December, January, January and February as having both the highest monthly average $PM_{2.5}$ concentrations and the highest monthly percentage of site-days with 24-hour concentrations greater than 30 $\mu g/m^3$. Accordingly, Wisconsin designed and constructed emission inventories for this $PM_{2.5}$ redesignation request to focus on pollution-related activity levels during the winter months (more specifically—for an average January weekday). Thus, emissions inventory values are referenced as tons per winter day (tpwd).

redesignating the Milwaukee-Racine Area to attainment. Even in light of the Court's decision, redesignation for this area is appropriate under the CAA and EPA's longstanding interpretations of the CAA's provisions regarding redesignation. EPA's longstanding interpretation of the redesignation provisions of the CAA hold that requirements that are imposed, or that become due, after a complete redesignation request is submitted for an area that is attaining the standard, are not applicable for purposes of evaluating a redesignation request. Even if EPA applies the subpart 4 requirements to the Milwaukee-Racine redesignation request and disregards the provisions of its 1997 $PM_{2.5}$ implementation rule recently remanded by the Court, the state's request for redesignation of this area still qualifies for approval. EPA's discussion takes into account the effect of the Court's ruling on the area's maintenance plan, which EPA views as approvable when subpart 4 requirements are considered.

(i) Applicable Requirements for Purposes of Evaluating the Redesignation Request

With respect to the 1997 $PM_{2.5}$ Implementation Rule and the voluntary remand of the 2006 $PM_{2.5}$ implementation rule, the Court's January 4, 2013, ruling rejected EPA's reasons for implementing the $PM_{2.5}$ NAAQS solely in accordance with the provisions of subpart 1, and remanded that matter to EPA, so that it could address implementation of the 1997 $PM_{2.5}$ NAAQS and 2006 $PM_{2.5}$ NAAQS under subpart 4 of part D of the CAA, in addition to subpart 1. For the purposes of evaluating Wisconsin's redesignation request for the area, to the extent that implementation under subpart 4 would impose additional requirements for areas designated nonattainment, EPA believes that those requirements are not "applicable" for the purposes of CAA section 107(d)(3)(E), and, thus, EPA is not required to consider subpart 4 requirements with respect to the Milwaukee-Racine redesignation. Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are "applicable" and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992, (Calcagni memorandum). *See also* "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Memorandum from Michael Shapiro, Acting Assistant Administrator, Air and Radiation, September 17, 1993, (Shapiro memorandum); Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club* v. *EPA,* 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of "applicable" under the statute is "whatever should have been in the plan at the time of attainment rather than whatever actually was in the plan and already implemented or due at the time of attainment").[2] In this case, at the time that Wisconsin submitted its redesignation request, requirements under subpart 4 were not due, and indeed, were not yet known to apply, as the state's submittal was prior to the D.C. Circuit's decision.

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

EPA's interpretation derives from the provisions of CAA Section 107(d)(3). Section 107(d)(3)(E)(v) states that, for an area to be redesignated, a state must meet "all requirements 'applicable' to the area under section 110 and part D". Section 107(d)(3)(E)(ii) provides that the EPA must have fully approved the "applicable" SIP for the area seeking redesignation. These two sections read together support EPA's interpretation of "applicable" as only those requirements that came due prior to submission of a complete redesignation request. First, holding states to an ongoing obligation to adopt new CAA requirements that arose after the state submitted its redesignation request, in order to be redesignated, would make it problematic or impossible for EPA to act on redesignation requests in accordance with the 18 month deadline Congress set for EPA action in section 107(d)(3)(D). If "applicable requirements" were interpreted to be a continuing flow of requirements with no reasonable limitation, states, after submitting a redesignation request, would be forced continuously to make additional SIP submissions that in turn would require EPA to undertake further notice-and-comment rulemaking actions to act on those submissions. This would create a regime of unceasing rulemaking that would delay action on the redesignation request beyond the 18 month timeframe provided by the CAA for this purpose.

Second, a fundamental premise for redesignating a nonattainment area to attainment is that the area has attained the relevant NAAQS due to emission reductions from existing controls. Thus, an area for which a redesignation request has been submitted would have already attained the NAAQS as a result of satisfying statutory requirements that came due prior to the submission of the request. Absent a showing that unadopted and unimplemented requirements are necessary for future maintenance, it is reasonable to view the requirements applicable for purposes of evaluating the redesignation request as including only those SIP requirements that have already come due. These are the requirements that led to attainment of the NAAQS. To require, for redesignation approval, that a state also satisfy additional SIP requirements

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

coming due after the state submits its complete redesignation request, and while EPA is reviewing it, would compel the state to do more than is necessary to attain the NAAQS, without a showing that the additional requirements are necessary for maintenance.

In the context of this redesignation, the timing and nature of the Court's January 4, 2013, decision in *NRDC* v. *EPA* compound the consequences of imposing requirements that come due after the redesignation request is submitted. The state submitted its redesignation request on June 8, 2012, but the Court did not issue its decision remanding EPA's 1997 $PM_{2.5}$ implementation rule and the voluntary remand of the 2006 $PM_{2.5}$ implementation rule concerning the applicability of the provisions of subpart 4 until January 2013.

To require the state's fully-completed and pending redesignation request to comply now with requirements of subpart 4 that the Court announced only in its January, 2013, decision on the 1997 $PM_{2.5}$ Implementation rule, would be to give retroactive effect to such requirements when the state had no notice that it was required to meet them. The D.C. Circuit recognized the inequity of this type of retroactive impact in *Sierra Club* v. *Whitman,* 285 F.3d 63 (D.C. Cir. 2002),[3] where it upheld the District Court's ruling refusing to make retroactive EPA's determination that the St. Louis area did not meet its attainment deadline. In that case, petitioners urged the Court to make EPA's nonattainment determination effective as of the date that the statute required, rather than the later date on which EPA actually made the determination. The Court rejected this view, stating that applying it "would likely impose large costs on states, which would face fines and suits for not implementing air pollution prevention plans . . . even though they were not on notice at the time." *Id.* at 68. Similarly, it would be unreasonable to penalize Wisconsin by rejecting its redesignation request for an area that is already attaining the 2006 24-hour $PM_{2.5}$ standard and that met all applicable requirements known to be in effect at the time of the request. For EPA now to reject the redesignation request solely because the state did not expressly address subpart 4 requirements of which it had no notice, would inflict the same unfairness condemned by the Court in *Sierra Club* v. *Whitman.*

(ii) Subpart 4 Requirements and Wisconsin's Redesignation Request

Even if EPA were to take the view that the Court's January 4, 2013, decision requires that, in the context of a pending redesignation for the 2006 $PM_{2.5}$ standard, subpart 4 requirements were due and in effect at the time the state submitted its redesignation request, EPA finds that the Milwaukee-Racine Area still qualifies for redesignation to attainment. As explained below, EPA believes that the redesignation request for the Milwaukee-Racine Area, though not expressed in terms of subpart 4 requirements, substantively meets the requirements of that subpart for purposes of redesignating the area to attainment.

With respect to evaluating the relevant substantive requirements of subpart 4 for purposes of redesignating the Milwaukee-Racine Area, EPA notes that subpart 4 incorporates components of subpart 1 of part D, which contains general air quality planning requirements for areas designated as nonattainment. *See* Section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for PM_{10}[4] nonattainment areas, and, under the Court's January 4, 2013, decision in *NRDC* v. *EPA,* these same statutory requirements also apply for $PM_{2.5}$ nonattainment areas. EPA has longstanding general guidance that interprets the 1990 amendments to the CAA, making recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas. *See,* "State Implementation Plans; General Preamble for the Implementation of title I of the Clear Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992) (the "General Preamble"). In the General Preamble, EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent "subsumed by, or integrally related to, the more specific PM–10 requirements." 57 FR 13538 (April 16, 1992). The subpart 1 requirements include, among other things, provisions for attainment demonstrations, RACM, RFP, emissions inventories, and contingency measures.

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

The permit requirements of subpart 4, as contained in section 189(a)(1)(A), refer to and apply the subpart 1 permit provisions requirements of sections 172 and 173 to PM_{10}, without adding to them. Consequently, EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in subpart 1.[5] In any event, in the context of redesignation, EPA has long relied on the interpretation that a fully approved nonattainment new source review program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a PSD program after redesignation. A detailed rationale for this view is described in the Nichols memorandum. *See also* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

With respect to the specific attainment planning requirements under subpart 4,[6] when EPA evaluates a redesignation request under either subpart 1 and/or 4, any area that is attaining the $PM_{2.5}$ standard is viewed

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

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

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

[6] I.e., attainment demonstration, RFP, RACM, milestone requirements, contingency measures.

as having satisfied the attainment planning requirements for these subparts. For redesignations, EPA has consistently interpreted attainment-linked requirements as not applicable for areas attaining the standard. In the General Preamble, EPA stated that:

> The requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the state will make RFP towards attainment will, therefore, have no meaning at that point.
>
> "General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990"; (57 FR 13498, 13564, April 16, 1992).

The General Preamble also explained that:

> [t]he section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans . . . provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas.
>
> Id.

EPA similarly stated in its 1992 Calcagni memorandum that, "The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard."

It is evident that even if we were to consider the Court's January 4, 2013, decision in *NRDC* v. *EPA* to mean that attainment-related requirements specific to subpart 4 should be imposed retroactively [7] and thus are now past due, those requirements do not apply to an area that is attaining the 2006 24-hour $PM_{2.5}$ standard, for the purpose of evaluating a pending request to redesignate the area to attainment. EPA has consistently enunciated this interpretation of applicable requirements under section 107(d)(3)(E) since the General Preamble was published more than twenty years ago. Courts have recognized the scope of EPA's authority to interpret "applicable requirements" in the redesignation context. *See Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004).

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

Elsewhere in this notice, EPA proposes to determine that the area has attained the 2006 24-hour $PM_{2.5}$ standard, because that the area meets the attainment-related plan requirements of subparts 1 and 4.

Thus, EPA is proposing to conclude that the requirements to submit an attainment demonstration under 189(a)(1)(B), a RACM determination under section 172(c)(1) and section 189(a)(1)(c), a RFP demonstration under 189(c)(1), and contingency measure requirements under section 172(c)(9) are satisfied for purposes of evaluating the redesignation request.

(iii) Subpart 4 and Control of $PM_{2.5}$ Precursors

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

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

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

Elsewhere in its opinion, however, the Court observed:

> Ammonia is a precursor to fine particulate matter, making it a precursor to both $PM_{2.5}$ and PM_{10}. For a PM_{10} nonattainment area governed by subpart 4, a precursor is presumptively regulated. See 42 U.S.C. § 7513a(e) [section 189(e)].

Id. at 21, n.7. For a number of reasons, EPA believes that its proposed redesignation of the Milwaukee-Racine Area is consistent with the Court's decision on this aspect of subpart 4. First, while the Court, citing section 189(e), stated that "for a PM_{10} area governed by subpart 4, a precursor is 'presumptively regulated,'" the Court expressly declined to decide the specific challenge to EPA's 1997 $PM_{2.5}$ implementation rule provisions regarding ammonia and VOC as precursors. The Court had no occasion to reach whether and how it was substantively necessary to regulate any specific precursor in a particular $PM_{2.5}$ nonattainment area, and did not address what might be necessary for purposes of acting upon a redesignation request.

However, even if EPA takes the view that the requirements of subpart 4 were deemed applicable at the time the state submitted the redesignation request, and disregards the implementation rule's rebuttable presumptions regarding ammonia and VOC as $PM_{2.5}$ precursors

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

(and any similar provisions reflected in the guidance for the 2006 $PM_{2.5}$ standard), the regulatory consequence would be to consider the need for regulation of all precursors from any sources in the area to demonstrate attainment and to apply the section 189(e) provisions to major stationary sources of precursors. In the case of the Milwaukee-Racine Area, EPA believes that proposing redesignation of the Milwaukee-Racine area for the 2006 24-hour $PM_{2.5}$ standard is consistent with section 189(e) of the CAA. The Milwaukee-Racine Area has attained the standard without any specific additional controls of ammonia emissions from any sources in the area.

Precursors in subpart 4 are specifically regulated under the provisions of section 189(e), which require, with important exceptions, control requirements for major stationary sources of PM_{10} precursors.[8] Under subpart 1 and EPA's prior implementation rule, all major stationary sources of $PM_{2.5}$ precursors were subject to regulation, with the exception of ammonia and VOC. Thus we must address here whether additional controls of ammonia and VOC from major stationary sources are required under section 189(e) of subpart 4 in order to redesignate the area for the 2006 24-hour $PM_{2.5}$ standard. As explained below, we do not believe that any additional controls of ammonia and VOC are required in the context of this redesignation.

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

EPA's 1997 $PM_{2.5}$ implementation rule provisions in 40 CFR 51.1002 were not directed at evaluation of $PM_{2.5}$ precursors in the context of redesignation, but at SIP plans and control measures required to bring a nonattainment area into attainment of the 2006 24-hour $PM_{2.5}$ NAAQS. By contrast, redesignation to attainment primarily requires the area to have already attained due to permanent and enforceable emission reductions, and to demonstrate that controls in place can continue to maintain the standard. Thus, even if we regard the Court's January 4, 2013, decision as calling for "presumptive regulation" of ammonia and VOC for $PM_{2.5}$ under the attainment planning provisions of subpart 4, those provisions in and of themselves do not require additional controls of these precursors for an area that already qualifies for redesignation. Nor does EPA believe that requiring Wisconsin to address precursors differently than they have already would result in a substantively different outcome.

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

In sum, even if Wisconsin was required to address precursors for the Milwaukee-Racine Area under subpart 4 rather than under subpart 1, as interpreted in EPA's remanded $PM_{2.5}$ implementation rule, EPA would still conclude that the area had met all applicable requirements for purposes of redesignation in accordance with section 107(d)(3)(E)(ii) and (v).

(iv) Maintenance Plan and Evaluation of Precursors

A discussion of the impact of the Court's decision on the maintenance plan required under sections 175A and 107(d)(3)(E)(iv) can be found in section IV.A.5.d., below.

b. The Milwaukee-Racine Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

Upon final approval of Wisconsin's comprehensive emissions inventory, EPA will have fully approved the Wisconsin SIP for the Milwaukee-Racine Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*See* page 3 of the

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

[9] The Milwaukee-Racine Area has reduced VOC emissions through the implementation of various control programs including VOC Reasonably Available Control Technology regulations and various onroad and nonroad motor vehicle control programs.

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

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

Calcagni memorandum; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001)) plus any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25413, 25426 (May 12, 2003). Since the passage of the CAA of 1970, Wisconsin has adopted and submitted, and EPA has fully approved, provisions addressing various required SIP elements under particulate matter standards. In this action, EPA is proposing to approve Wisconsin's 2006 comprehensive emissions inventory for VOC, SO_2, NO_X and $PM_{2.5}$ as well as the 2007 supplemental inventory for ammonia for the Milwaukee-Racine Area as meeting the requirement of section 172(c)(3) of the CAA. No Milwaukee-Racine Area SIP provisions are currently disapproved, conditionally approved, or partially approved.

3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii))

EPA finds that Wisconsin has demonstrated that the observed air quality improvement in the Milwaukee-Racine Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other state-adopted measures.

In making this showing, Wisconsin has calculated the change in emissions between 2006, one of the years in the period during which the Milwaukee-Racine Area monitored nonattainment, and 2010, one of the years in the period during which the Milwaukee-Racine Area monitored attainment. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of regulatory control measures that the Milwaukee-Racine Area and upwind areas have implemented in recent years.

a. Permanent and Enforceable Controls Implemented

The following is a discussion of permanent and enforceable measures that have been implemented in the area:

i. Consent Decrees

A May 7, 2010, consent decree with Saint-Gobain Containers required the Burlington Plant, located in Burlington, Wisconsin, to install oxy-fuel technology and to be subjected to a NO_X emission limit of 1.3 pounds per ton of glass produced. The facility is also subjected to an SO_2 emissions limit of 0.8 pounds per ton of glass produced. An August 2, 2010, consent decree requires Silgan Containers Manufacturing Plants in Menomonee Falls and Oconomowoc to reduce VOC emissions by approximately 10 tons per year (tpy) in Oconomowoc and to eliminate another 86.3 tpy of VOC emissions from their Menomonee Falls facility.

ii. Federal Emission Control Measures

Reductions in fine particle precursor emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following:

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. These emission control requirements result in lower VOC, NO_X, and SO_2 emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules were phased in between 2004 and 2009. The EPA has estimated that, by the time post-2009 vehicles have entirely replaced pre-2009 vehicles, the following vehicle NO_X emission reductions will have occurred nationwide: Passenger cars (light duty vehicles) (77 percent); light duty trucks, minivans, and sports utility vehicles (86 percent); and, larger sports utility vehicles, vans, and heavier trucks (69 to 95 percent). Some of the emissions reductions resulting from new vehicle standards occurred during the 2008–2010 attainment period; however, additional reductions will continue to occur throughout the maintenance period as new vehicles replace older vehicles. The Tier 2 standards also reduced the sulfur content of gasoline to 30 parts per million (ppm) beginning in January 2006. Gasoline sold in the region including Wisconsin prior to implementation of the Tier 2 sulfur content limits had an average sulfur content of 276 ppm.[12]

Heavy-Duty Diesel Engine Rule. This rule, which EPA issued in July 2000, limited the sulfur content of diesel fuel beginning in 2004. A second phase took effect in 2007 which reduced fine particle emissions from heavy-duty highway engines and further reduced the highway diesel fuel sulfur content to 15 ppm. The total program is estimated to achieve a 90 percent reduction in direct $PM_{2.5}$ emissions and a 95 percent reduction in NO_X emissions for these new engines using low sulfur diesel, compared to existing engines using higher sulfur content diesel. The reductions in fuel sulfur content occurred by the 2008–2010 attainment period. Some of the emissions reductions resulting from new vehicle standards occurred during the 2008–2010 attainment period, however additional reductions will continue to occur throughout the maintenance period as the fleet of older heavy duty diesel engines turns over. The reduction in fuel sulfur content also yielded an immediate reduction in sulfate particle emissions from all diesel vehicles.

Nonroad Diesel Rule. In May 2004, EPA promulgated a new rule for large nonroad diesel engines, such as those used in construction, agriculture, and mining equipment, which established engine emission standards to be phased in between 2008 and 2014. The rule also required reductions to the sulfur content in nonroad diesel fuel by over 99 percent. Prior to 2006, nonroad diesel fuel averaged approximately 3,400 ppm sulfur. This rule limited nonroad diesel sulfur content to 500 ppm by 2006, with a further reduction to 15 ppm, by 2010. The combined engine and fuel rules will reduce NO_X and PM emissions from large nonroad diesel engines by over 90 percent, compared to current nonroad engines using higher sulfur content diesel. The reduction in fuel sulfur content yielded an immediate reduction in sulfate particle emissions from all diesel vehicles. In addition, some emissions reductions from the new engine emission standards were realized over the 2008–2010 time period, although most of the reductions will occur over the maintenance period as the fleet of older nonroad diesel engines turns over.

Nonroad Large Spark-Ignition Engine and Recreational Engine Standards. In November 2002, EPA promulgated emission standards for groups of previously unregulated nonroad engines. These engines include large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles using spark-ignition engines such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. Emission standards from large spark-ignition engines were implemented in two tiers, with Tier 1 starting in 2004 and Tier 2 in 2007. Recreational vehicle emission standards are being phased in from 2006 through 2012. Marine Diesel engine standards were phased in from 2006 through 2009. With full

[12] See Regulatory Impact Analysis—Control of Air Pollution From New Motor Vehicles: Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements, December 1999, EPA420–R–99–023, p. IV–42.

implementation of all of the nonroad spark-ignition engine and recreational engine standards, an overall 72 percent reduction in VOC, 80 percent reduction in NO_X and 56 percent reduction in carbon monoxide (CO) emissions are expected by 2020. Some of these emission reductions occurred by the 2008–2010 attainment period and additional emission reductions will occur during the maintenance period as the fleet turns over.

iii. Control Measures Implemented in Wisconsin and in Upwind Areas

CAIR and CSAPR. EPA promulgated CSAPR (76 FR 48208, August 8, 2011), to replace CAIR, which has been in place since 2005. *See* 76 FR 59517. CAIR requires significant reductions in emissions of SO_2 and NO_X from electric generating units to limit the interstate transport of these pollutants and the ozone and fine particulate matter they form in the atmosphere. *See* 76 FR 70093. The D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008).

On December 30, 2011, the D.C. Circuit issued an order addressing the status of CSAPR and CAIR in response to motions filed by numerous parties seeking a stay of CSAPR pending judicial review. In that order, the Court stayed CSAPR pending resolution of the petitions for review of that rule in *EME Homer City* (No. 11–1302 and consolidated cases). The Court also indicated that EPA was expected to continue to administer CAIR in the interim until judicial review of CSAPR was completed.

On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR. In that decision, it also ordered EPA to continue administering CAIR "pending the promulgation of a valid replacement." *EME Homer City,* 696 F.3d at 38. The D.C. Circuit denied all petitions for rehearing on January 24, 2013. EPA and other parties filed petitions for certiorari to the U.S. Supreme Court. On June 24, 2013, the Supreme Court granted certiorari and agreed to review the D.C. Circuit's decision in *EME Homer City.* The Supreme Court's grant of certiorari, by itself, does not alter the status of CAIR or CSAPR. At this time, CAIR remains in place.

In light of these unique circumstances and for the reasons explained below, to the extent that attainment is due to emission reductions associated with CAIR, EPA is here proposing to determine that those reductions are sufficiently permanent and enforceable for purposes of CAA sections 107(d)(3)(E)(iii) and 175A. EPA therefore proposes to approve the redesignation requests and the related SIP revisions for the Milwaukee-Racine Area, including Wisconsin's plan for maintaining attainment of the $PM_{2.5}$ standard.

As directed by the D.C. Circuit, CAIR remains in place and enforceable until substituted by a valid replacement rule. Wisconsin submitted a CAIR SIP which was approved by EPA on October 16, 2007 (72 FR 58542). In its redesignation request, Wisconsin notes that all potential emission reductions resulting from CAIR and CSAPR have been left out of the maintenance emission inventory projections.

Although Wisconsin is not relying on CAIR in its maintenance plan, the directive from the D.C. Circuit in *EME Homer City* ensures that the reductions associated with CAIR will be permanent and enforceable for the necessary time period. EPA has been ordered by the Court to develop a new rule to address interstate transport to replace CSAPR, and the opinion makes clear that after promulgating that new rule EPA must provide states an opportunity to draft and submit SIPs to implement that rule. Thus, CAIR will remain in place until EPA has promulgated a final rule through a notice-and-comment rulemaking process, states have had an opportunity to draft and submit SIPs, EPA has reviewed the SIPs to determine if they can be approved, and EPA has taken action on the SIPs, including promulgating a FIP if appropriate. The Court's clear instruction to EPA that it must continue to administer CAIR until a valid replacement exists provides an additional backstop: By definition, any rule that replaces CAIR and meets the Court's direction would require upwind states to have SIPs that eliminate significant contributions to downwind nonattainment and prevent interference with maintenance in downwind areas.

Further, in vacating CSAPR and requiring EPA to continue administering CAIR, the D.C. Circuit emphasized that the consequences of vacating CAIR "might be more severe now in light of the reliance interests accumulated over the intervening four years." *EME Homer City,* 696 F.3d at 38. The accumulated reliance interests include the interests of states who reasonably assumed they could rely on reductions associated with CAIR, which brought certain nonattainment areas into attainment with the NAAQS. If EPA were prevented from relying on reductions associated with CAIR in redesignation actions, states would be forced to impose additional, redundant reductions on top of those achieved by CAIR. EPA believes this is precisely the type of irrational result the Court sought to avoid by ordering EPA to continue administering CAIR. For these reasons also, EPA believes it is appropriate to allow states to rely on CAIR, and the existing emissions reductions achieved by CAIR, as sufficiently permanent and enforceable for purposes such as redesignation. Following promulgation of the replacement rule, EPA will review SIPs as appropriate to identify whether there are any issues that need to be addressed.

b. Emission Reductions

Wisconsin developed annual emissions inventories for VOC, NO_X, direct $PM_{2.5}$, and SO_2 for 2006, one of the years the Milwaukee-Racine Area monitored nonattainment 2006 24-hour $PM_{2.5}$ standard, and 2010, one of the years the area monitored attainment of the standard. In some circumstances, seasonal inventories may be useful for the 24-hour standard. For example, in some nonattainment areas, all of the highest $PM_{2.5}$ concentrations occur in one season. In the case of the Milwaukee-Racine Area, Wisconsin analyzed the $PM_{2.5}$ monitoring data and found that violations occurred for 24-hour average time periods during the Winter.

Therefore, it was necessary to construct emission inventories for a time period that is most associated with elevated levels of 24-hour $PM_{2.5}$ concentrations. Within Wisconsin's redesignation request package, the state references a 2011 $PM_{2.5}$ study that evaluated the collective month-of-year profiles of average 24-hour FRM $PM_{2.5}$ levels during 1999–2010. This assessment identified the meteorological winter months of December, January, and February as having both the highest monthly average $PM_{2.5}$ concentrations and the highest monthly percentage of site-days with 24-hour $PM_{2.5}$ concentrations greater than 30 μg/m3. Accordingly, the state designed and constructed emission inventories for their $PM_{2.5}$ redesignation request to focus on pollution-related activity levels during the winter months (more specifically—for an average January weekday).

The emission inventories submitted by Wisconsin were developed with the assistance of the Lake Michigan Air Directors Consortium (LADCO). The main purpose of LADCO is to provide technical assessments for and assistance to its member states on problems of air

quality. LADCO's primary geographic focus is the area encompassed by its member states (Illinois, Indiana, Michigan, Ohio, Minnesota and Wisconsin) and any areas which affect air quality in its member states.

The 2006 nonattainment inventory was developed as described below. Point source emissions for 2006 were estimated using linear interpolations from 2005 to 2008 emissions inventories. The 2005 and 2008 emissions inventories were created using annually reported point source emissions, EPA's Clean Air Markets Database and approved U.S. EPA techniques for emissions calculation (*e.g.*, emission factors). Whenever feasible, Federal, state and local controls were factored into the emission calculations. Emissions were estimated by collecting process level information from each facility that qualifies for inclusion into the state's point source database.

Area source sector emissions were created by backcasting the Wisconsin 2008 base year emissions inventory submitted to EPA in 2010 for the National Emissions Inventory. The backcasting factors were primarily based on growth factors from the Economic Growth and Analysis System model.

The 2006 nonroad mobile emission estimates were created by using EPA's National Mobile Inventory (NMIM) model (2009/05/04 Version). The 2006 aircraft, marine and rail emissions were estimated using linear interpolation from the 2005 and 2008 emissions inventories. Pechan provided marine and rail emission estimates via LADCO for Wisconsin. Pechan is an independent contractor, which, through contracts with LADCO, has developed state-specific emission inventory data, including growth factors, for the entire LADCO region. Aircraft emissions were calculated using the Federal Aviation Administration's Emissions and Dispersion Modeling System (EDMS).

The 2006 onroad mobile emission estimates were created by using the EPA's MOVES2010a model.

The 2010 attainment year inventories were developed using the same techniques as those used to develop the nonattainment year inventories.

NO_X, direct $PM_{2.5}$, SO_2, and VOC emissions data are shown in Table 4 below.

TABLE 4—COMPARISON OF 2006 AND 2010 NO_X, DIRECT $PM_{2.5}$, SO_2, AND VOC EMISSION TOTALS BY SOURCE SECTOR IN TONS PER WINTER DAY (TPWD)

Sector	2006				2010				Net change 2006–2010			
	$PM_{2.5}$	NO_X	SO_2	VOC	$PM_{2.5}$	NO_X	SO_2	VOC	$PM_{2.5}$	NO_X	SO_2	VOC
Point	1.05	29.44	61.43	11.36	0.02	29.98	61.82	8.12	−1.03	0.54	0.39	−3.24
Area	18.62	20.05	4.56	70.58	18.89	20.40	4.53	72.27	0.27	0.35	−0.03	1.69
Nonroad	1.24	21.66	1.98	12.13	1.23	18.02	0.50	9.77	−0.01	−3.64	−1.48	−2.36
Onroad	4.62	93.10	1.49	47.56	3.45	65.71	0.47	37.24	−1.17	−27.39	−1.02	−10.32
Total ..	25.53	164.25	69.46	141.63	23.59	134.11	67.32	127.4	−1.94	−30.14	−2.14	−14.23

Table 4 shows that the Milwaukee-Racine Area reduced direct $PM_{2.5}$, NO_X, SO_2, and VOC emissions by 1.94 tpwd, 30.14 tpwd, 2.14 tpwd, and 14.23 tpwd, respectively, between 2006 and 2010. Based on the information summarized above, Wisconsin has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions. On May 30, 2013, Wisconsin submitted supplemental information regarding emissions of ammonia. This information is reviewed below. Ammonia levels remain constant from the nonattainment year to the attainment year and we do not expect that to change during the maintenance period. However, EPA believes that the improvement in air quality is attributable to the $PM_{2.5}$, NO_X, SO_2, and VOC emission reductions described above and is not significantly affected by any changes in ammonia emissions.

4. The Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA. (Section 107(d)(3)(E)(iv))

In conjunction with Wisconsin's requests to redesignate the Milwaukee-Racine Area to attainment status, Wisconsin submitted SIP revisions to provide for maintenance of 2006 24-hour $PM_{2.5}$ NAAQS in the area through 2025.

a. What is required in a maintenance plan?

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

The September 4, 1992, John Calcagni memorandum provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following items: the attainment emissions inventories, a maintenance demonstration showing maintenance for the ten years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

b. Attainment Inventory

The Wisconsin DNR developed annual emissions inventories for NO_X, direct $PM_{2.5}$, and SO_2 for 2010, one of the years the area monitored attainment of the 2006 24-hour $PM_{2.5}$ standard, as described in section IV.A.3.b.. The attainment level of emissions is summarized in Table 4, above.

c. Demonstration of Maintenance

Along with the redesignation requests, Wisconsin submitted revisions to the Wisconsin $PM_{2.5}$ SIP to include maintenance plans for the Milwaukee-Racine Area, as required by section 175A of the CAA. Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area "for at least 10 years after the redesignation." EPA has

interpreted this as a showing of maintenance "for a period of ten years following redesignation." Calcagni Memorandum, p. 9. Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni Memorandum, pp. 9–10.

As discussed in detail in the section below, Wisconsin's maintenance plan submissions expressly document that the area's emissions inventories will remain below the attainment year inventories through 2025. In addition, for the reasons set forth below, EPA believes that the state's submissions, in conjunction with additional supporting information, further demonstrate that the area will continue to maintain the $PM_{2.5}$ standard at least through 2025. Thus, if EPA finalizes its proposed approval of the redesignation requests and maintenance plan in 2013, it is based on a showing, in accordance with section 175A, that the state's maintenance plan provides for maintenance for at least ten years after redesignation.

Wisconsin's plan demonstrates maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS through 2025 by showing that current and future emissions of NO_X, directly emitted $PM_{2.5}$, SO_2, and VOC for the area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA*, 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003). As discussed below, a comparison of current and future emissions inventories for ammonia show relatively constant emissions, which further support a finding that the area will continue to maintain the standard.

For NO_X, directly emitted $PM_{2.5}$, SO_2, and VOC, Wisconsin is using emissions inventory projections for the years 2020 and 2025 to demonstrate maintenance. The projected emissions were estimated by the WDNR, with assistance from LADCO. As discussed in section IV.A.4.a., above, many of the control programs that helped to bring the area into attainment of the standard will continue to achieve additional emission reductions over the maintenance period. These control programs include Tier 2 emission standards for vehicles and gasoline sulfur standards, the heavy-duty diesel engine rule, the nonroad diesel rule, and the nonroad large spark-ignition engine and recreation engine standards. Emissions data for all sources by source sector are shown in Tables 5 through 7, below.

TABLE 5—COMPARISON OF 2006, 2010, 2020, AND 2025 NO_X EMISSION TOTALS BY SOURCE SECTOR (TPWD) FOR THE MILWAUKEE-RACINE AREA

Sector	NO_X				
	2006	2010	2020	2025	Net change 2010–2025
Point	29.44	29.98	23.94	19.97	−10.017
Area	20.05	20.40	18.20	17.87	−2.53
Nonroad	21.66	18.02	7.57	5.65	−12.37
Onroad[14]	93.10	65.71	32.62	28.69	−37.02
Total	164.25	134.11	82.33	72.18	−61.93

TABLE 6—COMPARISON OF 2006, 2010, 2020, AND 2025 DIRECT $PM_{2.5}$ EMISSION TOTALS BY SOURCE SECTOR (TPWD) FOR THE MILWAUKEE-RACINE AREA

Sector	Direct $PM_{2.5}$				
	2006	2010	2020	2025	Net change 2010–2025
Point[13]	1.05	0.02	0.32	0.44	0.42
Area	18.62	18.89	17.39	17.20	−1.69
Nonroad	1.24	1.23	0.64	0.50	−0.73
Onroad[14]	4.62	3.45	2.33	2.16	−1.29
Total	25.53	23.59	20.68	20.30	−3.29

TABLE 7—COMPARISON OF 2006, 2010, 2020, AND 2025 SO_2 EMISSION TOTALS BY SOURCE SECTOR (TPWD) FOR THE MILWAUKEE-RACINE AREA

Sector	SO_2				
	2006	2010	2020	2025	Net change 2010–2025
Point	61.43	61.82	27.84	10.45	−51.37
Area	4.56	4.53	3.88	3.68	−0.85

[13] Includes Electric generating units.

[14] Emissions projections for the onroad sector were generated using the MOVES model. Wisconsin submitted the MOVES based NO_X and direct $PM_{2.5}$ emissions projections and MVEBs for the onroad sector on January 17, 2013, to replace the MOBILE6.2 based onroad emissions projections and MVEBs submitted as part of the maintenance plan.

TABLE 7—COMPARISON OF 2006, 2010, 2020, AND 2025 SO_2 EMISSION TOTALS BY SOURCE SECTOR (TPWD) FOR THE MILWAUKEE-RACINE AREA—Continued

Sector	SO_2				
	2006	2010	2020	2025	Net change 2010–2025
Nonroad	1.98	0.50	0.39	0.37	−0.13
Onroad[15]	1.49	0.47	0.39	0.38	−0.09
Total	69.46	67.32	32.50	14.88	−52.44

TABLE 8—COMPARISON OF 2006, 2010, 2020, AND 2025 VOC EMISSION TOTALS BY SOURCE SECTOR (TPWD) FOR THE MILWAUKEE-RACINE AREA

Sector	NO_X				
	2006	2010	2020	2025	Net change 2010–2025
Point	11.36	8.12	10.31	11.40	3.28
Area	70.58	72.27	71.70	75.05	2.78
Nonroad	12.13	9.77	7.91	8.27	−1.50
Onroad[14]	47.56	37.24	15.89	11.98	−25.26
Total	141.63	127.40	105.81	106.70	−20.70

Tables 5–8 show that emissions of NO_X, direct $PM_{2.5}$, SO_2, and VOC, are projected to decrease by 92.07 tpwd, 2.46 tpwd, 54.58 tpwd, and 20.70 tpwd respectively, between 2010 and 2025. Furthermore, fleet turnover in onroad and nonroad vehicles that will continue to occur after 2025 will continue to provide additional significant emission reductions.

In addition, as Tables 1 and 2 demonstrate, monitored $PM_{2.5}$ design value concentrations in the Milwaukee-Racine Area are well below the NAAQS in the years beyond 2010, an attainment year for the area. Further, those values are trending downward as time progresses. Based on the future projections of emissions in 2015 and 2025 showing significant emissions reductions in direct $PM_{2.5}$, NO_X, SO_2, and VOC, it is very unlikely that monitored $PM_{2.5}$ values in 2025 and beyond will show violations of the NAAQS. Additionally, the 2010–2012 design value of 29 $\mu g/m^3$ for 24-hour standard provides a sufficient margin in the unlikely event emissions rise slightly in the future.

Based on the information summarized above, Wisconsin has adequately demonstrated maintenance of the $PM_{2.5}$ standard for a period extending ten years from the date that EPA may be expected to complete rulemaking on the state's redesignation request.

[15] Onroad sector emissions were projected using the MOBILE6.2 emissions model.

d. Maintenance Plan and Evaluation of Precursors

With regard to the redesignation of the Milwaukee-Racine nonattainment Area, in evaluating the effect of the Court's remand of EPA's implementation rule, which included presumptions against consideration of VOC and ammonia as $PM_{2.5}$ precursors, EPA in this proposal is also considering the impact of the decision on the maintenance plan required under sections 175A and 107(d)(3)(E)(iv). To begin with, EPA notes that the area has attained the 2006 $PM_{2.5}$ standard and that the state has shown that attainment of that standard is due to permanent and enforceable emission reductions.

EPA finds that the state's maintenance plan shows continued maintenance of the standard by tracking the levels of the precursors whose control brought about attainment of the 2006 24-hour $PM_{2.5}$ standard in the Milwaukee-Racine Area, NO_X, direct $PM_{2.5}$, SO_2, and VOC. EPA therefore believes that the only additional consideration related to the maintenance plan requirements that results from the Court's January 4, 2013, decision is that of assessing the potential role of ammonia in demonstrating continued maintenance in this area. As explained below, based upon documentation provided by the state and supporting information, EPA believes that the maintenance plan for the Milwaukee-Racine Area need not include any additional emission reductions of ammonia in order to provide for continued maintenance of the standard.

Total ammonia emissions throughout the Milwaukee-Racine Area are very low, estimated to be less than 2,400 tons per year. *See* Table 9 below. This amount of ammonia emissions is small in comparison to the total amounts of SO_2, NO_X, VOC, and even direct $PM_{2.5}$ emissions from sources in the area. Moreover, as described below, available information shows that no precursor, including ammonia, is expected to increase over the maintenance period so as to interfere with or undermine the state's maintenance demonstration.

Wisconsin's maintenance plan shows that emissions of direct $PM_{2.5}$, SO_2, NO_X, and VOC are projected to decrease by 5.23 tpwd, 54.58 tpwd, 92.07 tpwd, and 20.70 tpwd, respectively, over the maintenance period. *See* Tables 5–8 above. In addition, emissions inventories used in the regulatory impact analysis (RIA) for the 2012 $PM_{2.5}$ NAAQS show that ammonia emissions are projected to decrease by 65 tpy between 2007 and 2020. *See* Table 9 below. While the RIA emissions inventories are only projected out to 2020, there is no reason to believe that this downward trend would not continue through 2025. Given that the Milwaukee-Racine Area is already attaining the 2006 24-hour $PM_{2.5}$ NAAQS even with the current level of emissions from sources in the area, the downward trend of emissions inventories would be consistent with continued attainment. Indeed, projected emissions reductions for the precursors that the state is addressing for purposes of the 2006 24-hour $PM_{2.5}$ NAAQS

indicate that the area should continue to attain the NAAQS following the precursor control strategy that the state has already elected to pursue. Even if ammonia emissions were to increase unexpectedly between 2020 and 2025, the overall emissions reductions projected in direct $PM_{2.5}$, SO_2, NO_X, and VOC would be sufficient to offset any increases. For these reasons, EPA believes that local emissions of all of the potential $PM_{2.5}$ precursors will not increase to the extent that they will cause monitored $PM_{2.5}$ levels to violate the 2006 $PM_{2.5}$ NAAQS during the maintenance period.

TABLE 9—COMPARISON OF 2007 AND 2020 AMMONIA EMISSION TOTALS BY SOURCE SECTOR (TPWD) FOR THE MILWAUKEE-RACINE AREA [16]

Sector	2007	2020	Net change 2007–2020
Point	33	149	116
Area	1,848	1,885	37
Nonroad	8	10	1
Onroad	529	309	−219
Fires	5	5	0
Total	2,423	2,358	−65

In addition, available air quality modeling analyses show continued maintenance of the standard during the maintenance period.

Wisconsin modeling using Round 5 emission files from LADCO updated "Modeled Attainment Test Software (MATS—October 2012)" from EPA, was completed in March, 2013. The predicted 2018 design value is 33 μg/m³, below the 2006 24-hour $PM_{2.5}$ NAAQS. Future utility fuel projections could be updated, likely resulting in even lower $PM_{2.5}$ design values.

Thus, EPA believes that there is ample justification to conclude that the Milwaukee-Racine Area should be redesignated, even taking into consideration the emissions of other precursors potentially relevant to $PM_{2.5}$. After consideration of the D.C. Circuit's January 4, 2013, decision, and for the reasons set forth in this notice, EPA proposes to approve the state's maintenance plan and its request to redesignate the Milwaukee-Racine Area to attainment for the 2006 24-hour $PM_{2.5}$ standard.

e. Monitoring Network

Wisconsin currently operates five monitors for purposes of determining attainment with the 2006 24-hour $PM_{2.5}$ standard in the Milwaukee-Racine Area. Wisconsin has committed to continue to operate and maintain these monitors and will consult with EPA prior to making any changes to the existing monitoring network. WDNR remains obligated to continue to quality assure monitoring data in accordance with 40 CFR part 58 and enter all data into the AQS in accordance with Federal guidelines.

[16] These emissions estimates were taken from the emissions inventories developed for the RIA for the 2012 $PM_{2.5}$ NAAQS.

f. Verification of Continued Attainment

Continued attainment of the $PM_{2.5}$ NAAQS in the Milwaukee-Racine Area depends, in part, on the state's efforts toward tracking indicators of continued attainment during the maintenance period. Wisconsin's plan for verifying continued attainment of the 24-hour $PM_{2.5}$ standard in the Milwaukee-Racine Area consists of continued ambient $PM_{2.5}$ monitoring in accordance with the requirements of 40 CFR part 58. Wisconsin DNR will also continue to develop and submit periodic emission inventories as required by the Federal Consolidated Emissions Reporting Rule (codified at 40 CFR part 51 subpart A) to track future levels of emissions.

g. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all measures with respect to control of the pollutant(s) that were contained in the SIP before redesignation of the area to attainment. *See* section 175A(d) of the CAA.

As required by section 175A of the CAA, Wisconsin has adopted a contingency plan for the Milwaukee-Racine Area to address possible future 24-hour $PM_{2.5}$ air quality problems. Under Wisconsin's plan, if a violation of the 2006 24-hour $PM_{2.5}$ standard occurs, WDNR will evaluate existing but not fully implemented, forthcoming, and, if necessary, new control measures to correct the violation of the standard within 18 months. Wisconsin has confirmed EPA's interpretation that this commitment means that the measure will be adopted and implemented within 18 months of the triggering event. In addition, it is EPA's understanding that to acceptably address a violation of the standard, existing and forthcoming control measures must be in excess of emissions reductions included in the projected maintenance inventories. Wisconsin's potential candidate contingency measures include the following:

i. Broaden the application of the NO_X RACT program to include a larger geographic area, and/or include sources with potential emissions of 50 tpy, and/or increase the cost effectiveness thresholds utilized as a basis for Wisconsin's NO_X RACT Program;

ii. Consideration of $PM_{2.5}$ and SO_2 RACT;

iii. Diesel reduction emissions strategies;

iv. Ammonia emission reduction strategies.

EPA believes that Wisconsin's contingency plan satisfies the pertinent requirements of section 175A(d).

h. Provisions for Future Updates of the 24-Hour $PM_{2.5}$ Maintenance Plan

As required by section 175A(b) of the CAA, Wisconsin commits to submit to EPA an updated maintenance plan eight years after redesignation of the

Milwaukee-Racine Area to attainment of the 2006 24-hour $PM_{2.5}$ standard to cover an additional ten-year period beyond the initial ten year maintenance period. As required by section 175A of the CAA, Wisconsin has committed to retain the control measures contained in the SIP prior to redesignation, and to submit to EPA for approval as a SIP revision, any changes to its rules or emission limits applicable to SO_2, NO_X, or direct $PM_{2.5}$ sources as required for maintenance of the 2006 24-hour $PM_{2.5}$ standard in the Milwaukee-Racine Area.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan.

B. Comprehensive Emissions Inventories

As discussed above in section IV.A.2.a.ii., section 173(c)(3) of the CAA requires areas to submit a comprehensive, accurate and current emissions inventory. As part of the redesignation request, Wisconsin submitted 2006 and 2010 emissions inventories for NO_X, direct $PM_{2.5}$ and SO_2, and VOC. These emissions inventories are discussed in section IV.A.3.b., above, and the data are shown in Table 4.

On May 30, 2013, WDNR supplemented its submittal with a 2007/2008 emissions inventory for ammonia. The additional emissions inventory information provided by the state addresses emissions of ammonia from the general source categories of point sources, area sources, onroad mobile sources, and nonroad mobile sources. The state-submitted emissions inventories were based upon information generated by LADCO in conjunction with its member states and are presented in Table 10 below.

LADCO ran the EMS model using data provided by the state of Wisconsin to generate point source emissions estimates. The point source data supplied by the state was obtained from Wisconsin's source facility emissions reporting.

For area sources, LADCO ran the EMS model using the 2008 National Emissions Inventory (NEI) data provided by Wisconsin. LADCO followed Eastern Regional Technical Advisory Committee (ERTAC) recommendations on area sources when preparing the data. Agricultural ammonia emissions were not taken from NEI; instead emissions were based on Carnegie Mellon University's Ammonia Emission Inventory for the Continental United States (CMU). Specifically, the CMU 2002 annual emissions were grown to reflect 2007 conditions. A process-based ammonia emissions model developed for LADCO was then used to develop temporal factors to reflect the impact of average meteorology on livestock emissions.

Nonroad mobile source emissions were generated using the NMIM2008 emissions model. LADCO also accounted for three other nonroad categories not covered by the NMIM model: Commercial marine vessels, aircraft, and railroads. Marine emissions were based on reports prepared by Environ entitled "LADCO Nonroad Emissions Inventory Project for Locomotive, Commercial Marine, and Recreational Marine Emission Sources, Final Report, December 2004" and "LADCO 2005 Commercial Marine Emissions, Draft, March 2, 2007." Aircraft emissions were provided by Wisconsin and calculated using AP–42 emission factors and landing and take-off data provided by the Federal Aviation Administration. Rail emissions were based on the 2008 inventory developed by ERTAC.

Onroad mobile source emissions were generated using EPA's MOVES2010a emissions model.

EPA notes that the emissions inventory developed by LADCO is documented in "Regional Air Quality Analyses for Ozone, $PM_{2.5}$, and Regional Haze: Base C Emissions Inventory" (September 12, 2011).

TABLE 10—MILWAUKEE-RACINE AREA AMMONIA EMISSIONS (TPWD) FOR 2007/2008 BY SOURCE SECTOR

Sector	Ammonia
Point	0.08
Area	4.51
Nonroad	0.01
Onroad	1.78
Total	6.38

EPA has concluded that the 2007/2008 ammonia emissions inventory provided by the state is complete and as accurate as possible given the input data available for the relevant source categories. EPA also believes that the inventory provides information about ammonia as a $PM_{2.5}$ precursor in the context of evaluating redesignation of the Milwaukee-Racine Area under subpart 4. Therefore, we are proposing to approve the ammonia emissions inventory submitted by the state, in conjunction with the NO_X, direct $PM_{2.5}$, SO_2, and VOC emissions inventories, as fully meeting the comprehensive inventory requirement of section 172(c)(3) of the CAA for the Milwaukee-Racine Area for the 2006 24-hour $PM_{2.5}$ standard.

C. Wisconsin's MVEBs

1. How are MVEBs developed?

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and maintenance plans for $PM_{2.5}$ nonattainment areas and for areas seeking redesignations to attainment of the $PM_{2.5}$ standard. These emission control strategy SIP revisions (*e.g.*, RFP and attainment demonstration SIP revisions) and maintenance plans create MVEBs based on onroad mobile source emissions for criteria pollutants and/or their precursors to address pollution from onroad transportation sources. The MVEBs are the portions of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment, RFP or maintenance, as applicable.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment is established for the last year of the maintenance plan. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188).

Under section 176(c) of the CAA, transportation plans and transportation improvement programs (TIPs) must be evaluated to determine if they conform with the area's SIP. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS or any required interim milestone. If a transportation plan or TIP does not conform, most new transportation projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP.

When reviewing SIP revisions containing MVEBs, including attainment strategies, rate-of-progress plans, and maintenance plans, EPA must affirmatively find "adequate" or approve for use in determining transportation conformity before the MVEBs can be used. Once EPA affirmatively approves or finds the submitted MVEBs to be adequate for transportation conformity purposes, the MVEBs must be used by state and

Federal agencies in determining whether transportation plans and TIPs conform to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining the adequacy of MVEBs are set out in 40 CFR 93.118(e)(4). Additionally, to approve a motor vehicle emissions budget EPA must complete a thorough review of the SIP, in this case the $PM_{2.5}$ maintenance plan, and conclude that the SIP will achieve its overall purpose, in this case providing for maintenance of the 2006 24-hour $PM_{2.5}$ standard.

EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and, (3) EPA taking action on the MVEB. The process for determining the adequacy of submitted SIP MVEBs is codified at 40 CFR 93.118.

2. What are the MVEBs for the Milwaukee-Racine area?

The maintenance plan submitted by Wisconsin for the Milwaukee-Racine Area contains direct $PM_{2.5}$, SO_2, VOC, and NO_X MVEBs for the area for the years 2020 and 2025. The 2020 and 2025 MVEBs are set forth in Table 11 below.

TABLE 11—MVEBS FOR THE MILWAUKEE-RACINE AREA FOR 2020 AND 2025

	NO_X	$PM_{2.5}$	SO_2	VOC
2020	32.62	2.33	0.39	15.89
2025	28.69	2.16	0.38	11.98

Wisconsin did not provide emission budgets for ammonia because it concluded, consistent with the presumptions regarding these precursors in the conformity rule at 40 CFR 93.102(b)(2)(v), which predated and was not disturbed by the litigation on the $PM_{2.5}$ implementation rule, that emissions of these precursors from motor vehicles are not significant contributors to the area's $PM_{2.5}$ air quality problem.

EPA issued conformity regulations to implement the 1997 $PM_{2.5}$ NAAQS in July 2004 and May 2005 (69 FR 40004, July 1, 2004, and 70 FR 24280, May 6, 2005, respectively). Those actions were not part of the final rule recently remanded to EPA by the D.C. Circuit in *NRDC* v. *EPA*, No. 08–1250 (Jan. 4, 2013), in which the Court remanded to EPA the implementation rule for the $PM_{2.5}$ NAAQS because it concluded that EPA must implement that NAAQS pursuant to the PM-specific implementation provisions of subpart 4 of part D of title I of the CAA, rather than solely under the general provisions of subpart 1. That decision does not affect EPA's proposed approval of the Milwaukee-Racine Area MVEBs.

First, as noted above, EPA's conformity rule implementing the 1997 $PM_{2.5}$ NAAQS was a separate action from the overall $PM_{2.5}$ implementation rule addressed by the Court and was not considered or disturbed by the decision. In addition, the state's maintenance plan shows continued maintenance through 2025 by demonstrating that NO_X, SO_2, VOC, and direct $PM_{2.5}$ emissions will continue to decrease through the maintenance period. For ammonia, RIA inventories for 2007 and 2020 show that both onroad and total emissions are expected to decrease, supporting the state's conclusion, consistent with the presumptions regarding this precursor in the conformity rule, that emissions of ammonia from motor vehicles are not a significant contributor to the area's $PM_{2.5}$ air quality problem and that MVEBs for this precursor are unnecessary.

EPA has reviewed the submitted budgets for 2015 and 2025, using the conformity rule's adequacy criteria found at 40 CFR 93.118(e)(4). EPA finds that the area can maintain attainment of the 2006 24-hour $PM_{2.5}$ NAAQS for the relevant maintenance period with onroad mobile source emissions at the levels of the MVEBs since total emissions will still remain under attainment year emission levels. EPA therefore finds adequate and proposes to approve the MVEBs submitted by Wisconsin for use in determining transportation conformity in the Milwaukee-Racine Area.

V. Summary of Proposed Actions

EPA is proposing to determine that the Milwaukee-Racine Area is attaining the 2006 24-hour $PM_{2.5}$ standard and that the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve the request from WDNR to change the legal designation of the Milwaukee-Racine Area from nonattainment to attainment for the 2006 24-hour $PM_{2.5}$ standard. EPA is proposing to approve Wisconsin's $PM_{2.5}$ maintenance plan for the Milwaukee-Racine Area as a revision to the Wisconsin SIP because the plan meets the requirements of section 175A of the CAA. EPA is proposing to approve 2006 and 2010 emissions inventories for direct $PM_{2.5}$, NO_X, SO_2, and VOC, and 2007/2008 emissions inventory for ammonia as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. Finally, EPA finds adequate and is proposing to approve the 2020 and 2025 NO_X, direct $PM_{2.5}$, SO_2, and VOC MVEBs for the Milwaukee-Racine area. These MVEBs will be used in future transportation conformity analyses for the area.

VI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions do not impose additional requirements beyond those imposed by state law and the CAA. For that reason, these proposed actions:

- Are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are 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.*);

• do 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);

• do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because a determination of attainment is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of Fine Particulate national ambient air quality standards in tribal lands.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

40 CFR Part 81

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

Dated: January 30, 2014.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2014–03314 Filed 2–14–14; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[Docket No. FWS–R9–MB–2012–0098; FF09M21200–134–FXMB1231099BPP0]

RIN 1018–AZ19

Migratory Bird Hunting and Permits; Regulations for Managing Harvest of Light Goose Populations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to reduce the information collection requirements for participants in the light goose conservation order, which authorizes methods of take to increase harvest of certain populations of light geese in the Atlantic, Central, and Mississippi Flyways, and to reduce the burden on State and tribal wildlife agencies that are required to submit annual light goose harvest reports to the Service. We are taking this action to eliminate information collection and reporting requirements that we believe to be unnecessary. This action would relieve requirements on certain individuals, States, and tribes.

DATES: The comment period for this proposed rule closes April 21, 2014.

Comments on the Information Collection Aspects of this Proposal: Comments on the information collection aspects of this proposed rule will be considered if received by March 20, 2014.

ADDRESSES:

Written Comments on this Proposal: You may submit comments only by either one of the following two methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket FWS–R9–MB–2012–0098.

• *U.S. mail or hand delivery:* Public Comments Processing, Attention: FWS–R9–MB–2012–0098; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, MS 2042–PDM; Arlington, VA 22203–1610. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

We will not accept emailed or faxed comments. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

Comments on the Information Collection Aspects of this Proposal: Send comments specific to the information collection aspects of this proposed rule to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail) or *hope_grey@fws.gov* (email). Please include "1018–0103" in the subject line of your comments. You may review the Information Collection Request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

Document Availability: You may obtain a copy of the final environmental impact statement (EIS) from our Web site at: *http://www.fws.gov/migratorybirds/currentbirdissues/management/snowgse/tblcont.html,* or by requesting one from the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, MBSP–4107, Arlington, VA 22203–1610.

FOR FURTHER INFORMATION CONTACT: James Kelley at 612–713–5409.

SUPPLEMENTARY INFORMATION: Greater snow geese, lesser snow geese, and Ross's geese are referred to as "light" geese due to the light coloration of the white-phase plumage morph, as opposed to true "dark" geese such as the white-fronted or Canada goose. We include both plumage variations of lesser snow geese (white, or "snow" and dark, or "blue") under the designation light geese. Dark phase Ross's geese exist but are uncommon.

Various populations of light geese have undergone rapid growth during the past 30 years, and have become seriously injurious to their habitat, habitat important to other migratory birds, and agricultural interests. We believe that several of these populations have exceeded the long-term carrying capacity of their breeding and/or migration habitats and must be reduced. In 1999, we implemented regulations that authorized new methods of take and created a conservation order to increase harvest of certain populations of light geese in the Central and Mississippi Flyways (64 FR 7507; February 16, 1999). In 2008, we prepared an environmental impact statement and record of decision to

revise the regulations to include the Atlantic Flyway (73 FR 65926; November 5, 2008). The regulations at § 21.60 of title 50 of the Code of Federal Regulations (CFR) include information collection and reporting requirements, which we discuss below, for the conservation order for light geese.

Past changes to the light goose harvest regulations at 50 CFR 21.60 addressed two areas. The first authorized the use of two new hunting methods, electronic calls and unplugged shotguns, to harvest light geese during normal hunting season frameworks. New methods of take were allowed during a light-goose-only hunting season when all other waterfowl and crane hunting seasons, excluding falconry, are closed. Authorization of new methods of take during light-goose-only seasons was allowed only during normal hunting season framework dates (September 1 to March 10), except as provided in 50 CFR part 21, as described below. Individual States and tribes were authorized to determine the exact dates such tools could be used. Persons utilizing new methods of take during light goose hunting seasons were required to possess a Federal migratory bird hunting stamp, to be registered under the Harvest Information Program, and to be in compliance with any additional State or tribal license and stamp requirements pertaining to hunting waterfowl.

The second area revised subpart E of 50 CFR part 21 for the management of overabundant light goose populations. Under this subpart, we established a conservation order specifically for the control and management of light geese. Under the authority of this regulation, States and tribes could initiate aggressive harvest management strategies with the intent to increase light goose harvest without having to obtain an individual permit, which significantly reduced the administrative burden on State, tribal and Federal governments. This regulation enabled States and tribes, as a management tool, to use hunters to harvest light geese, by shooting in a hunting manner, inside or outside of the regular migratory bird hunting season framework dates of September 1 and March 10. Although a conservation order could be implemented at any time, we believe the greatest value of this regulation is the provision of a mechanism to increase harvest of light geese beyond March 10, the latest possible closing date for traditional migratory bird hunting seasons. This provision is especially effective in increasing harvest in mid-latitude and northern States during spring migration. The conservation order is not a hunting season, and implementation of such a regulation should not be construed as opening, re-opening, or extending any open hunting season contrary to any regulations promulgated under section 3 of the Migratory Bird Treaty Act (16 U.S.C. 703–712).

Conditions under the conservation order require that participating States and tribes inform participants acting under the authority of the conservation order of the conditions that apply to the regulation. In order to minimize or avoid take of nontarget species, States and tribes may implement this action only when all waterfowl (including light goose) and crane hunting seasons, excluding falconry, are closed. In addition to authorizing electronic calls and unplugged shotguns, the conservation order does not impose daily bag limits for light geese and allows shooting hours for light geese to end one-half hour after sunset.

Under the regulations at 50 CFR 21.60, States and tribes must keep annual records of activities carried out under the authority of the conservation order. We required the reported information to help us to assess the effectiveness of light geese population control methods and strategies, and to assess whether or not additional population control methods are needed. We believe that sufficient information has been collected since 2000 to allow us to properly evaluate the effectiveness of new methods of take for harvesting light geese. While we are not proposing to eliminate all of the information collection requirements of the conservation order, we believe that the requirements can be simplified, thus reducing the burden on individuals participating in the conservation order, who must provide information to State wildlife agencies, and on State and Tribal wildlife agencies, which are required to submit annual light goose harvest reports to the Service. Currently, 50 CFR 21.60(f)(8) requires States and tribes to keep annual records of the following activities carried out under the authority of the light goose conservation order:

(i) The number of persons participating in the conservation order;

(ii) The number of days people participated in the conservation order;

(iii) The number of persons who pursued light geese with the aid of a shotgun capable of holding more than three shells;

(iv) The number of persons who pursued light geese with the aid of an electronic call;

(v) The number of persons who pursued light geese during the period one-half hour after sunset;

(vi) The total number of light geese shot and retrieved during the conservation order;

(vii) The number of light geese taken with the aid of an electronic call;

(viii) The number of light geese taken with the fourth, fifth, or sixth shotgun shell;

(ix) The number of light geese taken during the period one-half hour after sunset; and

(x) The number of light geese shot but not retrieved.

During 2000–2011, an average of 52,672 hunters in the Central and Mississippi Flyways (combined) spent 250,079 days afield each year during conservation order periods (Table 1). An average of 3,815 hunters in the Atlantic Flyway spent 13,424 days afield during conservation order periods each year from 2009–2011. The annual average harvest of light geese during the conservation order harvest was 697,367 birds in the Central and Mississippi Flyways (combined), and 39,100 birds in the Atlantic Flyway. Half of all conservation order participants chose to utilize electronic calls (51%) and unplugged shotguns (50%), whereas only 28% chose to pursue light geese during the period one-half hour after sunset.

TABLE 1—LIGHT GOOSE CONSERVATION ORDER HUNTER NUMBERS, DAYS SPENT AFIELD, LIGHT GOOSE HARVEST, AND HARVEST BY VARIOUS METHODS OF TAKE

Geographic area	Number of hunters	Days afield	Light goose harvest	Light goose harvest by method of take		
				Electronic calls (%)	Unplugged shotguns (%)	Shooting ½ hour after sunset (%)
Central and Mississippi flyways combined, 2000 2011	52,672	250,079	697,367	275,074 (39.4)	185,881 (26.7)	91,558 (13.1)

TABLE 1—LIGHT GOOSE CONSERVATION ORDER HUNTER NUMBERS, DAYS SPENT AFIELD, LIGHT GOOSE HARVEST, AND HARVEST BY VARIOUS METHODS OF TAKE—Continued

Geographic area	Number of hunters	Days afield	Light goose harvest	Light goose harvest by method of take		
				Electronic calls (%)	Unplugged shotguns (%)	Shooting ½ hour after sunset (%)
Atlantic Flyway, 2009 2011	3,815	13,424	39,100	15,830 (40.5)	6,096 (15.6)	4,558 (11.7)

As shown in Table 1, above, electronic calls were used to take approximately 40% of the light geese during the conservation order in the 3 Flyways. Unplugged shotguns were used to take nearly 27% of the light goose harvest in the Central and Mississippi Flyways (combined), but only about 16% in the Atlantic Flyway. Just under 13% of light geese were harvested in the period one-half hour after sunset, compared to the other methods of take. However, it should be noted that two or more methods of take can be utilized simultaneously while pursuing light geese during the conservation order.

These results indicate that the new methods of take authorized during the conservation order have been successful in increasing harvest of light geese in the United States. Although some methods appear to be utilized more by hunters than others, we believe that no changes are needed to the conservation order's authorized methods of take. However, we believe that we no longer need to require States and tribes to collect detailed information on methods of take used to harvest light geese. Public comments from Flyway Councils received during our last renewal of the information collection requirements (see 76 FR 66952; October 28, 2011) indicated that Councils wanted a discontinuation of collection of information on methods of take as well. Therefore, we propose to revise 50 CFR 21.60(f)(8) to require that States and tribes to keep annual records of only the following activities carried out under the authority of the light goose conservation order:

(i) The number of persons participating in the conservation order;

(ii) The number of days people participated in the conservation order;

(iii) The number of light geese shot and retrieved during the conservation order;

(vii) The number of light geese shot but not retrieved.

This level of information collection would continue to allow us to monitor the efficacy of our efforts to increase the harvest of light goose populations that have been deemed overabundant. During our last information collection renewal (see 76 FR 66952; October 28, 2011), the Flyway Councils also commented that the burden of collection of such information should be transferred to the Service from the States. While we agree that having the Service collect such information would provide uniformity in survey sampling, budgetary constraints currently prevent us from initiating new harvest survey efforts for light geese.

Required Determinations

Regulatory Planning and Review—Executive Order 12866 and 13563

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

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

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small businesses, small organizations, and small government jurisdictions. However, no regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities. This proposed regulation change would not have a significant economic impact on a substantial number of small entities, so a regulatory flexibility analysis is not required.

This proposed rule would reduce the information collection requirements for participants in the light goose conservation order and reduce the burden on State and tribal wildlife agencies that are required to submit annual light goose harvest reports to the Service. It would have no impact on economic activities already associated with the light goose conservation order itself, and therefore would not have an economic effect (benefit) on any small entities.

This is not a major rule under the SBREFA (5 U.S.C. 804 (2)). It would not have a significant impact on a substantial number of small entities.

a. This rule would not have an annual effect on the economy of $100 million or more.

b. This rule would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, Tribal, or local government agencies, or geographic regions.

c. This rule would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we have determined the following:

a. This rule would not affect small governments. A small government agency plan is not required.

b. This rule would not produce a Federal mandate. It is not a significant regulatory action.

Takings

This proposed rule does not contain a provision for taking of private property. In accordance with Executive Order 12630, a takings implication assessment is not required.

Federalism

This proposed rule does not have sufficient Federalism effects to warrant preparation of a federalism impact summary statement under Executive Order 13132. It would not interfere with any State's ability to manage itself or its funds. No significant economic impacts are expected to result from the proposed regulations change.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act of 1995

The Office of Management and Budget has approved the current information collection requirements in 50 CFR Part 21 and assigned OMB Control Number 1018–0103, which expires January 31, 2015. This proposal revises the information collection requirements, and OMB approval is required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). We 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.

OMB Control Number: 1018–0103.

Title: Conservation Order for Light Geese, 50 CFR 21.60.

Service Form Number(s): None.

Type of Request: Revision of a currently approved collection.

Description of Respondents: State and tribal governments; individuals who participate in the conservation order.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Activity/requirement	Annual No. of respondents	Total annual responses	Completion time per response	Total annual burden hours
States—collect information, maintain records, prepare annual report.	39	39	45 hours	1,755
Participants—provide information to States	21,538	21,538	8 minutes	2,872
Total	21,577	21,577		4,627

Estimated Annual Nonhour Burden Cost: $78,000, primarily for State and tribal overhead costs (materials, printing, postage, etc.)

We expect a maximum of 39 States and tribes to participate under the authority of the conservation order each year it is available. States and tribes must keep records of activities carried out under the authority of the conservation order. We believe that this recordkeeping requirement is necessary to ensure that those individuals carrying out control activities are authorized to do so. The States and tribes must submit an annual report summarizing the activities conducted under the conservation order. Reported information helps us to assess the effectiveness of light geese population control methods and strategies, and assess whether or not additional population control methods are needed. However, we believe that the number of elements in the information collection requirement can be reduced while maintaining a core of elements that allow us to monitor the number of participants in the conservation order and resulting harvest of birds. We propose that 50 CFR 21.60(f)(8) be revised to require that information be collected only on the number of:

- Persons participating in the conservation order;
- Days people participated in the conservation order;
- Light geese shot and retrieved during the conservation order; and
- Light geese shot but not retrieved.

Each State and tribe determines how they collect data from participants. Though there is no common form or method, the States and tribes have shared their forms and there is commonality. Some States require participants to obtain a permit to participate in the conservation order, others do not. Post-harvest survey questions and questionnaire delivery methods differ among States and tribes. States measure harvest and hunter activity through the use of mail questionnaires, phone surveys, hunter diaries, online data entry, and so forth. Differences also exist within similar survey types, such as the proportion of participants surveyed and the type and number of followup contacts.

As part of our continuing efforts to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of the reporting burden associated with this proposed information collection. We specifically invite comments concerning:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Send comments specific to the information collection aspects of this proposed rule to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 N. Fairfax Drive, Arlington, VA 22203 (mail) or *hope_grey@fws.gov* (email). Please include "1018–0103" in the subject line of your comments. See the **DATES** and **ADDRESSES** sections for specific instructions.

Public Comments

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgation of final regulations for managing harvest of light goose populations, we will take into consideration all comments we receive. Such comments, and any additional information we receive, may lead to

final regulations that differ from these proposals.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by email or fax or to an address not listed in the **ADDRESSES** section. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

We will post all comments in their entirety—including your personal identifying information—on *http://www.regulations.gov.* Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, Room 4107, 4501 North Fairfax Drive, Arlington, VA 22203.

For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments we receive during the comment period and respond to them after the closing date in any final rule.

National Environmental Policy Act

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 et seq.), and the Council on Environmental Quality's regulations for implementing NEPA (40 CFR 1500–1508), the Environmental Protection Agency (EPA) published the availability of a Final EIS on light goose management on July 13, 2007 (72 FR 38577), and we published the same on July 18, 2007 (72 FR 39439), followed by a 30-day public review period. The EPA reviewed the Final EIS and stated that they did not identify any environmental concerns with our preferred alternative, and that the document provided adequate documentation of the potential environmental impacts. The EPA assigned a rating of Lack of Objection to the Final EIS. The Final EIS is available to the public at the location indicated under the **ADDRESSES** caption.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531–1543; 87 Stat. 884) provides that "Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat . . ." We previously completed section 7 consultation under the ESA for the rule that authorized the light goose regulations (73 FR 65926). This proposed rule would only affect information collection and reporting requirements, and we have determined that a section 7 consultation is not necessary.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not a significant regulatory action under E.O. 13211, and would not adversely affect energy supplies, distribution, or use. This action is not a significant energy action, so no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), E.O. 13175, and 512 DM 2, we have determined that this rule has very little effect on Federally recognized Indian tribes. This proposal would reduce the information collection and reporting requirements associated with the light goose conservation order, but we expect this reduction would have very little effect on tribes due to low participation rates.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

For the reasons stated in the preamble, we hereby propose to amend part 21, of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 21—[AMENDED]

■ 1. The authority citation for part 21 continues to read as follows:

Authority: 16 U.S.C. 703–712.

■ 2. Amend § 21.60 by:

■ a. Revising paragraphs (f)(8)(i) through (f)(8)(iv) to read as follows; and

■ b. Removing paragraphs (f)(8)(v) through (f)(8)(x).

§ 21.60 Conservation order for light geese.

* * * * *

(f) * * *

(8) States and tribes must keep annual records of activities carried out under the authority of the conservation order. Specifically, information must be collected on:

(i) The number of persons participating in the conservation order;

(ii) The number of days people participated in the conservation order;

(iii) The number of light geese shot and retrieved during the conservation order; and

(iv) The number of light geese shot but not retrieved.

* * * * *

Dated: November 22, 2013.

Michael Bean,

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–03446 Filed 2–14–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 79, No. 32
Tuesday, February 18, 2014

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 11, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 this information collection received by March 20, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: OIRA_Submission@OMB.EOP.GOV or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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.

Farm Service Agency

Title: 7 CFR 765, Direct Loan Servicing—Regular.

OMB Control Number: 0560–0236.

Summary Of Collection: Authority to establish the regulatory requirements contained in 7 CFR 765 is provided under 5 U.S.C. 301, which provides that "The Head of an Executive department or military department may prescribe regulations for the government of his department, the distribution and performance of its business. . ." The Secretary delegated authority to administer the provisions of the Act applicable to the Farm Loan Program (FLP) to the Under Secretary for Farm and Foreign Agricultural Service in section 2.16 of 7 CFR part 2. FLP provides loans to family farmers to purchase real estate equipment and finance agricultural production. The regulations covered by this information collection package describes, the policies and procedures the agency uses to service most FLP loans to ensure borrowers are meeting the requirements of their loan agreements.

Need and Use Of The Information: Information requested under this collection is submitted to the office serving the county in which their business is headquartered. The information is used by the agency to consider whether a borrower is in compliance with their loan covenants, assist the borrower in achieving their business goals, conduct day-to-day management of the agency's loan portfolio, and ensure that the agency's interests are protected. Failure to collect the information or collecting it less frequently could result in the failure of the farm operation or loss of agency security property or position.

Description Of Respondents: Business or other for-profit; Farms.

Number Of Respondents: 52,735.

Frequency Of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 76,573.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–03372 Filed 2–14–14; 8:45 am]
BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath National Forest; California; McCollins Late Successional Reserve Habitat Restoration Project

AGENCY: Forest Service, USDA.

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

SUMMARY: The Klamath National Forest will prepare an environmental impact statement (EIS) to document and publicly disclose the environmental effects of treatments proposed to: Promote the continued development and retention of late successional old growth conditions; promote resilience of early- and mid-seral vegetation to large scale disturbance events such as wildfire or insects and disease; restore and maintain pine/oak forest type, oak woodlands, and wildlife habitat; and, reduce wildfire threat and potential fire intensity within the Wildland Urban Interface, especially surrounding private residences and structures. Treatments are proposed on about 2,700 acres and consist of commercial and non-commercial thinning, and, piling and burning of activity generated fuels. The project area is located east of Horse Creek, in Siskiyou County, California. Legal location: Township 46 North Range 9 West Sections 9, 10, 15–22, 27–33; and Township 46 North Range 10 West Sections 13, 21–28, and 32–36; Mount Diablo Meridian.

DATES: Comments concerning the scope of the analysis must be received by March 20, 2014. The draft environmental impact statement is expected December 2014 and the final environmental impact statement is expected June 2015.

ADDRESSES: Send written comments to Patricia A. Grantham, ATTN: Kim Crider, Project Leader, Happy Camp/Oak Knoll Ranger District, 63822 Highway 96, Klamath National Forest, Happy Camp, California 96039. Submit electronic comments at the Klamath

National Forest's project Web page: *http://www.fs.fed.us/nepa/nepa_project_exp.php?project=38559* by selecting the "Comment on Project" link in the "Get Connected" group at the right hand side of the project Web page. Put the project name in the subject line; attachments may be in the following formats: plain text (.txt), rich text format (.rtf), Word (.doc, .docx), or portable document format (.pdf). Send comments via facsimile to 530–493–1796.

FOR FURTHER INFORMATION CONTACT: Kim Crider, Project Leader, phone: 530–493–1724, email: *kcrider@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday. Proposal information is also available on the Klamath National Forest's project Web page at: *http://www.fs.fed.us/nepa/nepa_project_exp.php?project=38559.*

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

A Forest Service interdisciplinary team composed of specialists from a wide array of disciplines in conjunction with interested parties, considered the need for change and potential actions in the project area. The collaboration efforts included a public meeting and field trip. The IDT identified the following purpose and need for the project by comparing the existing conditions in the project area with the desired conditions described in the Klamath National Forest Land and Resource Management Plan and Late Successional Reserve Assessments: (1) Promote the continued development and retention of Late Successional Old Growth conditions; (2) Promote resilience of early- and mid-seral vegetation to large-scale disturbance events such as wildfire or insects and disease; (3) Restore and maintain pine/oak forest type, oak woodlands, and wildlife habitat; and (4) Reduce wildfire threat and potential fire intensity within the WUI, especially surrounding private residences and structures.

Proposed Action

The Klamath National Forest proposes actions to move the project area from the existing condition to the desired condition. Project design features and best management practices are incorporated into the proposed action. Acres by treatment type are described below and do not account for the overlap in treatment types. Treatment acreages are approximate at this point and may be adjusted and refined following the opportunity to provide scoping comments.

No roads will be added to, or removed from, the National Forest Transportation System as part of this project. To facilitate commercial treatments and reduce log skidding distances and associated impacts to soils and other resources, the proposed action includes temporary access along sixteen segments of existing roadbeds totaling about 1.34 miles and 0.36 miles of new temporary roadbed construction within the project area. Both existing and new temporary roadbeds will be closed, and where needed, hydrologically stabilized following project implementation.

About 137 landings will be needed to treat commercial units. Of these, 125 are existing landings and about twelve new landings will be constructed. About102 landings will be roadside continuous landings averaging one-tenth of an acre in size. Thirty-five landings will be needed for ground based units; landings will average from one-third to one-half acre in size.

Commercial Thinning: Commercial thinning treatments will use tractor, mechanized and cable logging systems to treat about 590 acres. Treatment prescriptions will vary by unit, and will be guided by topographic location, amount of disease present, and desired regeneration species. Treatment of trees larger than 20 inches diameter at breast height (dbh) will be considered as needed to meet the project objectives. Commercial utilization of wood fiber will be a by-product of the need for treatment in Late Successional Reserves and Riparian Reserves. Where possible, commercial thinning will involve whole tree yarding or yarding with tops attached. This will limit fuel accumulation in harvest units by allowing for limbs and tops to be piled and burned at landings. Other post-harvest fuel treatment methods will be considered as deemed necessary by a fuels specialist and may include: Grapple piling and burning, hand piling and burning, lop and scatter, or no treatment.

Mastication: Mastication will be used on about 164 acres to reduce fuel bed depth, raise crown base height, increase fuel to ground contact to promote decomposition and generate more fine materials.

Non-commercial Thinning: Non-commercial thinning on about 1,269 acres, will involve cutting trees less than nine inches dbh, piling, and burning using hand methods. This will reduce ladder fuels and surface fuels, while promoting tree growth rates.

Non-commercial Thinning Adjacent to Private Property: Non-commercial thinning on about 656 acres of National Forest System lands within 500 feet of private property will involve cutting, piling, and burning of trees less than nine inches dbh using hand methods. This will reduce ladder fuels and surface fuels, while promoting tree growth rates.

Oak Stand Improvement: Oak stand improvement treatments on about 20 acres involves removal of conifers encroaching on black and white oaks. Trees less than nine inches dbh will be cut, piled, and burned using hand methods or non-commercial means. This will reduce ladder fuels and surface fuels, while promoting oak growth rates and mast production.

Treatment in Riparian Reserves: There are about 335 acres (43 acres of proposed commercial thinning; and 292 acres of proposed non-commercial thinning) of stream associated riparian reserves within proposed treatment units. Thinning in riparian reserves is planned where necessary to meet desired conditions as described in the Klamath National Forest Land and Resource Management Plan. Trees of commercial value that are thinned will be left on site, except where large woody debris and/or coarse woody debris is above reference condition in which case they may be removed to produce wood fiber as a by-product.

Responsible Official

Patricia A. Grantham, Klamath National Forest Supervisor.

Nature of Decision To Be Made

The responsible official will decide whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action to change existing conditions within the project area.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. We are particularly interested in hearing about any potential issues, which are defined as points of discussion, dispute, or debate about the effects of the proposed action. Your participation will help the interdisciplinary team develop effective, issue-driven alternatives and mitigations to the proposed action as needed.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the

agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

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

Dated: February 10, 2014.

Patricia A. Grantham,

Forest Supervisor.

[FR Doc. 2014–03428 Filed 2–14–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Proposed Information Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Office of the Secretary, Office of the Chief Information Officer, 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: Comments must be submitted April 21, 2014.

ADDRESSES: Written comments may be submitted to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Glenna Mickelson at *gmickelson@doc.gov* or on (202) 482–5190.

SUPPLEMENTARY INFORMATION:

I. Abstract

Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that the Department of Commerce (DOC) programs are effective and meet our customers' needs we use a generic clearance process to collect qualitative feedback on our service delivery. This collection of information is necessary to enable DOC to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between DOC and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance.

This request is an extension of the 'generic fast-track' process offered to all government agencies by OMB in 2010. Fast-track means each request receives approval five days after submission, if no issues are brought to DOC's attention by OMB within the five days. Since 2011, DOC has successfully submitted 68 generic requests to OMB.

II. Method of Collection

The primary method of collection will be the Internet (electronically), paper format, email, fax, interviews, etc.

III. Data

OMB Control Number: 0690–0030.

Form Number (s): Not Applicable.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Individuals or Households, Businesses or for-profit organizations, State, Local or Tribal Government, etc.

Estimated Number of Respondents: 244,710.

Estimated Time per Response: 5 to 30 minutes for surveys; 1 to 2 hours for focus groups; 30 minutes to 1 hour for interviews.

Estimated Total of Burden Hours: 631, 334.

Estimated Total Cost to Public: $0.

Frequency of Requests: One-time.

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

Dated: February 11, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–03378 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 140113033–4033–01]

BE–125: Quarterly Survey of Transactions in Selected Services and Intellectual Property With Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting the mandatory survey titled Quarterly Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons (BE–125). This mandatory survey is conducted under the authority of the International Investment and Trade in Services Survey Act.

SUPPLEMENTARY INFORMATION: This Notice constitutes legal notification to all United States persons (defined

below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, the survey. Reports are due 45 days after the end of the U.S. person's fiscal quarter, except for the final quarter of the U.S. person's fiscal year when reports must be filed within 90 days. This notice is being issued in conformance with the rule BEA issued in 2012 (77 FR 24373) establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemakings. The BE–125 survey forms and instructions are available on the BEA Web site at *www.bea.gov/surveys/iussurv.htm.*

Definitions

(a) *Person* means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency).

(b) *United States person* means any person resident in the United States or subject to the jurisdiction of the United States. United States, when used in a geographic sense, means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(c) *Foreign person* means any person resident outside the United States or subject to the jurisdiction of a country other than the United States.

Who Must Report: Reports are required from each U.S. person who: (a) Had sales of covered services or intellectual property to foreign persons that exceeded $6 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year, or (b) had purchases of covered services or intellectual property from foreign persons that exceeded $4 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. Because the thresholds are applied separately to sales and purchases, the reporting requirements may apply only to sales, only to purchases, or to both sales and purchases. Entities required to report will be contacted individually by the Bureau of Economic Analysis (BEA). Entities not contacted by BEA have no reporting responsibilities.

What To Report: The survey is intended to collect information on U.S. international trade in selected services and intellectual property for which information is not collected on other BEA surveys and is not available to BEA from other sources. The survey is intended to collect information on transactions in the covered services and intellectual property occurring in the last quarter of calendar year 2013 and in first three quarters of the calendar year 2014.

How To Report: Reports can be filed via BEA's electronic reporting system at *www.bea.gov/efile.* Additionally, copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be obtained from the BEA Web site at *www.bea.gov/surveys/iussurv.htm.* Inquiries can be made to BEA at (202) 606–5588.

When To Report: Reports are due to BEA 45 days after the end of the fiscal quarter, except for the final quarter of the reporter's fiscal year when reports must be filed within 90 days.

Paperwork Reduction Act Notice: This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0067. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The estimated average annual public reporting burden for this collection of information is 16 hours per response. Send comments regarding this burden estimate to Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, Paperwork Reduction Project 0608–0067, Washington DC 20503.

Authority: 22 U.S.C. 3101–3108, as amended.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

[FR Doc. 2014–03361 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 140113031–4031–01]

XRIN XXX–XX

BE–37: Survey of U.S. Airline Operators' Foreign Revenues and Expenses

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting a mandatory survey titled Survey of U.S. Airline Operators' Foreign Revenues and Expenses (BE–37). This mandatory survey is conducted under the authority of the International Investment and Trade in Services Survey Act.

SUPPLEMENTARY INFORMATION: This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, the survey. Reports are due 45 days after the end of each calendar quarter. This notice is being issued in conformance with the rule BEA issued in 2012 (77 FR 24373) establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemakings. The BE–37 survey forms and instructions are available on the BEA Web site at *www.bea.gov/surveys/iussurv.htm.*

Definitions:

(a) *Person* means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency).

(b) *United States person* means any person resident in the United States or subject to the jurisdiction of the United States. United States, when used in a geographic sense, means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(c) *Foreign person* means any person resident outside the United States or

subject to the jurisdiction of a country other than the United States.

Who Must Report: Reports are required from each U.S person whose total covered revenues or total covered expenses: (a) Were $500,000 or more during the previous year or (b) are expected to be $500,000 or more during the current year. Entities required to report will be contacted individually by BEA. Entities not contacted by BEA have no reporting responsibilities.

What To Report: The survey is intended to collect information on U.S. airline operators' foreign revenues and expenses. The survey is intended to collect information on transactions in the covered services occurring in the last quarter of calendar year 2013 and in the first three quarters of calendar year 2014.

How To Report: Reports can be filed via BEA's electronic reporting system at *www.bea.gov/efile.* Additionally, copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be obtained from the BEA Web site at *www.bea.gov/surveys/iussurv.htm.* Inquiries can be made to BEA at (202) 606–5588.

When To Report: Reports are due to BEA 45 days after the end of each calendar quarter.

Paperwork Reduction Act Notice: This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0011. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The estimated average annual public reporting burden for this collection of information is 4 hours per response. Send comments regarding this burden estimate to Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, Paperwork Reduction Project 0608–0011, Washington DC 20503.

Authority: 22 U.S.C. 3101–3108, as amended.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

[FR Doc. 2014–03363 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on March 5, 2014, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

Public Session

1. Welcome and Introductions.
2. Status reports by working group chairs.
3. Public comments and Proposals.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than February 26, 2014.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 30, 2013, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: February 11, 2014.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2014–03393 Filed 2–14–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Open Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet March 4, 2014, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman.
2. Opening remarks by Bureau of Industry and Security.
3. Export Enforcement update.
4. Regulations update.
5. Working group reports.
6. Automated Export System (AES) update.
7. Presentation of papers or comments by the Public.

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than February 25, 2014.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

For more information, call Yvette Springer at (202) 482–2813.

Dated: February 11, 2014.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2014–03384 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee (MPETAC) will meet on March 11, 2014, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

Open Session

1. Opening remarks and introductions.
2. Presentation of papers and comments by the Public.
3. Discussions on results from last, and proposals for next Wassenaar meeting.
4. Report on proposed and recently issued changes to the Export Administration Regulations.
5. Other business.

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov*, no later than March 4, 2014.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 20, 2013, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with matters the premature disclosure of which would be likely to frustrate significantly implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: February 11, 2014.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2014–03385 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–856]

Steel Threaded Rod from India: Preliminary Affirmative Determination of Critical Circumstances for the Countervailing Duty Investigation

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

SUMMARY: The Department of Commerce ("Department") has preliminarily determined that critical circumstances exist with respect to imports of subject merchandise in the countervailing duty ("CVD") investigation of steel threaded rod from India, with the exception of imports from Mangal Steel Enterprises Limited ("Mangal Steel").

DATES: *Effective Date:* February 18, 2014.

FOR FURTHER INFORMATION CONTACT: Andrew Medley, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, Room 4416, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–4987.

SUPPLEMENTARY INFORMATION:

Case History

On June 27, 2013, the Department received a CVD Petition concerning imports of steel threaded rod from India filed in proper form by All America Threaded Products Inc.; Bay Standard Manufacturing Inc.; and Vulcan Threaded Products Inc. (collectively, "Petitioners").[1] This investigation was initiated on July 17, 2013.[2] The affirmative *Preliminary Determination* was published on December 19, 2013.[3]

On January 10, 2014, Petitioners alleged that critical circumstances exist with respect to imports of steel threaded rod from India and submitted U.S. Census Bureau import data in support of their allegation. On January 17, 2014, the Department requested from Mangal Steel monthly shipment data of subject merchandise to the United States for the period February 2013 through November 2013. On January 22, 2014, Mangal Steel submitted the requested data.

Period of Investigation

The period for which we are measuring subsidies, or the period of investigation ("POI"), is calendar year 2012.

Scope of Investigation

The merchandise covered by this investigation is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to this investigation are non-headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.[4]

[1] *See* submission by Petitioners titled "Petitions for the Imposition of Antidumping Duties on Steel Threaded Rod from Thailand and Antidumping and Countervailing Duties on Steel Threaded Rod from India," and dated June 27, 2013 ("Petition"). A public version of the Petition and all other public documents and public versions for this investigation are available on the public file in the Central Records Unit, Room 7046 of the main Department of Commerce building.

[2] *See Steel Threaded Rod From India: Initiation of Countervailing Duty Investigation*, 78 FR 44532 (July 24, 2013), and accompanying Initiation Checklist.

[3] *See Steel Threaded Rod from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination*, 78 FR 76815 (December 19, 2013) ("*Preliminary Determination*").

[4] For a complete description of the scope of the investigation, *see* Appendix 1 to the *Preliminary Determination*.

Comments of the Parties

In their critical circumstances allegation, Petitioners allege that there is a reasonable basis to believe that there are subsidies in this investigation which are inconsistent with the World Trade Organization Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement"). Petitioners cite to the *Preliminary Determination*, in which the Department preliminarily determined that Mangal Steel and Babu Exports ("Babu") received subsidies which are contingent on export performance.

Petitioners also claim that there have been massive imports of steel threaded rod in the five months following the filing of the Petition on June 27, 2013. Petitioners provided data which they contend demonstrate that imports of subject merchandise increased by more than 15 percent, which is required to be considered "massive" under 19 CFR 351.206(h)(2).

Critical Circumstances Analysis

Section 703(e)(1) of the Tariff Act of 1930, as amended ("the Act") provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A) The alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and (B) there have been massive imports of the subject merchandise over a relatively short period.

When determining whether an alleged countervailable subsidy is inconsistent with the Subsidies Agreement, the Department limits its findings to those subsidies contingent on export performance or use of domestic over imported goods (*i.e.*, those prohibited under Article 3 of the Subsidies Agreement).[5]

In determining whether imports of the subject merchandise have been "massive," 19 CFR 351.206(h)(1) provides that the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, the Department will not consider imports to be massive unless imports during the "relatively short period" (comparison period) have increased by at least 15 percent compared to imports during an "immediately preceding period of comparable duration" (base period).[6]

19 CFR 351.206(i) defines "relatively short period" as normally being the period beginning on the date the proceeding commences (*i.e.*, the date the petition is filed) and ending at least three months later. For consideration of this allegation, we have used a five-month base period (*i.e.*, February 2013 through June 2013) and a five-month comparison period (*i.e.*, July 2013 through November 2013).

Mangal Steel

In the *Preliminary Determination*, the Department found that, during the POI, Mangal Steel received countervailable benefits under five programs that are contingent upon export performance: Pre- and Post-Shipment Export Financing, Duty Drawback, Export Promotion of Capital Goods Scheme, Focus Product Scheme, and Status Holder Incentive Scrip. Therefore, we preliminarily determine that there is a reasonable basis to believe or suspect that these programs are inconsistent with the Subsidies Agreement.

In determining whether there were massive imports from Mangal Steel, we analyzed Mangal Steel's monthly shipment data for the period February 2013 through November 2013. These data indicate that there was not a massive increase in shipments of subject merchandise to the United States by Mangal Steel during the five-month period immediately following the filing of the Petition on June 27, 2013.[7]

Babu

Because Babu is not participating in this investigation,[8] consistent with Department practice, we have based our critical circumstances determination for Babu on adverse facts available ("AFA"), in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308(c).[9] As AFA, we preliminarily determine that Babu received countervailable benefits under programs that are contingent upon export performance. Also, as AFA, we preliminarily determine that Babu made massive imports of subject merchandise over a relatively short period of time.

All Other Exporters

With regard to whether imports of subject merchandise by the "all other" exporters of steel threaded rod from India were massive, we preliminarily determine that because there is evidence of the existence of countervailable subsidies that are inconsistent with the Subsidies Agreement, an analysis is warranted as to whether there was a massive increase in shipments by the "all other" companies, in accordance with section 703(e)(1)(B) of the Act and 19 CFR 351.206(h). Therefore, we analyzed, in accordance with 19 CFR 351.206(i), monthly shipment data for the period February 2013 through November 2013, using shipment data from the U.S. Census Bureau, adjusted to remove shipments reported by the only exporter actively participating in this investigation, Mangal Steel.[10] The resulting data indicate there was a massive increase in shipments, as defined by 19 CFR 351.206(h)(2).[11]

Conclusion

We preliminarily determine that critical circumstances do not exist with regard to shipments from one mandatory respondent, Mangal Steel and, as AFA, preliminarily determine that critical circumstances exist with regard to shipments from the other mandatory respondent, Babu. We also preliminarily determine, based on our analysis of the shipment data on the record, that critical circumstances exist for imports from "all other" exporters of

[5] *See, e.g., Notice of Preliminary Negative Determination of Critical Circumstances: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China*, 73 FR 21588, 21589–90 (April 22, 2008), unchanged in *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod From Germany*, 67 FR 55808, 55809 (August 30, 2002).

[6] *See* 19 CFR 351.206(h)(2).

[7] *See* the Memorandum to the File from Andrew Medley titled "Critical Circumstances Shipment Data Analysis," dated concurrently with this notice ("Critical Circumstances Memorandum").

[8] Babu did not respond to the Department's September 6, and 19, 2013, questionnaires; thus, for the *Preliminary Determination*, we based Babu's CVD rate upon facts otherwise available and made an adverse inference for Babu, pursuant to section 776(b) of the Act, because we determined that, by not responding to our questionnaires, Babu had failed to cooperate to the best of its ability.

[9] *See, e.g., Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2052–53 (January 14, 2009), where we cite to the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, Vol. 1 (1994) at 870, noting that the Department may employ adverse inferences in selecting from among the facts available "to ensure that the party does not obtain a more favorable result by failing to cooperate fully."

[10] *See, e.g., Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Critical Circumstances*, 77 FR 73430, 73432 (December 10, 2012), unchanged in *Certain Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 75973, 75974 (December 26, 2012); *see also Certain Oil Country Tubular Goods From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination*, 74 FR 47210, 47212 (September 15, 2009), unchanged in *Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination: Final Negative Critical Circumstances Determination*, 74 FR 64045, 64047 (December 7, 2009).

[11] *See* Critical Circumstances Memorandum.

steel threaded rod from India. We will make a final determination concerning critical circumstances for steel threaded rod from India when we make our final countervailable subsidy determination in this investigation. As provided in section 782(i)(1) of the Act, we intend to verify the information submitted in response to the Department's questionnaires.

Suspension of Liquidation

In accordance with section 703(e)(2)(A) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation, with regards to all exporters except Mangal Steel, of any unliquidated entries of subject merchandise from the India entered, or withdrawn from warehouse for consumption, on or after September 20, 2013, which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination.

This determination is issued and published pursuant to sections 703(f) and 777(i)(1) of the Act.

Dated: February 7, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–03490 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–855]

Steel Threaded Rod from India: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination

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

SUMMARY: The Department of Commerce (the "Department") preliminarily determines that steel threaded rod from India is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733(b) of the Tariff Act of 1930, as amended (the "Act"). The period of investigation ("POI") is April 1, 2012, through March 31, 2013. The estimated weighted-average dumping margins of sales at LTFV are listed in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* February 18, 2014.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Raquel Silva, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4474 or (202) 482–6475.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The merchandise covered by this investigation is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to this investigation are non-headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise. For a complete description of the scope of the investigation, *see* Appendix I to this notice.

Postponement of Final Determination

Pursuant to section 735(a)(2) of the Act, on December 13, 2013, and December 18, 2013, Petitioners [1] and Mangal Steel Enterprises Limited ("Mangal"), one of the mandatory respondents in this proceeding, respectively, requested that the Department postpone the final determination.[2] In accordance with section 733(d) of the Act and 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the requests and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the **Federal Register**. Suspension of liquidation will be extended accordingly. The Department is further extending the application of the provisional measures from a four-month period to a six-month period.

Preliminary Determination of Affiliation and Collapsing

Based on the evidence presented in Mangal's questionnaire responses, we preliminarily find that Mangal and Corona Steel Industries Private Limited ("Corona") are affiliated pursuant to sections 771(33)(A) and (F) of the Act.[3] Additionally, based on an analysis of the principle/agent relationship between Mangal and NASCO,[4] a U.S. trader/reseller of Mangal-produced subject merchandise, we preliminarily find Mangal and NASCO to be partners and, thus, affiliated pursuant to section 771(33)(G) of the Act.[5]

In addition, based on the evidence presented in the questionnaire responses, we preliminarily find that Mangal and Corona should not be treated as a single entity for the purposes of this investigation. This

[1] The petition was filed by All America Threaded Products Inc., Bay Standard Manufacturing Inc., and Vulcan Threaded Products Inc. ("Petitioners").

[2] *See* Letter from Petitioners, "Antidumping Duty Investigation of Steel Threaded Rod from India — Petitioners' Request for Extension of Time for Final Determination," dated December 13, 2013; and Letter from Mangal, "Steel Threaded Rod from India: Request for Extension of the Final Determination and Provisional Measures," dated December 18, 2013.

[3] *See* the Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations entitled "Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Steel Threaded Rod from India" ("Preliminary Decision Memorandum"), and Memorandum to the File, entitled, "Affiliation and Collapsing, Mangal Steel Enterprises Limited and Corona Steel Industries Private Limited," ("Affiliation and Collapsing Memorandum"), each dated concurrently with this notice.

[4] The fact that NASCO is Mangal's trader/reseller was initially bracketed by Mangal and identified as proprietary information. However, Mangal and Petitioners subsequently disclosed this information publicly on the record. *See, e.g.*, Letter from Mangal, "Steel Threaded Rod from India: Supplemental Section A Response," dated January 3, 2014, at 8 (stating: "or requiring Mangal to only sell threaded rod in the United States through NASCO."); *see also* Letter from Petitioners, "Antidumping Investigation of Steel Threaded Rod from India — Petitioners' Deficiency Comments on Response of Mangal Steel to Section A of Antidumping Duty Questionnaire," dated October 30, 2013, at 4 (stating: "In researching shipments of subject merchandise from Mangal Steel, Petitioners found that Mangal Steel had a significant number of shipments to a consignee called North American Steel Connection (NASCO). . ." and "Based on a general internet search regarding North American Steel Connection, Petitioners found that NASCO was a joint venture partner in another company. . ."). Once a party discloses its information that was formerly given proprietary treatment publicly, the Department no longer will treat that information as proprietary on the administrative record.

[5] *See* Preliminary Decision Memorandum.

finding is based on the determination that the record does not demonstrate significant potential for manipulation of price or production between Mangal and Corona pursuant to the criteria laid out in 19 CFR 351.401(f). For further discussion of the Department's affiliation and collapsing decision, *see* the Affiliation and Collapsing Memorandum. We note that we will continue to actively consider the issue of whether to treat Mangal and Corona as a single entity for the purposes of the final determination.

Methodology

The Department has conducted this investigation in accordance with section 731 of the Act. Export prices ("EPs") have been calculated in accordance with section 772 of the Act. Constructed export prices ("CEPs") have been calculated in accordance with section 772(b) of the Act. Normal value ("NV") has been calculated in accordance with section 773 of the Act. Because the mandatory respondent, Babu Exports ("Babu"), failed to respond to the Department's questionnaire, we have preliminarily determined to apply adverse facts available to this respondent, in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. The critical circumstances allegation has been analyzed in accordance with section 733(e)(1) of the Act and 19 CFR 351.206.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum dated concurrently with and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Affirmative Determination of Critical Circumstances, in Part

On January 10, 2014, Petitioners filed a timely critical circumstances allegation, pursuant to section 773(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of the merchandise under consideration.[6] In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination. We have conducted an analysis of critical circumstances in accordance with section 733(e) of the Act and 19 CFR 351.206, and have preliminarily determined that for Mangal and All Others: (1) Importers likely did not know that the exporter was selling the merchandise under consideration at LTFV and that there was likely to be material injury in accordance with section 733(e)(1)(A)(ii) of the Act; and (2) imports of the subject merchandise did not increase in massive quantities over a relatively short period in accordance with section 733(e)(1)(B) of the Act. For Babu, we have applied facts available with an adverse inference, and preliminarily find that: (1) Importers knew or should have known that the exporter was selling the merchandise under consideration at LTFV and that there was likely to be material injury in accordance with section 733(e)(1)(A)(ii) of the Act; and (2) imports of the subject merchandise have been massive over a relatively short period in accordance with section 733(e)(1)(B) of the Act. For a full description of the methodology and results of our analysis, please *see* the Preliminary Decision Memorandum and Critical Circumstances Memorandum.[7]

Preliminary Determination

We preliminary determine the weighted-average dumping margins are as follows:

Producer or exporter	Weighted-Average dumping margin (percent)
Mangal Steel Enterprises Limited	8.63
Babu Exports	119.87
All Others	8.63

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated "all others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Mangal is the only respondent in this investigation for which the Department calculated a company-specific rate. Therefore, for purposes of determining the "all others" rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for Mangal, as referenced above.[8]

Disclosure and Public Comment

The Department intends to disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice.[9]

Interested parties are invited to comment on the preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance via IA ACCESS no later than seven days after the date on which the final verification report is issued in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs.[10] A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department.[11] Executive summaries should be limited to five pages total, including footnotes. As noted above, interested parties who wish to comment on the preliminary determination must file briefs

[6] *See* letter from Petitioners, "Antidumping Investigation of Steel Threaded Rod from India: Petitioners' Allegation of Critical Circumstances," dated January 10, 2014.

[7] *See* Memorandum to Melissa G. Skinner, "Antidumping Duty Investigation of Steel Threaded Rod from India: Critical Circumstances Data and Calculations for the Preliminary Determination," dated concurrently with this notice ("Critical Circumstances Memorandum").

[8] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy,* 64 FR 30750, 30755 (June 8, 1999); and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from Indonesia,* 72 FR 30753, 30757 (June 4, 2007), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia,* 72 FR 60636 (October 25, 2007).

[9] *See* 19 CFR 351.224(b).

[10] *See* 19 CFR 351.309(c), 19 CFR 351.309(d)(1), and 19 CFR 351.309(d)(2).

[11] *See* 19 CFR 351.309(c)(2).

electronically using IA ACCESS.[12] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time on the date the document is due.

In accordance with section 774 of the Act, the Department will hold a hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party.[13] Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using IA ACCESS, as noted above. An electronically filed request must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[14] Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed.[15] If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[16] Parties should confirm by telephone the date, time, and location of the hearing.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of steel threaded rod from India, as described in the "Scope of the Investigation" section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. In addition, because we have preliminarily found critical circumstances exist with regard to exports by Babu, we will instruct CBP to suspend liquidation of Babu's covered entries entered, or withdrawn from warehouse, for consumption up to 90 days prior to the date of publication of this notice in the **Federal Register**.[17]

Furthermore, consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit[18] equal to the amount by which the NV exceeds the EP or CEP, less the amount of the countervailing duty determined to constitute an export subsidy.[19] In this case, with regard to Mangal and all other non-individually reviewed companies, the preliminarily calculated countervailing duty is comprised entirely of export subsidies, and, thus, we have offset the margin for Mangal and "all others" by their countervailing duty rate (*i.e.*, 8.13 percent). For Babu, we offset the AFA antidumping margin (*i.e.*, 119.87 percent) by the countervailing duty rate attributable to export subsidies (*i.e.*, 14.69 percent).[20] [21]

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit[22] equal to the preliminary weighted-average amount by which NV exceeds U.S. price, less the amount of the countervailing duty determined to constitute an export subsidy, as indicated above, as follows: (1) The rates will be 0.50 percent for Mangal and 105.18 percent for Babu; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 0.50 percent. These suspension of liquidation instructions will remain in effect until further notice.

U.S. International Trade Commission ("ITC") Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at LTFV. If our final determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of steel threaded rod from India before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: February 10, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: February 10, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to this investigation are nonheaded and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Included in the scope of this investigation are steel threaded rod, bar, or studs, in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or

[12] *See* 19 CFR 351.303 (for general filing requirements).

[13] *See also* 19 CFR 351.310.

[14] *See* 19 CFR 351.310(c).

[15] *See id.*

[16] *See* 19 CFR 351.310.

[17] *See* section 733(e)(2) of the Act.

[18] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[19] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India,* 69 FR 67306, 67307 (November 17, 2004).

[20] *See Steel Threaded Rod From India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination,* 78 FR 76815 (December 19, 2013); Memorandum entitled, "Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation on Steel Threaded Rod from India," dated December 11, 2013, at 20.

[21] *See* Memorandum entitled "Preliminary Determination Analysis Memorandum for Mangal Steel Enterprises Limited," dated concurrently with this notice.

[22] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

• 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, 7318.15.5090 and 7318.15.2095 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of this investigation are: (a) threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials ("ASTM") A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, and ASTM A320 Grade L7.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2014–03483 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 130909789–4078–02]

Cybersecurity Framework

AGENCY: National Institute of Standards and Technology (NIST), Department of Commerce.

ACTION: Notice.

SUMMARY: This notice announces the issuance of the Cybersecurity Framework (the "Cybersecurity Framework" or "Framework"). The Framework was developed by NIST using information collected through the Request for Information (RFI) that was published in the **Federal Register** on February 26, 2013, a series of open public workshops, and a 45-day public comment period announced in the **Federal Register** on October 29, 2013. The Framework was developed in response to NIST responsibilities directed in Executive Order 13636, "Improving Critical Infrastructure Cybersecurity" ("Executive Order"). Under the Executive Order, the Secretary of Commerce is tasked to direct the Director of NIST to lead the development of a framework to reduce cyber risks to critical infrastructure. The Framework consists of standards, methodologies, procedures and processes that align policy, business, and technological approaches to address cyber risks. The Framework is available electronically from the NIST Web site at: *http://www.nist.gov/cyberframework.*

DATES: The Cybersecurity Framework was published on February 12, 2014.

ADDRESSES: The Cybersecurity Framework is available electronically from the NIST Web site at: http://www.nist.gov/cyberframework.

FOR FURTHER INFORMATION CONTACT: Diane Honeycutt, telephone: 301–975–8443, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930 or via email: *diane.honeycutt@nist.gov.* Please direct media inquiries to NIST's Public Affairs Office at (301) 975–NIST.

SUPPLEMENTARY INFORMATION: The national and economic security of the United States depends on the reliable functioning of critical infrastructure,[1] which has become increasingly dependent on information technology. Recent trends demonstrate the need for improved capabilities for defending against malicious cyber activity. Such activity is increasing, and its consequences can range from theft through disruption to destruction. Steps must be taken to enhance existing efforts to increase the protection and resilience of this infrastructure, while maintaining a cyber environment that encourages efficiency, innovation, and economic prosperity, while protecting privacy and civil liberties.

Under the Executive Order,[2] the Secretary of Commerce is tasked to direct the Director of NIST to lead the development of a framework to reduce cyber risks to critical infrastructure (the "Cybersecurity Framework" or "Framework"). The Cybersecurity Framework consists of standards, methodologies, procedures and processes that align policy, business, and technological approaches to address cyber risks. Given the diversity of sectors in critical infrastructure, the Framework development process was designed to initially identify cross-sector security standards and guidelines that are immediately applicable or likely to be applicable to critical infrastructure, to increase visibility and adoption of those standards and guidelines, and to find potential areas for improvement (i.e., where standards/guidelines are nonexistent or where existing standards/guidelines are inadequate) that need to be addressed through future collaboration with industry and industry-led standards bodies. The Cybersecurity Framework incorporates voluntary consensus standards and industry best practices to the fullest extent possible and is consistent with voluntary international consensus-based standards when such international standards advance the objectives of the Executive Order. The Cybersecurity Framework is designed for compatibility with existing regulatory authorities and regulations.

The Cybersecurity Framework provides a prioritized, flexible, repeatable, performance-based, and cost-effective approach, including information security measures and controls to help owners and operators of critical infrastructure and other interested entities to identify, assess, and manage cybersecurity-related risk while protecting business confidentiality, individual privacy and civil liberties. To enable technical innovation and account for organizational differences, the Cybersecurity Framework does not prescribe particular technological solutions or specifications. It includes guidance for measuring the performance of an entity in implementing the Cybersecurity Framework and includes methodologies to identify and mitigate impacts of the Framework and associated information security measures and controls on business

[1] For the purposes of this notice the term "critical infrastructure" has the meaning given the term in 42 U.S.C. 5195c(e), "systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters."

[2] Exec. Order No. 13636, Improving Critical Infrastructure Cybersecurity, 78 FR 11739 (February 19, 2013).

confidentiality and to protect individual privacy and civil liberties.

As a non-regulatory Federal agency, NIST developed the Framework in a manner that is consistent with its mission to promote U.S. innovation and industrial competitiveness through the development of standards and guidelines in consultation with stakeholders in both government and industry. The Framework provides owners and operators of critical infrastructure the ability to implement security practices in the most effective manner while allowing organizations to express requirements to multiple authorities and regulators. Issues relating to harmonization of existing relevant standards and integration with existing frameworks were also considered. While the focus is on the Nation's critical infrastructure, the Framework was developed in a manner to promote wide adoption of practices to increase cybersecurity across all sectors and industry types.

The Framework was developed through an open public review and comment process that included information collected through a Request for Information (RFI), a series of public workshops, and a 45-day public comment period on the preliminary version of the Cybersecurity Framework ("preliminary Framework").

NIST published the RFI in the **Federal Register** (78 FR 13024) on February 26, 2013.[3] Comments received in response to the RFI are available at *http://csrc.nist.gov/cyberframework/rfi_comments.html.*

NIST held five open public workshops to provide the public with additional opportunities to provide input. The first workshop was conducted on April 3, 2013, at the Department of Commerce in Washington, DC The second workshop was conducted on May 29–31, 2013, at Carnegie Mellon University in Pittsburgh, Pennsylvania. The third workshop was conducted on July 10–12, 2013, at the University of California, San Diego. The fourth workshop was conducted on September 11–13, 2013, at the University of Texas at Dallas. The fifth workshop was conducted on November 14–15, 2013, at the North Carolina State University in Raleigh, North Carolina. Agenda, discussion materials, and presentation slides for each of these workshops are available at *http://www.nist.gov/cyberframework/cybersecurity-framework-events.cfm.*

NIST issued the preliminary Framework and announced a 45-day public comment period in the **Federal Register** (78 FR 64478) on October 29, 2013.[4] Comments received in response to the public comment period on the preliminary Framework are available at *http://csrc.nist.gov/cyberframework/preliminary_framework_comments.html.*

Throughout the process, NIST issued public updates on the development of the Cybersecurity Framework.

NIST issued the first update on June 18, 2013, and it is available at *http://www.nist.gov/itl/upload/nist_cybersecurity_framework_update_061813.pdf.* NIST issued the second update on July 24, 2013, and it is available at *http://www.nist.gov/itl/upload/NIST-Cybersecurity-Framework-Update-072413.pdf.*

NIST issued the third update on December 4, 2013, and it is available at*http://www.nist.gov/itl/upload/nist_cybersecurity_framework_update_120413.pdf.*

NIST issued the fourth update on January 15, 2014, and it is available at *http://www.nist.gov/cyberframework/upload/NIST-Cybersecurity-Framework-Update-011514–2.pdf.* The fourth update was issued after the conclusion of the public comment period for the preliminary Framework and highlights major themes reflected in the submissions, along with NIST's responses to these comments.

The Framework incorporates existing consensus-based standards to the fullest extent possible, consistent with requirements of the National Technology Transfer and Advancement Act of 1995,[5] and guidance provided by Office of Management and Budget Circular A–119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities."[6] Principles articulated in the Executive Office of the President memorandum M–12–08 "Principles for Federal Engagement in Standards Activities to Address National Priorities"[7] are followed. The Framework is also consistent with, and supported by the broad policy goals of, the Administration's 2010 "National Security Strategy,"[8] 2011 "Cyberspace Policy Review,"[9] "International Strategy for Cyberspace"[10] of May 2011 and HSPD–7 "Critical Infrastructure Identification, Prioritization, and Protection."[11]

Dated: February 11, 2014.

Patrick Gallagher,

Under Secretary of Commerce for Standards and Technology.

[FR Doc. 2014–03495 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–13–P

[3] *https://www.federalregister.gov/articles/2013/02/26/2013–04413/developing-a-framework-to-improve-critical-infrastructure-cybersecurity*

[4] *https://www.federalregister.gov/articles/2013/10/29/2013–25566/request-for-comments-on-the-preliminary-cybersecurity-framework*

[5] Public Law 104–113 (1996), codified in relevant part at 15 U.S.C 272(b).

[6] *http://www.whitehouse.gov/amb/circulars_a119*

[7] *http://www.whitehouse.gov/sites/default/files/amb/memoranda/2012/m-12–08.pdf*

[8] *http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf*

[9] *http://www.whitehouse.gov/assets/documents/Cyberspace_Policy_Review_final.pdf*

[10] *http://www.whitehouse.gov/sites/default/files/rss_viewer/international_strategy_for_cyberspace.pdf*

[11] *http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy04/m-04–15.pdf*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; DOC National Environmental Policy Act Environmental Questionnaire and Checklist

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 21, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Steve Kokkinakis at 240–533–9021 or *steve.kokkinakis@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

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

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4347) and

the Council on Environmental Quality's (CEQ) Regulations for Implementing NEPA (40 CFR parts 1500–1508) require that federal agencies complete an environmental analysis for all major federal actions significantly affecting the environment. Those actions may include a federal agency's decision to fund non-federal projects under grants and cooperative agreements, including infrastructure projects. In order to determine NEPA compliance requirements for a project receiving Department of Commerce (DOC) bureau-level funding, DOC must assess information which can only be provided by the applicant for federal financial assistance (grant).

The Environmental Questionnaire and Checklist (EQC) provides federal financial assistance applicants and DOC staff with a tool to ensure that the necessary project and environmental information is obtained. The EQC was developed to collect data concerning potential environmental impacts that the applicant for federal financial assistance possesses and to transmit that information to the Federal reviewer. The EQC will allow for a more rapid review of projects and facilitate DOC's evaluation of the potential environmental impacts of a project and level of NEPA documentation required. DOC staff will use the information provided in answers to the questionnaire to determine compliance requirements for NEPA and conduct subsequent NEPA analysis as needed. Information provided in the questionnaire may also be used for other regulatory review requirements associated with the proposed project, such as the National Historic Preservation Act.

Revision: The checklist is being revised to improve understanding and clarity of the questions.

II. Method of Collection

The main method of submission is electronic. Some supporting documents may be mailed.

III. Data

OMB Control Number: 0690–0028.

Form Number: CD–593.

Type of Review: Regular submission (revision and extension of a currently approved collection).

Affected Public: Business or other for-profit organizations; individuals or households; not-for-profit institutions; state, local, or tribal government; and Federal government.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 3,000.

Estimated Total Annual Cost to Public: $1,000 in miscellaneous costs ($5 × approximately 200 respondents who would mail attachments rather than emailing them).

IV. Request for Comments

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

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

Dated: February 11, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–03343 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–NW–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD135

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold meetings of the Shrimp and Ad Hoc Artificial Substrate Advisory Panels.

DATES: The meeting will be held from 8:30 a.m. on Wednesday, March 5 until 4:30 p.m. on Thursday, March 6, 2014.

ADDRESSES: The meetings will be held at the Hilton St. Petersburg Bayfront Hotel, 333—1st Street, St. Petersburg, FL 33701; telephone: (727) 894–5000.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL, 33607.

FOR FURTHER INFORMATION CONTACT: Dr. John Froeschke, Fishery Biologist and Statistician or Dr. Morgan Kilgour, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; emails: *john.froeschke@gulfcouncil.org* or *morgan.kilgour@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The items of discussion in the individual meeting agendas are as follows:

Shrimp Advisory Panel, Wednesday, March 5, 2014, 8:30 a.m. until 4:30 p.m.

1. Adoption of agenda
2. Approval of minutes from May 23, 2013 meeting
3. Plan of work
4. Review of new stock assessments for brown, white, and pink shrimp
5. Biological review of the Texas closure
6. Review draft options for shrimp Amendment 15 status determination criteria for penaeid shrimp and adjustments to the shrimp FMP framework procedure
7. Discussion of ACL adjustment and accountability measures for royal red shrimp
8. Kemp's Ridley stock assessment with discussion
9. Update on the status of the new shrimp ELB monitoring program
10. Other Business

Joint Shrimp and Ad Hoc Artificial Substrate Advisory Panels, Thursday, March 6, 2014, 8:30 a.m. until 4:30 p.m.

1. Consideration of new chair election for Ad Hoc Artificial Substrate AP
2. Adoption of agenda
3. Approval of minutes from February 28, 2013 Ad Hoc Artificial Substrate AP Meeting
4. Plan of work: Council charge-discussion of issues, impacts, and concerns associated with artificial reef siting criteria
   a. Shrimp effort
   b. Artificial reefs sites (past and present)
   c. Bottom type
   d. Depth
   e. Other criteria
5. Rigs to reefs
6. Habitat limitations of age 2 red snapper and their association with petroleum platforms
7. Other Business

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues

specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: February 12, 2014.

William D. Chappell,

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

[FR Doc. 2014–03443 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD087

Takes of Marine Mammals Incidental to Specified Activities; St. George Reef Light Station Restoration and Maintenance at Northwest Seal Rock, Del Norte County, California

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the St. George Reef Lighthouse Preservation Society (Society), for an Incidental Harassment Authorization (Authorization) to take marine mammals, by harassment incidental to conducting aircraft operations, lighthouse renovation, and light maintenance activities on the St. George Reef Light Station on Northwest Seal Rock (NWSR) in the northeast Pacific Ocean. The proposed dates for this action would be April 2014 through March 2015. Per the Marine Mammal Protection Act, we are requesting comments on our proposal to issue an Authorization to the Society to incidentally take, by Level B harassment only, marine mammals during the specified activity.

DATES: Comments and information must be received on or before March 20, 2014.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Cody@noaa.gov*. Please include 0648–XD087 in the subject line. Comments sent via email to *ITP.Cody@noaa.gov*, including all attachments, must not exceed a 25-megabyte file size. NMFS is not responsible for email comments sent to other addresses other than the one provided here.

Instructions: All submitted comments are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

To obtain an electronic copy of the application containing a list of the references used in this document, write to the previously mentioned address, telephone the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or visit the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

The Environmental Assessment (EA) specific to conducting aircraft operations, restoration, and maintenance work on the light station is also available at the same internet address. Information in the EA and this notice collectively provide the environmental information related to the proposed issuance of the Authorization for public review and comment. The public may also view documents cited in this notice, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, NMFS, Office of Protected Resources, NMFS (301) 713–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after notice of a proposed authorization to the public for review and public comment: (1) We make certain findings; and (2) the taking is limited to harassment.

An authorization shall be granted for the incidental taking of small numbers of marine mammals if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The authorization must also set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat; and requirements pertaining to the mitigation, monitoring and reporting of such taking. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On December 14, 2013, NMFS received an application from the Society requesting that we issue an Authorization for the take of marine mammals, incidental to conducting restoration activities on the St. George Reef Light Station (Station) located on Northwest Seal Rock offshore of Crescent City, California in the northeast Pacific Ocean. NMS determined the application complete and adequate on January 13, 2014.

The Society proposes to conduct aircraft operations, lighthouse renovation, and periodic maintenance on the Station's optical light system on a monthly basis. The proposed activity would occur on a monthly basis over one weekend, April 1 through April 30, 2014 and November 1, 2014, through

February 28, 2015. The following specific aspects of the proposed activities have the potential to take marine mammals: (1) Helicopter landings/takeoffs; (2) noise generated during restoration activities (e.g., painting, plastering, welding, and glazing); (3) maintenance activities (e.g., bulb replacement and automation of the light system); and (4) human presence. Thus, we anticipate that take, by Level B harassment only, of California sea lions (*Zalophus californianus*); Pacific harbor seals (*Phoca vitulina*); Steller sea lions (*Eumetopias jubatus*) of the eastern U.S. Stock; and northern fur seals (*Callorhinus ursinus*) could result from the specified activity.

To date, we have issued four, Authorizations to the Society for the conduct of the same activities from 2010 to 2013 (75 FR 4774, January 29, 2010; 76 FR 10564, February 25, 2011; 77 FR 8811, February 15, 2012; and 79 FR 6179, February 3, 2014). This is the Society's fifth request for an annual Authorization as their last Authorization expired on December 31, 2013.

Description of the Specified Activity

Overview

The Station, listed in the National Park Service's National Register of Historic Places, is located on Northwest Seal Rock offshore of Crescent City, California in the northeast Pacific Ocean. The Station, built in 1892, rises 45.7 meters (m) (150 feet (ft)) above sea level. The structure consists of hundreds of granite blocks topped with a cast iron lantern room and covers much of the surface of the islet. The purpose of the project is to restore the lighthouse and to conduct annual and emergency maintenance on the Station's optical light system.

Dates and Duration

The Society proposes to conduct the activities (aircraft operations, lighthouse restoration, and maintenance activities) from the period of April 1, 2014 through March 31, 2015, at a maximum frequency of one session per month. The proposed duration for each session would last no more than three days (e.g., Friday, Saturday, and Sunday). The proposed Authorization, if issued, would be effective from April 1, 2014 through April 30, 2014 and November 1, 2014, through March 31, 2015.

We refer the reader to the Detailed Description of Activities section later in this notice for more information on the scope of the proposed activities.

Specified Geographic Region

The Station is located on a small, rocky islet (41°50′24″ N, 124°22′06″ W) approximately nine kilometers (km) (6.0 miles (mi)) in the northeast Pacific Ocean, offshore of Crescent City, California (Latitude: 41°46′48″ N; Longitude: 124°14′11″ W). NWSR is approximately 91.4 m (300 ft) in diameter that peaks at 5.18 m (17 ft) above mean sea level.

Detailed Description of Activities

Aircraft Operations

Because Northwest Seal Rock has no safe landing area for boats, the proposed restoration activities would require the Society to transport personnel and equipment from the California mainland to Northwest Seal Rock by a small helicopter. Helicopter landings take place on top of the engine room (caisson) which is approximately 15 m (48 ft) above the surface of the rocks on Northwest Seal Rock. The Society plans to charter a Raven R44 helicopter, owned and operated by Air Shasta Rotor and Wing, LLC. The Raven R44, which seats three passengers and one pilot, is a compact-sized (1134 kilograms (kg), 2500 pounds (lbs)) helicopter with two-bladed main and tail rotors. Both sets of rotors are fitted with noise-attenuating blade tip caps that would decrease flyover noise.

The Society proposes to transport no more than 15 work crew members and equipment to Northwest Seal Rock for each session and estimates that each session would require no more than 36 helicopter landings/takeoffs per month. During landing, the helicopter would land on the caisson to allow the work crew members to disembark and retrieve their equipment located in a basket attached to the underside of the helicopter. The helicopter would then return to the mainland to pick up additional personnel and equipment.

Proposed schedule: The Society would conduct a maximum of 16 flights (eight arrivals and eight departures) for the first day. The first flight would depart from Crescent City Airport at approximately 9 a.m. for a 6-minute flight to Northwest Seal Rock. The helicopter would land and takeoff immediately after offloading personnel and equipment every 20 minutes (min). The total duration of the first day's aerial operations could last for approximately 3 hours (hrs) and 26 min and would end at approximately 12:34 p.m. Crew members would remain overnight at the Station and would not return to the mainland on the first day.

For the second day, the Society would conduct a maximum of 10 flights (five arrivals and five departures) to transport additional materials on and off the islet. The first flight would depart from Crescent City Airport at 9 a.m. for a 6-minute flight to Northwest Seal Rock. The total duration of the second day's aerial operations could last up to three hours.

For the final day of operations, the Society could conduct a maximum of eight helicopter flights (four arrivals and four departures) to transport the remaining crew members and equipment/material back to the Crescent City Airport. The total duration of the third day's helicopter operations in support of restoration could last up to 2 hrs and 14 min.

Lighthouse Restoration Activities

Restoration and maintenance activities would involve the removal of peeling paint and plaster, restoration of interior plaster and paint, refurbishing structural and decorative metal, reworking original metal support beams throughout the lantern room and elsewhere, replacing glass as necessary, upgrading the present electrical system; and annual light beacon maintenance.

Light Maintenance Activities

The Society will need to conduct maintenance on the Station's beacon light at least once or up to two times per year within the proposed work window. Scheduled light maintenance activities would coincide with lighthouse restoration activities conducted monthly during the period of April 1 through April 30, 2014 and during the period of November 1, 2014, through March 31, 2015. The Society expects that maintenance activities would not exceed 3 hrs per each monthly session.

Emergency Light Maintenance

If the beacon light fails during the period from April 1 through April 30, 2014 or November 1, 2014 through March 31, 2015, the Society proposes to send a crew of two to three people to the Station by helicopter to repair the beacon light. For each emergency repair event, the Society proposes to conduct a maximum of four flights (two arrivals and two departures) to transport equipment and supplies. The helicopter may remain on site or transit back to shore and make a second landing to pick up the repair personnel.

In the case of an emergency repair between May 1, 2014, and October 31, 2014, the Society would consult with the NMFS' Western Regional Office (WRO) biologists to best determine the timing of the trips to the lighthouse, on a case-by-case basis, based upon the existing environmental conditions and

the abundance and distribution of any marine mammals present on NWSR. The regional biologists would have real-time knowledge regarding the animal use and abundance of the NWSR at the time of the repair request and would make a decision regarding when the Society could conduct trips to the lighthouse during the emergency repair time window that would have the least practicable adverse impact to marine mammals. The WRO biologists would also ensure that the Society's request for incidental take during emergency repairs would not exceed the number of incidental take authorized in the proposed Authorization. To date, the Society has not needed to conduct emergency light maintenance between May through October under any of the four previous Authorizations.

Sound Sources and Sound Characteristics

NMFS expects that acoustic stimuli resulting from the proposed helicopter operations; noise from maintenance and restoration activities; and human presence have the potential to harass marine mammals, incidental to the conduct of the proposed activities.

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this notice. Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level (SPL) is the ratio of a measured sound pressure and a reference level. The commonly used reference pressure is 1 μPa for under water, and the units for SPLs are dB re: 1 μPa. The commonly used reference pressure is 20 μPa for in air, and the units for SPLs are dB re: 20 μPa.

SPL (in decibels (dB)) = 20 log (pressure/reference pressure).

SPL is an instantaneous measurement expressed as the peak, the peak-peak (p-p), or the root mean square (rms). Root mean square is the square root of the arithmetic average of the squared instantaneous pressure values. All references to SPL in this document refer to the root mean square unless otherwise noted. SPL does not take into account the duration of a sound.

R44 Helicopter Sound Characteristics

Noise testing performed on the R44 Raven Helicopter, as required for Federal Aviation Administration approval, required an overflight at 150 m (492 ft) above ground level, 109 knots and a maximum gross weight of 1,134 kg (2,500 lbs). The noise levels measured on the ground at this distance and speed were 81.9 decibels (dB) re: 20 μPa (A-weighted) for the model R44 Raven I, or 81.0 dB re: 20 μPa (A-weighted) for the model R44 Raven II (NMFS, 2007).

Based on this information, we expect that the received sound levels at the landing area on the Station's caisson would increase above 81–81.9 dB re: 20 μPa (A-weighted).

Restoration and Maintenance Sound Characteristics

Any noise associated with these activities is likely to be from light construction (e.g., sanding, hammering, or use of hand drills). The Society proposes to confine all restoration activities to the existing structure which would occur on the upper levels of the Station. Pinnipeds hauled out on Northwest Seal Rock do not have access to the upper levels of the Station.

Description of Marine Mammals in the Area of the Specified Activity

Table 1 provides the following: All marine mammal species with possible or confirmed occurrence in the proposed activity area; information on those species' regulatory status under the MMPA and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); abundance; occurrence and seasonality in the activity area.

TABLE 1—GENERAL INFORMATION ON MARINE MAMMALS THAT COULD POTENTIALLY OCCUR IN THE PROPOSED ACTIVITY AREA

Species	Stock	Regulatory status [1] [2]	Stock abundance [3]	Occurrence and seasonality
California sea lion (*Zalophus californianus*).	U.S.	MMPA—NC ESA—NL	296,750	Year-round presence.
Northern fur seal (*Callorhinus ursinus*)	California Breeding	MMPA—D ESA—NL	9,968	Rare.
Pacific harbor seal (*Phoca vitulina*)	California	MMPA—NC ESA—NL	30,196	Occasional, spring.
Steller sea lion (*Eumetopias jubatus*)	Eastern Distinct Population Segment	MMPA—D ESA—DL	58,334 to 72,223	Year-round presence.

[1] MMPA: D = Depleted, S = Strategic, NC = Not Classified.
[2] ESA: EN = Endangered, T = Threatened, DL = Delisted, NL = Not listed.
[3] 2013 NMFS Stock Assessment Reports Carretta *et al.*, (2013) and Allen and Angliss (2013).

There are several cetaceans that have the potential to transit in the vicinity of the lighthouse station including the short-beaked common (*Delphinus delphis*) and the Pacific white-sided (Lagenorhynchus obliquidens) dolphin; the blue (*Balaenoptera musculus*), fin (*Balaenoptera physalus*), gray (*Eschrichtius robustus*), humpback (*Megaptera novaeangliae*), killer (*Orcinus orca*), North Pacific right (*Eubalaena japonica*), sei (*Balaenoptera borealis*), and sperm (Physeter macrocephalus) whales; and the Guadalupe fur seal (*Arctocephalus townsendi*). We will not consider these species further in this notice of a proposed Incidental Harassment Authorization because these are unlikely or rare in the nearshore environment of NWSR and the Society's operations would not likely affect these species—as the bulk of the their activities occur on the Station's caisson.

California (southern) sea otters (*Enhydra lutris nereis*), listed as threatened under the ESA and categorized as depleted under the MMPA, usually range in coastal waters within two km (1.2 mi) of the mainland shore. Neither CCR nor the Society has encountered California sea otters on Northwest Seal Rock during the course of the four-year wildlife study (CCR, 2001) nor has the Society encountered the species during the course of the previous three Authorizations. The U.S. Fish and Wildlife Service (USFWS) manages the sea otter and we will not consider this species further in this notice of a proposed Authorization.

The marine mammals most likely to be harassed incidental to the Society's helicopter operations, lighthouse restoration, and lighthouse maintenance on Northwest Seal Rock are primarily Steller and California sea lions and to a lesser extent the Pacific harbor seal and the eastern Pacific stock of northern fur seal. We refer the public to Carretta *et al.,* (2013) and Allen and Angliss (2013) for general information on these species which we present in this notice. The publications are available at *http://www.nmfs.noaa.gov/pr/sars/region.htm.* We present a summary of information on these species below this section.

California Sea Lion

The California sea lion is now a full species, separated from the Galapagos sea lion (*Z. wollebaeki*) and the extinct Japanese sea lion (*Z. japonicus*) (Brunner 2003, Wolf *et al.,* 2007, Schramm *et al.,* 2009). The estimated population of the U.S. stock of California sea lion is approximately 296,750 animals and the current maximum population growth rate is 12 percent (Carretta *et al.,* 2013).

California sea lion breeding areas are on islands located in southern California, in western Baja California, Mexico, and the Gulf of California. During the breeding season, most California sea lions inhabit southern California and Mexico. Rookery sites in southern California are limited to the San Miguel Islands and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.,* 2013). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately four to five days after arrival and will nurse pups for about a week before going on their first feeding trip. Females will alternate feeding trips with nursing bouts until weaning between four and 10 months of age (NMML, 2010).

Adult and juvenile males will migrate as far north as British Columbia, Canada while females and pups remain in southern California waters in the non-breeding season. In warm water (El Niño) years, some females range as far north as Washington and Oregon, presumably following prey.

Crescent Coastal Research (CCR) conducted a three-year (1998–2000) survey of the wildlife species on NWSR for the Society. They reported that counts of California sea lions on NWSR varied greatly (from six to 541) during the observation period from April 1997 through July 2000. CCR reported that counts for California sea lions during the spring (April—May), summer (June–August), and fall (September–October), averaged 60, 154, and 235, respectively (CCR, 2001).

The most current counts for the month of July by NMFS (2000 through 2004) have been relatively low as the total number of California sea lions recorded in 2000 and 2003 was 3 and 11, respectively (M. Lowry, NMFS, SWFSC, unpublished data). Based on the monitoring report for the 2011 season, the maximum numbers of California sea lions present during the April and November, 2011 work sessions was 2 and 90 animals, respectively (SGRLPS, 2012). There were no California sea lions present during the March, 2012 work session (SGRLPS, 2012).

Northern Fur Seal

Northern fur seals occur from southern California north to the Bering Sea and west to the Sea of Okhotsk and Honshu Island of Japan. NMFS recognizes two separate stocks of northern fur seals within U.S. waters: An Eastern Pacific stock distributed among sites in Alaska, British Columbia; and a San Miguel Island stock distributed along the west coast of the continental U.S. The estimated population of the San Miguel Island stock is 9,968 animals with a maximum population growth rate of 12 percent (Carretta *et al.,* 2013).

Northern fur seals may temporarily haul out on land at other sites in Alaska, British Columbia, and on islets along the west coast of the continental United States, but generally this occurs outside of the breeding season (Fiscus, 1983).

Northern fur seals breed in Alaska and migrate along the west coast during fall and winter. Due to their pelagic habitat, they are rarely seen from shore in the continental U.S., but individuals occasionally come ashore on islands well offshore (i.e., Farallon Islands and Channel Islands in California). During the breeding season, approximately 74 percent of the worldwide population inhabits the Pribilof Islands in Alaska, with the remaining animals spread throughout the North Pacific Ocean (Lander and Kajimura, 1982).

CCR observed one male northern fur seal on Northwest Seal Rock in October, 1998 (CCR, 2001). It is possible that a few animals may use the island more often that indicated by the CCR surveys, if they were mistaken for other otariid species (i.e., eared seals or fur seals and sea lions) (M. DeAngelis, NMFS, pers. comm.).

For the 2010, 2011, and 2012 work seasons, the Society has not observed any northern fur seals present on Northwest Seal Rock during restoration activities (SGRLPS, 2010; 2011; 2012). The Society did not conduct any operations for the 2013 season.

Pacific Harbor Seal

The estimated population of the California stock of Pacific harbor seals is approximately 30,196 animals (Carretta *et al.,* 2013). There is no current estimate of abundance available for the Oregon/Washington stock (Carretta *et al.,* 2013).

The animals inhabit near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. Pacific harbor seals consist of two subspecies: *P. v. stejnegeri* in the western North Pacific, near Japan, and *P. v. richardsi* in the northeast Pacific Ocean. The latter subspecies, recognized as three separate stocks, inhabits the west coast of the continental United States, including: The outer coastal waters of Oregon and Washington states; Washington state inland waters; and Alaska coastal and inland waters. Two of these stocks, the California stock and Oregon/Washington coast stock, of Pacific harbor seals are identified off the coast of Oregon and California for management purposes under the MMPA. However, the stock boundary is difficult to distinguish because of the continuous distribution of harbor seals along the west coast and any rigid boundary line is (to a greater or lesser extent) arbitrary, from a biological perspective (Carretta *et al.,* 2011). Due to the location of the proposed project which is situated near the border of Oregon and California, both stocks could be present within the proposed project area.

In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.,* 2005). Harbor seals mate at sea and females give birth during the spring and summer, although, the pupping season varies with latitude. Females nurse their pups for an average of 24 days and are ready to swim minutes after being born. Harbor seal pupping takes place at many locations and rookery size varies from a few pups to many hundreds of pups. The nearest harbor seal rookery relative to the proposed project site is at Castle Rock National Wildlife Refuge, located approximately located 965 m (0.6 mi) south of Point St. George, and 2.4 km (1.5 mi) north of the Crescent City Harbor in Del Norte County, California (USFWS, 2007).

CCR noted that harbor seal use of Northwest Seal Rock was minimal, with only one sighting of a group of six animals, during 20 observation surveys. They hypothesized that harbor seals may avoid the islet because of its distance from shore, relatively steep topography, and full exposure to rough and frequently turbulent sea swells. For the 2010 and 2011 seasons, the Society did not observe any Pacific harbor seals present on Northwest Seal Rock during restoration activities (SGRLPS, 2010; 2011). During the 2012 season, the Society reported sighting a total of two harbor seals present on Northwest Seal Rock (SGRLPS, 2012). The Society did not conduct any operations for the 2013 season.

Steller Sea Lion

Steller sea lions consist of two distinct population segments: the western and eastern distinct population segments (DPS) divided at 144° West longitude (Cape Suckling, Alaska). The western segment of Steller sea lions inhabit central and western Gulf of Alaska, Aleutian Islands, as well as coastal waters and breed in Asia (e.g., Japan and Russia). The eastern segment includes sea lions living in southeast Alaska, British Columbia, California, and Oregon.

Steller sea lions range along the North Pacific Rim from northern Japan to California (Loughlin *et al.*, 1984), with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands, respectively. The species is not known to migrate, but individuals disperse widely outside of the breeding season (late May through early July), thus potentially intermixing with animals from other areas.

In 2012, the estimated population of the eastern distinct population segment ranged from a minimum of 58,334 up to 72,223 animals and the maximum population growth rate is 12 percent (Allen and Angliss, 2013). On October 23, 2013 NMFS announced the removal of the eastern distinct population segment of Steller sea lions from the list of threatened species under the ESA. As of December 4, 2013 the eastern DPS is not a threatened species listed under the ESA. With the delisting, federal agencies proposing actions that may affect the eastern Steller sea lions are no longer required to consult with NMFS under section 7 of the ESA.

The eastern distinct population segment of Steller sea lions breeds on rookeries located in southeast Alaska, British Columbia, Oregon, and California. There are no rookeries located in Washington state. Steller sea lions give birth in May through July and breeding commences a couple of weeks after birth. Pups are weaned during the winter and spring of the following year.

Despite the wide-ranging movements of juveniles and adult males in particular, exchange between rookeries by breeding adult females and males (other than between adjoining rookeries) appears low, although males have a higher tendency to disperse than females (NMFS, 1995; Trujillo *et al.*, 2004; Hoffman *et al.*, 2006). A northward shift in the overall breeding distribution has occurred, with a contraction of the range in southern California and new rookeries established in southeastern Alaska (Pitcher *et al.*, 2007). Overall, counts of non-pups at trend sites in California and Oregon have been relatively stable or increasing slowly since the 1980s (Allen and Angliss, 2012).

CCR reported that Steller sea lion numbers at Northwest Seal Rock ranged from 20 to 355 animals. Counts of Steller sea lions during the spring (April—May), summer (June–August), and fall (September–October), averaged 68, 110, and 56, respectively (CCR, 2001). A more recent survey at NWSR between 2000 and 2004 showed Steller sea lion numbers ranged from 175 to 354 in July (M. Lowry, NMFS/SWFSC, unpubl. data). The Society presumes that winter use of NWSR by Steller sea lion to be minimal, due to inundation of the natural portion of the island by large swells.

For the 2010 season, the Society reported that no Steller sea lions were present in the vicinity of Northwest Seal Rock during restoration activities (SGRLPS, 2010). Based on the monitoring report for the 2011 season, the maximum numbers of Steller sea lions present during the April and November 2011, work sessions was 2 and 150 animals, respectively (SGRLPS, 2012). During the 2012 season, the Society did not observe any Steller sea lions present on Northwest Seal Rock during restoration activities. The Society did not conduct any operations for the 2013 season.

Potential Effects of the Specified Activities on Marine Mammals

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., aircraft operations and human presence) have the potential to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take (e.g., with acoustics, we may include a discussion of studies that show animals not reacting to sound or animals exhibiting barely perceptible avoidance behaviors). We also intend this section to provide a background of potential effects of the Society's activities. This section does not consider the specific manner in which the Society would carry out the proposed activity, what mitigation measures the Society would implement, and how either of those would shape the anticipated impacts from this specific activity. The "Estimated Take by Incidental Harassment" section later in this document will include a quantitative analysis of the number of individuals that we expect the Society to take during this activity. The "Negligible Impact Analysis" section will include the analysis of how this specific activity would impact marine mammals. We will consider the content of the following sections: (1) Negligible Impact Analysis; (2) Estimated Take by Incidental Harassment; (3) Proposed Mitigation; and (4) Anticipated Effects on Marine Mammal Habitat, to draw conclusions regarding the likely impacts of the Society's activities on the reproductive success or survivorship of individuals—and from that consideration—the likely impacts of this activity on the affected marine mammal populations or stocks.

Acoustic Impacts

Acoustic and visual stimuli generated by: (1) Helicopter landings/takeoffs; (2) noise generated during restoration activities (e.g., painting, plastering, welding, and glazing); and (3) maintenance activities (e.g., bulb replacement and automation of the light system) may have the potential to cause the following: temporary or permanent hearing impairment and/or behavioral disturbance (Southall, *et al.*, 2007).

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound and current data indicate that not all marine mammal species have equal hearing capabilities (Richardson *et al.*, 1995; Wartzok and Ketten, 1999). Southall *et al.* (2007) designated "functional hearing groups" for marine mammals based on available behavioral data; audiograms derived from auditory evoked potentials; anatomical modeling; and other data. Southall *et al.* (2007) also estimated the lower and upper frequencies of functional hearing for each group as animals are less sensitive to sounds at the lower and upper frequency limits of their functional hearing range and are more sensitive to a range of frequencies

within the middle of their functional hearing range.

The functional groups and the associated frequencies are:

- Low frequency cetaceans (13 species of mysticetes): functional hearing estimates occur between approximately 7 Hertz (Hz) and 30 kHz (extended from 22 kHz based on data indicating that some mysticetes can hear above 22 kHz; Au *et al.,* 2006; Lucifredi and Stein, 2007; Ketten and Mountain, 2009; Tubelli *et al.,* 2012);
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): functional hearing estimates occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia,* the franciscana, and four species of *cephalorhynchids*): functional hearing estimates occur between approximately 200 Hz and 180 kHz; and
- Pinnipeds in water: functional hearing estimates occur between approximately 75 Hz and 100 kHz, with the greatest sensitivity between approximately 700 Hz and 20 kHz.

As mentioned previously in this document, four marine mammal species would likely occur in the proposed action area. All are pinnipeds and fall under the Pinnipeds in water functional hearing group category. We consider a species' functional hearing group when we analyze the effects of exposure to sound on marine mammals.

Helicopter Noise

Marine mammals produce sounds in various important contexts—social interactions, foraging, navigating, and to responding to predators. The best available science suggests that pinnipeds have a functional aerial hearing sensitivity between 75 hertz (Hz) and 75 kilohertz (kHz) and can produce a diversity of sounds, though generally from 100 Hz to several tens of kHz (Southall, *et al.,* 2007).

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran, Carder, Schlundt, and Ridgway, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (i.e., the threshold returns to the pre-exposure value), it is called temporary threshold shift (TTS) (Southall *et al.,* 2007).

Pinnipeds have the potential to be disturbed by airborne and underwater noise generated by the engine of the aircraft (Born, Riget, Dietz, & Andriashek, 1999; Richardson, Greene, Malme, & Thomson, 1995). Data on underwater TTS-onset in pinnipeds exposed to pulses are limited to a single study which exposed two California sea lions to single underwater pulses from an arc-gap transducer and found no measurable TTS following exposures up to 183 dB re: 1 µPa (peak-to-peak) (Finneran, Dear, Carder, & Ridgway, 2003).

Researchers have demonstrated TTS in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.,* 2007). In 2004, researchers measured auditory fatigue to airborne sound in harbor seals, California sea lions, and northern elephant seals after exposure to non-pulse noise for 25 minutes (Kastak, Southall, Holt, Kastak, & Schusterman, 2004). In the study, the harbor seal experienced approximately 6 dB of TTS at 99 dB re: 20 µPa. The authors identified onset of TTS in the California sea lion at 122 dB re: 20 µPa. The northern elephant seal experienced TTS-onset at 121 dB re: 20 µPa (Kastak, *et al.,* 2004).

There is a dearth of information on acoustic effects of helicopter overflights on pinniped hearing and communication (Richardson, et al., 1995) and to NMFS' knowledge, there has been no specific documentation of TTS, let alone permanent threshold shift (PTS), in free-ranging pinnipeds exposed to helicopter operations during realistic field conditions (Baker, Jensz, & Chilvers, 2012; Scheidat *et al.,* 2011).

In 2008, we issued an Authorization to the USFWS for the take of small numbers of Steller sea lions and Pacific harbor seals, incidental to rodent eradication activities on an islet offshore of Rat Island, AK conducted by helicopter. The 15-minute aerial treatment consisted of the helicopter slowly approaching the islet at an elevation of over 1,000 feet (304.8 m); gradually decreasing altitude in slow circles; and applying the rodenticide in a single pass and returning to Rat Island. The gradual and deliberate approach to the islet resulted in the sea lions present initially becoming aware of the helicopter and calmly moving into the water. Further, the USFWS reported that all responses fell well within the range of Level B harassment (i.e., alert head raises without moving or limited, short-term displacement resulting from aircraft noise due to helicopter overflights).

As a general statement from the available information, pinnipeds exposed to intense (approximately 110 to 120 dB re: 20 µPa) non-pulse sounds often leave haulout areas and seek refuge temporarily (minutes to a few hours) in the water (Southall *et al.,* 2007). Any noise attributed to the Society's proposed helicopter operations on NWSR would be short-term (approximately 5 min per trip). We would expect the ambient noise levels to return to a baseline state when helicopter operations have ceased for the day. Per Richardson *et al.* (1995), approaching aircraft generally flush animals into the water and noise from a helicopter is typically directed down in a "cone" underneath the aircraft. As the helicopter landings take place 15 m (48 ft) above the surface of the rocks on NWSR, we presume that the received sound levels would increase above 81–81.9 dB re: 20 µPa (A-weighted) at the landing pad. However, we do not expect that the increased received levels of sound from the helicopter would cause TTS or PTS because the pinnipeds would flush before the helicopter approached NWSR; thus increasing the distance between the pinnipeds and the received sound levels on NWSR during the proposed action.

Visual Disturbance

There is increasing recognition that the effect of human disturbance wildlife is highly dependent on the nature of the disturbance (Burger *et al.,* 1995; Klein *et al.,* 1995; and Kucey, 2005). Disturbances resulting from human activity can impact short- and long-term pinniped haul out behavior (Renouf *et al.,* 1981; Schneider and Payne, 1983; Terhune and Almon, 1983; Allen *et al.,* 1984; Stewart, 1984; Suryan and Harvey, 1999; Mortenson *et al.,* 2000; and Kucey and Trites, 2006). The apparent skittishness of both harbor seals and Steller sea lions raises concerns regarding behavioral and physiological impacts to individuals and populations experiencing high levels of human disturbance. Human activity can flush harbor seals off haul out sites (Allen *et al.,* 1984; Calambokidis *et al.,* 1991; Suryan and Harvey, 1999; Mortenson *et al.,* 2000).

The Hawaiian monk seal (*Monachus schauinslandi*) may avoid beaches disturbed by humans (Kenyon, 1972). Stevens and Boness (2003) concluded that after the 1997–98 El Niño, when populations of the South American fur

seal, *Arctocephalus australis,* in Peru declined dramatically, seals abandoned some of their former primary breeding sites, but continued to breed at adjacent beaches that were more rugged (i.e., less likely to be used by humans). Abandoned and unused sites were more likely to have human disturbance than currently used sites. In one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon, 1962).

It is likely that the initial helicopter approach to the Station would cause a subset, or all of the marine mammals hauled out on NWSR to depart the rock and flush into the water. The physical presence of aircraft could also lead to non-auditory effects on marine mammals involving visual or other cues. Airborne sound from a low-flying helicopter or airplane may be heard by marine mammals while at the surface or underwater. In general, helicopters tend to be noisier than fixed wing aircraft of similar size and underwater sounds from aircraft are strongest just below the surface and directly under the aircraft. Noise from aircraft would not be expected to cause direct physical effects but have the potential to affect behavior. The primary factor that may influence abrupt movements of animals is engine noise, specifically changes in engine noise. Responses by mammals could include hasty dives or turns, change in course, or flushing and stampeding from a haul out site. There are few well documented studies of the impacts of aircraft overflight over pinniped haul out sites or rookeries, and many of those that exist, are specific to military activities (Efroymson *et al.,* 2001).

Several factors complicate the analysis of long- and short-term effects for aircraft overflights. Information on behavioral effects of overflights by military aircraft (or component stressors) on most wildlife species is sparse. Moreover, models that relate behavioral changes to abundance or reproduction, and those that relate behavioral or hearing effects thresholds from one population to another are generally not available. In addition, the aggregation of sound frequencies, durations, and the view of the aircraft into a single exposure metric is not always the best predictor of effects and it may also be difficult to calculate. Overall, there has been no indication that single or occasional aircraft flying above pinnipeds in water cause long term displacement of these animals (Richardson *et al.,* 1995). The Lowest Observed Adverse Effects Levels (LOAELs) are rather variable for pinnipeds on land, ranging from just over 150 m (492 ft) to about 2,000 m (6,562 ft) (Efroymson *et al.,* 2001). A conservative (90th percentile) distance effects level is 1,150 m (3,773 ft). Most thresholds represent movement away from the overflight. Bowles and Stewart (1980) estimated an LOAEL of 305 m (1,000 ft) for helicopters (low and landing) in California sea lions and harbor seals observed on San Miguel Island, CA; animals responded to some degree by moving within the haul out and entering into the water, stampeding into the water, or clearing the haul out completely. Both species always responded with the raising of their heads. California sea lions appeared to react more to the visual cue of the helicopter than the noise.

If pinnipeds are present on NWSR, it is likely that a helicopter landing at the Station would cause some number of the pinnipeds on NWSR to flush; however, when present, they appear to show rapid habituation to helicopter landing and departure (Crescent Coastal Research, 2001; Guy Towers, SGRLPS, pers. com.). According to the CCR Report (2001), while up to 40 percent of the California and Steller sea lions present on the rock have been observed to enter the water on the first of a series of helicopter landings, as few as zero percent have flushed on subsequent landings on the same date. In fact, the Society reported that during the November 2011 work session, Steller sea lions and California sea lions exhibited minimal ingress and egress from Northwest Seal Rock during helicopter approaches and departures (SGRLPS, 2011).

If pinnipeds are present on NWSR, Level B behavioral harassment of pinnipeds may occur during helicopter landing and takeoff from NWSR due to the pinnipeds temporarily moving from the rocks and lower structure of the Station into the sea due to the noise and appearance of helicopter during approaches and departures. It is expected that all or a portion of the marine mammals hauled out on the island will depart the rock and move into the water upon initial helicopter approaches. The movement to the water would be gradual due to the required controlled helicopter approaches (see Proposed Mitigation section), the small size of the aircraft, the use of noise-attenuating blade tip caps on the rotors, and behavioral habituation on the part of the animals as helicopter trips continue throughout the day. During the sessions of helicopter activity, if present on NWSR, some animals may be temporarily displaced from the island and either raft in the water or relocate to other haul-outs.

Sea lions have shown habituation to helicopter flights within a day at the project site and most animals are expected to return soon after helicopter activities cease for that day. By clustering helicopter arrival/departures within a short time period, we expect animals present to show less response to subsequent landings. We anticipate no impact on the population size or breeding stock of Steller sea lions, California sea lions, Pacific harbor seals, or northern fur seals.

Restoration and maintenance activities would involve the removal of peeling paint and plaster, restoration of interior plaster and paint, refurbishing structural and decorative metal, reworking original metal support beams throughout the lantern room and elsewhere, replacing glass as necessary, upgrading the present electrical system; and annual light beacon maintenance. Any noise associated with these activities is likely to be from light construction (e.g., sanding, hammering, or use of hand drills) and the pinnipeds may be disturbed by human presence. Animals respond to disturbance from humans in the same way as they respond to the risk of predation, by avoiding areas of high risk, either completely or by using them for limited periods (Gill *et al.,* 1996).

Stampede

Sudden movement of large numbers of animals may cause a stampede. In order to prevent such stampedes from occurring within the sea lion colony, we would require certain mitigation requirements and restrictions, such as controlled helicopter approaches and limited access period during the pupping season, should we issue an Authorization. As such, and because any pinnipeds nearby likely would avoid the approaching helicopter, the Society anticipates that there will be no instances of injury or mortality during the proposed project.

Anticipated Effects on Marine Mammal Habitat

NMFS does not expect that the proposed activity would have any effects on marine mammal habitat. Based on previous monitoring reports and anecdotal observations, up to 315 animals could use the small, rocky base at the base of the Station as a haulout site. The Society proposes to confine all restoration activities to the existing structure which would occur on the upper levels of the Station which are not used by marine mammals. Thus, NMFS expects that there will be no long- or short-term physical impacts to pinniped habitat on NWSR.

The Society would remove all waste, discarded materials and equipment from the island after each visit. The proposed activities will not result in any permanent impact on habitats used by marine mammals, including prey species and foraging habitat. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals (i.e., the potential for temporary abandonment of the site), previously discussed in this notice.

Proposed Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

As a way to reduce or minimize adverse impacts that would result from the proposed project to the lowest level practicable, NMFS proposes to require the following mitigation measures.

Time and Frequency: The Society would conduct restoration activities at maximum of once per month between April 1 through April 30, 2014 and November 1, 2014, through March 31, 2015. Each restoration session would last no more than three days. Maintenance of the light beacon would occur only in conjunction with restoration activities.

Helicopter Approach and Timing Techniques: The Society would ensure that its helicopter approach patterns to the Station and timing techniques do not disturb marine mammals as most practicable. To the extent possible, the helicopter should approach NWSR when the tide is too high for the marine mammals to haul-out on NWSR.

Since the most severe impacts (stampede) precede rapid and direct helicopter approaches, the Society's initial approach to the Station must be offshore from the island at a relatively high altitude (e.g., 800–1,000 ft, or 244–305 m). Before the final approach, the helicopter shall circle lower, and approach from area with the lowest pinniped density. If for any safety reasons (e.g., wind condition) the Society cannot conduct these types of helicopter approach and timing techniques, they must abort the restoration and maintenance activities for that day.

Avoidance of Visual and Acoustic Contact with People on Island: The Society would instruct its members and restoration crews to avoid making unnecessary noise and not expose themselves visually to pinnipeds around the base of the Station. Although CCR reported no impacts from these activities in the 2001 CCR study, it is relatively simple for the Society to avoid this potential impact. The door to the lower platform (which is used at times by pinnipeds) shall remain closed and barricaded to all tourists and other personnel.

Mitigation Conclusions

NMFS has carefully evaluated the Society's proposed mitigation measures in the context of ensuring that we prescribe the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by us should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed here:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to helicopter operations and human presence that we expect to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to helicopter operations or human presence that we expect to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to to helicopter operations or human presence that we expect to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on the evaluation of the Society's proposed measures, as well as other measures considered by us, NMFS preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Summary of Previous Monitoring

The Society complied with the mitigation and monitoring required under the previous authorizations (2010–2013). They did not conduct any operations for the 2013 season. However, in compliance with the 2012 Authorization, the Society submitted a final report on the activities at the Station, covering the period of February 15, 2012 through April 30, 2012. During the effective dates of the 2012 IHA, the Society conducted one work session in March, 2012. The Society's aircraft operations and restoration activities on NWSR did not exceed the activity levels analyzed under the 2012 authorization. During the March 2012 work session, the Society observed two harbor seals hauled out on Northwest Seal Rock. Both animals (a juvenile and an adult) departed the rock, entered the water, and did not return to the Station during the duration of the activities.

Proposed Monitoring

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth "requirements pertaining to the monitoring and reporting of such taking". The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for Authorizations must include the suggested means of accomplishing the necessary monitoring

and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that we expect to be present in the proposed action area.

Monitoring measures prescribed by us should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and during other times and locations, in order to generate more data to contribute to the analyses mentioned later;

2. An increase in our understanding of how many marine mammals would be affected by helicopter operations and human presence and the likelihood of associating those exposures with specific adverse effects, such as behavioral harassment, temporary or permanent threshold shift;

3. An increase in our understanding of how marine mammals respond to stimuli that we expect to result in take and how those anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

a. Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (i.e., we need to be able to accurately predict received level, distance from source, and other pertinent information);

b. Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (i.e., we need to be able to accurately predict received level, distance from source, and other pertinent information);

c. Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

4. An increased knowledge of the affected species; and

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Proposed Monitoring Measures: At least once during the period between April 1 through April 30, 2014 and November 1, 2014 through March 31, 2015, a qualified biologist shall be present during all three workdays at the Station. The qualified biologist hired will be subject to approval by us and they shall document use of the island by the pinnipeds, frequency, (i.e., dates, time, tidal height, species, numbers present, and any disturbances), and note any responses to potential disturbances.

Aerial photographic surveys may provide the most accurate means of documenting species composition, age and sex class of pinnipeds using the project site during human activity periods. The Society should complete aerial photo coverage of the island from the same helicopter used to transport the Society's personnel to the island during restoration trips. The Society would take photographs of all marine mammals hauled out on the island at an altitude greater than 300 m (984 ft) by a skilled photographer, prior to the first landing on each visit included in the monitoring program. Photographic documentation of marine mammals present at the end of each three-day work session shall also be made for a before and after comparison. These photographs will be forwarded to a biologist capable of discerning marine mammal species. Data shall be provided to us in the form of a report with a data table, any other significant observations related to marine mammals, and a report of restoration activities (see Reporting). The original photographs can be made available to us or other marine mammal experts for inspection and further analysis.

Proposed Reporting

The Society will submit a draft Monitoring Report to us no later than 90 days after they complete the project to the NMFS Director of Office of Protected Resources. Within 30 days after receiving comments from us on the draft Final Monitoring Report, the Society must submit a Final Monitoring Report to the NMFS Director of Office of Protected Resources. If the Society receives no comments from us on the draft Monitoring Report, then NMFS will consider the draft Monitoring Report to be the Final Monitoring Report.

The final report will provide:

(i) A summary and table of the dates, times, and weather during all helicopter operations, and restoration and maintenance activities.

(ii) Species, number, location, and behavior of any marine mammals, observed throughout all monitoring activities.

(iii) An estimate of the number (by species) of marine mammals that are known to have been exposed to acoustic stimuli associated with the helicopter operations, restoration and maintenance activities.

(iv) A description of the implementation and effectiveness of the monitoring and mitigation measures of the IHA and full documentation of methods, results, and interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization (if issued), such as an injury (Level A harassment), serious injury, or mortality (e.g., vessel-strike, stampede, etc.), the Society shall immediately cease the specified activities and immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Assistant Western Regional Stranding Coordinator at (562) 980–3264 (*Justin.Greenman@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Description and location of the incident (including water depth, if applicable);
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

The Society shall not resume its activities until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with the Society to determine what is necessary to minimize the likelihood of further prohibited take and ensure Marine Mammal Protection Act compliance. The Society may not resume their activities until notified by us via letter, email, or telephone.

In the event that the Society discovers an injured or dead marine mammal, and the lead visual observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), the Society will immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Assistant Western Regional Stranding Coordinator at (562) 980–3264 (*Justin.Greenman@noaa.gov*). The report must include the same information identified in the paragraph above this section. Activities may

continue while NMFS reviews the circumstances of the incident. NMFS will work with the Society to determine whether modifications in the activities are appropriate.

In the event that the Society discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Society will report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Assistant Western Regional Stranding Coordinator at (562) 980–3264 (*Justin.Greenman@noaa.gov*), within 24 hours of the discovery. The Society's staff will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

NMFS anticipates that the helicopter operations and restoration and maintenance activities have the potential to harass (Level B only) marine mammals that may be present on NWSR. Thus NMFS will only authorize take by Level B harassment as a result of the helicopter operations and restoration and maintenance activities on NWSR.

Based on pinniped survey counts conducted by CCR on NWSR in the spring of 1997, 1998, 1999, and 2000 (CCR, 2001), NMFS estimates that approximately 204 California sea lions (calculated by multiplying the average monthly abundance of California sea lions (zero in April, 1997 and 34 in April, 1998) present on NWSR by 6 months of the restoration and maintenance activities), 172 Steller sea lions (NMFS' estimate of the maximum number of Steller sea lions that could be present on NWSR with a 95-percent confidence interval), 36 Pacific harbor seals (calculated by multiplying the maximum number of harbor seals present on NWSR (6) by 6 months), and 6 northern fur seals (calculated by multiplying the maximum number of northern fur seals present on NWSR (1) by 6 months) could be potentially affected by Level B behavioral harassment over the course of the Authorization. NMFS bases these estimates of the numbers of marine mammals that might be affected on consideration of the number of marine mammals that could be disturbed appreciably by approximately 51 hours of aircraft operations during the course of the activity. These incidental harassment take numbers represent approximately 0.14 percent of the U.S. stock of California sea lion, 0.42 percent of the eastern U.S. stock of Steller sea lion, 0.11 percent of the California stock of Pacific harbor seals, and 0.06 percent of the San Miguel Island stock of northern fur seal. Because of the required mitigation measures and the likelihood that some pinnipeds will avoid the area, NMFS does not expect any injury or mortality to pinnipeds to occur and NMFS has not authorized take by Level A harassment for this proposed activity.

Encouraging and Coordinating Research

The Society will continue to coordinate monitoring of pinnipeds during the helicopter operations and restoration activities which contribute to the basic knowledge of marine mammal biology on NWSR.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival" (50 CFR 216.103). The lack of likely adverse effects on annual rates of recruitment or survival (i.e., population level effects) forms the basis of a negligible impact finding. Thus, an estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, and the number of estimated mortalities, and effects on habitat.

In making a negligible impact determination, NMFS considers:

- The number of anticipated injuries, serious injuries, or mortalities;
- The number, nature, and intensity, and duration of Level B harassment; and
- The context in which the takes occur (e.g., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);
- The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);
- Impacts on habitat affecting rates of recruitment/survival; and
- The effectiveness of monitoring and mitigation measures.

For reasons stated previously in this document and based on the following factors, the Society's specified activities are not likely to cause long-term behavioral disturbance, abandonment of the haulout area, injury, serious injury, or mortality because:

(1) The effects of the Society's operations would be limited to no responses, short-term startle responses, or temporary behavioral changes due to the short and sporadic duration of the restoration activities. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering.

(2) The availability of alternate areas for pinnipeds to avoid the resultant acoustic and visual disturbances from the restoration activities and helicopter operations. Results from previous monitoring reports also show that the pinnipeds returned to the various sites and did not permanently abandon haul-out sites after the Society conducted their activities.

(3) There is no potential for large-scale movements leading to injury, serious injury, or mortality because the Society must delay ingress onto NWSR until after the pinnipeds present have slowly entered the water.

NMFS does not anticipate that any injuries, serious injuries, or mortalities would occur as a result of the Society's proposed activities, and NMFS does not propose to authorize injury, serious injury or mortality. These species may exhibit behavioral modifications, including temporarily vacating the area during the proposed helicopter operations and restoration activities to avoid the resultant acoustic and visual

disturbances. Further, these proposed activities would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat. Due to the nature, degree, and context of the behavioral harassment anticipated, the activities are not expected to impact rates of recruitment or survival.

Based on this notice's analysis of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the Society's proposed helicopter operations and restoration/maintenance activities would have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As mentioned previously, NMFS estimates that the Society's activities could potentially affect, by Level B harassment only, four species of marine mammals under our jurisdiction. For each species, these estimates are small numbers (each, less than or equal to one percent) relative to the population size. These incidental harassment take numbers represent approximately 0.14 percent of the U.S. stock of California sea lion, 0.42 percent of the eastern U.S. stock of Steller sea lion, 0.11 percent of the California stock of Pacific harbor seals, and 0.06 percent of the San Miguel Island stock of northern fur seal. Because of the required mitigation measures and the likelihood that some pinnipeds will avoid the area, no injury or mortality to pinnipeds is expected nor requested. The proposed taking would be limited to small numbers of marine mammals, relative to the population sizes of the affected species or stocks (i.e., for each species, these numbers are less than one percent).

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that the Society's proposed helicopter operations and restoration/maintenance activities would take small numbers of marine mammals relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

Endangered Species Act (ESA)

NMFS does not expect that the Society's proposed helicopter operations and restoration/maintenance activities would affect any species listed under the ESA. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required.

National Environmental Policy Act (NEPA)

To meet our NEPA requirements for the issuance of an Authorization to the Society, NMFS has prepared an Environmental Assessment (EA) in 2010 that was specific to conducting aircraft operations and restoration and maintenance work on the St. George Reef Light Station. The EA, titled "Issuance of an Incidental Harassment Authorization to Take Marine Mammals by Harassment Incidental to Conducting Aircraft Operations, Lighthouse Restoration and Maintenance Activities on St. George Reef Lighthouse Station in Del Norte County, California," evaluated the impacts on the human environment of our authorization of incidental Level B harassment resulting from the specified activity in the specified geographic region. At that time, NMFS concluded that issuance of an annual Authorization would not significantly affect the quality of the human environment and issued a Finding of No Significant Impact (FONSI) for the 2010 EA regarding the Society's activities. In conjunction with the Society's 2014 application, NMFS has again reviewed the 2010 EA and determined that there are no new direct, indirect or cumulative impacts to the human and natural environment associated with the IHA requiring evaluation in a supplemental EA and NMFS, therefore, intends to preliminarily reaffirm the 2010 FONSI. An electronic copy of the EA and the FONSI for this activity is available upon request (see **ADDRESSES**).

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes issuing an Authorization to the Society for conducting helicopter operations and restoration activities on the St. George Light Station in the northeast Pacific Ocean, April 1 through April 30, 2014 and November 1, 2014, through March 31, 2015, provided they incorporate the previously mentioned mitigation, monitoring, and reporting requirements.

Draft Authorization

The St. George Reef Lighthouse Preservation Society (Society), P.O. Box 577, Crescent City, CA 95531, is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1371(a)(5)(D)) and 50 CFR 216.107, to harass marine mammals incidental to conducting helicopter operations and restoration and maintenance work on the St. George Reef Light Station (Station) on Northwest Seal Rock in the northeast Pacific Ocean.

1. This Incidental Harassment Authorization (IHA) is valid from April 1 through April 30, 2014 and November 1, 2014, through March 31, 2015.

2. This IHA is valid only for activities associated with helicopter operations and restoration and maintenance activities (See items 2(a)–(d)) on the Station on Northwest Seal Rock (41°50′24″ N, 124°22′06″ W) in the northeast Pacific Ocean.

a. The use of a small, compact, 4-person helicopter with two-bladed main and tail rotors fitted with noise-attenuating blade tip caps to transit to and from Northwest Seal Rock;

b. restoration activities (e.g., painting, plastering, welding, and glazing) conducted on the Station;

c. maintenance activities (e.g., bulb replacement and automation of the light system) conducted on the Station; and

d. emergency repair events (e.g., the failure of the PATON beacon light) between April 1 through April 30, 2014 and November 1, 2014, through March 31, 2015, outside of the three-day work session.

3. General Conditions

a. A copy of this IHA must be in the possession of the Society, its designees, and work crew personnel operating under the authority of this IHA.

b. The species authorized for taking are the California sea lion (*Zalophus californianus*), Pacific Harbor seal (*Phoca vitulina*), the eastern Distinct Population Segment of Steller sea lion (*Eumetopias jubatus*), and the eastern Pacific stock of northern fur seal (*Callorhinus ursinus*).

c. The taking, by Level B harassment only, is limited to the species listed in condition 3(b) (See Table 1 for take numbers, attached).

d. The taking by Level A harassment, injury or death of any of the species listed in item 3(b) of the Authorization or the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

e. In the case of an emergency repair event (*i.e.,* failure of the PATON beacon light) between May 1, 2014 through October 31, 2014, the Society will consult with the ARA, Western Region, NMFS, to best determine the timing of an emergency repair trip to the Station.

a. The Western Region NMFS marine mammal biologist will make a decision regarding when the Society can schedule helicopter trips to the Northwest Seal Rock during the emergency repair time window and will ensure that such operations will have the least practicable adverse impact to marine mammals.

b. The ARA, Western Region, NMFS will also ensure that the Society's request for incidental take during an emergency repair event would not exceed the number of incidental take authorized in this IHA.

4. Cooperation

The holder of this Authorization is required to cooperate with the NMFS and any other Federal, state, or local agency authorized to monitor the impacts of the activity on marine mammals.

5. Mitigation Measures

In order to ensure the least practicable impact on the species listed in condition 3(b), the holder of this Authorization is required to:

a. Conduct restoration and maintenance activities at the Station at a maximum of one session per month between April 1 through April 30, 2014 and November 1, 2014, through March 31, 2015. Each restoration session will be no more than three days in duration. Maintenance of the light beacon will occur only in conjunction with the monthly restoration activities.

b. Ensure that helicopter approach patterns to the Northwest Seal Rock will be such that the timing techniques are least disturbing to marine mammals. To the extent possible, the helicopter should approach Northwest Seal Rock when the tide is too high for the marine mammals to haul-out on Northwest Seal Rock.

c. Avoid rapid and direct approaches by the helicopter to the station by approaching Northwest Seal Rock at a relatively high altitude (e.g., 800–1,000 ft; 244–305 m). Before the final approach, the helicopter shall circle lower, and approach from area where the density of pinnipeds is the lowest. If for any safety reasons (e.g., wind conditions or visibility) such helicopter approach and timing techniques cannot be achieved, the Society must abort the restoration and maintenance session for that day.

d. Provide instructions to the Society's members, the restoration crew, and if applicable, to tourists, on appropriate conduct when in the vicinity of hauled-out marine mammals. The Society's members, the restoration crew, and if applicable, tourists, will avoid making unnecessary noise while on Northwest Seal Rock and must not view pinnipeds around the base of the Station.

e. Ensure that the door to the Station's lower platform shall remain closed and barricaded at all times.

6. Monitoring

The holder of this Authorization is required to:

a. Have a NMFS-approved biologist present during all three workdays at the Station at least once during the period between April 1 through April 30, 2014 and November 1, 2014, through March 31, 2015. This requirement may be modified depending on the results of the monthly monitoring reports. The biologist shall document use of the island by the marine mammals (i.e., dates, time, tidal height, species, numbers present, frequency of use, weather conditions, and any disturbances), and note any responses to potential disturbances.

b. Record the date, time, and location (or closest point of ingress) of each visit to the Northwest Seal Rock. See Table 2 for an example of a data collection sheet.

c. Collect the following information for each visit:

i. Information on the numbers (by species) of marine mammals observed during the activities;

ii. the estimated number of marine mammals (by species) that may have been harassed during the activities;

iii. any behavioral responses or modifications of behaviors that may be attributed to the specific activities (e.g., flushing into water, becoming alert and moving, rafting); and

iv. information on the weather, including the tidal state and horizontal visibility.

d. Employ a skilled, aerial photographer to document marine mammals hauled out on Northwest Seal Rock for comparing marine mammal presence on Northwest Seal Rock pre- and post-restoration.

i. The photographer will complete a photographic survey of Northwest Seal Rock using the same helicopter that will transport Society personnel to the island during restoration trips.

ii. For a pre-restoration survey, photographs of all marine mammals hauled-out on the island shall be taken at an altitude greater than 300 m (984 ft) during the first arrival flight to Northwest Seal Rock.

iii. For the post-restoration survey, photographs of all marine mammals hauled-out on the island shall be taken at an altitude greater than 300 m (984 ft) during the last departure flight from Northwest Seal Rock;

iv. The Society and/or its designees will forward the photographs to a biologist capable of discerning marine mammal species. The Society shall provide the data to us in the form of a report with a data table, any other significant observations related to marine mammals, and a report of restoration activities (see Reporting). The Society will make available the original photographs to NMFS or to other marine mammal experts for inspection and further analysis.

7. Reporting Requirements

Final Report: The holder of this authorization is required to submit a draft monitoring report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East West Highway, 13th Floor, Silver Spring, MD 20910; phone (301) 427–8401 no later than 90 days after the project is completed. The report must contain the following information:

a. A summary of the dates, times, and weather during all helicopter operations, restoration, and maintenance activities.

b. Species, number, location, and behavior of any marine mammals, observed throughout all monitoring activities.

c. An estimate of the number (by species) of marine mammals that are known to have been exposed to visual and acoustic stimuli associated with the helicopter operations, restoration, and maintenance activities.

d. A description of the implementation and effectiveness of the monitoring and mitigation measures of the IHA and full documentation of methods, results, and interpretation pertaining to all monitoring.

8. Reporting Prohibited Take

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization (if issued), such as an injury (Level A harassment), serious injury, or mortality (e.g., vessel-strike, stampede, etc.), the Society shall immediately cease the specified activities and immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to

Jolie.Harrison@noaa.gov and *ITP.Cody@noaa.gov* and the Assistant Western Regional Stranding Coordinator at (562) 980–3264 (*Justin.Greenman@noaa.gov*).

The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

The Society shall not resume its activities until we are able to review the circumstances of the prohibited take. We shall work with the Society to determine what is necessary to minimize the likelihood of further prohibited take and ensure Marine Mammal Protection Act compliance. The Society may not resume their activities until notified by us via letter, email, or telephone.

9. Reporting an Injured or Dead Marine Mammal With an Unknown Cause of Death

In the event that the Society discovers an injured or dead marine mammal, and the lead visual observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), the Society will immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Assistant Western Regional Stranding Coordinator at (562) 980–3264 (*Justin.Greenman@noaa.gov*). The report must include the same information identified in the paragraph above this section. Activities may continue while we review the circumstances of the incident. We will work with the Society to determine whether modifications in the activities are appropriate.

The report must include the same information identified in the paragraph above. Activities may continue while we review the circumstances of the incident. We will work with the Society to determine whether modifications in the activities are appropriate.

10. Reporting an Injured or Dead Marine Mammal Not Related to the SGRLPS' Activities

In the event that the Society discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Society will report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Assistant Western Regional Stranding Coordinator at (562) 980–3264 (*Justin.Greenman@noaa.gov*), within 24 hours of the discovery.

The Society's staff will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

11. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if the authorized taking is having a more than a negligible impact on the species or stock of affected marine mammals.

Information Solicited

We request comments on our analysis, the draft authorization, and any other aspect of this notice of proposed Authorization for the Society's proposed helicopter operations and restoration/maintenance activities. Please include any supporting data or literature citations with your comments to help inform our final decision on the Society's request for an application.

Dated: February 11, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–03379 Filed 2–14–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Academy Board of Visitors; Notice of Meeting

AGENCY: U.S. Air Force Academy Board of Visitors

ACTION: Meeting Notice.

SUMMARY: In accordance with 10 U.S.C. Section 9355, the U.S. Air Force Academy (USAFA) Board of Visitors (BoV) will hold a meeting in Harmon Hall, United States Air Force Academy, in Colorado Springs CO on March 6–7, 2014. The meeting will begin at 9:00 a.m. The purpose of this meeting is to review morale and discipline, social climate, curriculum, instruction, infrastructure, fiscal affairs, academic methods, and other matters relating to the Academy. Specific topics for this meeting include a Superintendent's Update; a USAFA Non-profit Financial Support Briefing; a USAFA Curriculum Overview; a Graduate Assessment Survey Briefing; a Preparatory School Overview; a classroom visit and a tour of the Center for Innovation and Cyber Center Tour. In accordance with 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, one session of this meeting shall be closed to the public because it involves matters covered by subsection (c)(6) of 5 U.S.C. 552b. Public attendance at the open portions of this USAFA BoV meeting shall be accommodated on a first-come, first-served basis up to the reasonable and safe capacity of the meeting room. In addition, any member of the public wishing to provide input to the USAFA BoV should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements must address the following details: The issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and provide any necessary background information. Written statements can be submitted to the Designated Federal Officer (DFO) at the Air Force address detailed below at any time. However, if a written statement is not received at least 10 calendar days before the first day of the meeting which is the subject of this notice, then it may not be provided to or considered by the BoV until its next open meeting. The DFO will review all timely submissions with the BoV Chairman and ensure they are provided to members of the BoV before the meeting that is the subject of this notice. For the benefit of the public, rosters that list the names of BoV members and any releasable materials presented during the open portions of this BoV meeting shall be made available upon request. If after review of timely submitted written comments and the BoV Chairman and DFO deem appropriate, they may choose to invite

the submitter of the written comments to orally present the issue during an open portion of the BoV meeting that is the subject of this notice. Members of the BoV may also petition the Chairman to allow specific personnel to make oral presentations before the BoV. In accordance with 41 CFR 102–3.140(d), any oral presentations before the BoV shall be in accordance with agency guidelines provided pursuant to a written invitation and this paragraph. Direct questioning of BoV members or meeting participants by the public is not permitted except with the approval of the DFO and Chairman.

FOR FURTHER INFORMATION CONTACT: For additional information or to attend this BoV meeting, contact Maj Mark Cipolla, Accessions and Training Division, AF/A1PT, 1040 Air Force Pentagon, Washington, DC 20330, (703) 695–4066.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. 2014–03394 Filed 2–14–14; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice for the Great Lakes and Mississippi River Interbasin Study (GLMRIS); Extension of Public Comment Period

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

ACTION: Notice of Extension of Public Comment Period.

SUMMARY: On January 6, 2014, USACE published a notice (79 FR 647) in the **Federal Register** soliciting public comments on the GLMRIS Report that presents a range of options and technologies available to prevent aquatic nuisance species (ANS) movement between the Great Lakes and Mississippi River basins through aquatic connections. Due to additional public meetings and public requests, USACE has extended the end of the public comment period from March 3, 2014 to March 31, 2014.

DATES: The comment due date is extended to March 31, 2014. Comments must be received on or before March 31, 2014. Please refer to the **ADDRESSES** section for instructions on comment submittal.

ADDRESSES: Interested persons are invited to submit comments in the following ways:

- GLMRIS project Web site: Use the web form found at *http://glmris.anl.gov* through March 31, 2014;
- Mail: Send written information to U. S. Army Corps of Engineers, Chicago District, GLMRIS ANS Control Comments, 231 S. LaSalle St., Suite 1500, Chicago, IL 60604. Comments must be postmarked by March 31, 2014; and
- Hand Delivery: Comments may be hand delivered to the USACE, Chicago District office located at 231 S. LaSalle St., Suite 1500, Chicago, IL 60604 between 8:00 a.m. and 4:30 p.m. Comments must be received by March 31, 2014.

Comments received during the comment period will be posted on the GLMRIS project Web site. You may indicate that you do not wish to have your name or other personal information made available on the Web site. However, USACE cannot guarantee that information withheld from the Web site will be maintained as confidential. Requests for disclosure of collected information will be handled through the Freedom of Information Act. Comments and information, including the identity of the submitter, may be disclosed, reproduced, and distributed. Submissions should not include any information that the submitter seeks to preserve as confidential.

FOR FURTHER INFORMATION CONTACT: For further information and/or questions about GLMRIS, please contact USACE, Chicago District, Project Manager, Mr. David Wethington, *by mail:* USACE, Chicago District, 231 S. LaSalle St., Suite 1500, Chicago, IL 60604, *by phone:* 312–846–5522 or *by email: david.m.wethington@usace.army.mil.*

For media inquiries, please contact USACE, Chicago District, Public Affairs Officer, Ms. Lynne Whelan, *by mail:* USACE, Chicago District, 231 S. LaSalle St., Suite 1500, Chicago, IL 60604, *by phone:* 312–846–5330 or *by email: lynne.e.whelan@usace.army.mil.*

SUPPLEMENTARY INFORMATION: 1. *Background:* USACE conducted GLMRIS in consultation with other federal agencies, Native American tribes, state agencies, local governments and non-governmental organizations. The GLMRIS authority directed USACE to identify the range of options and technologies available to prevent the spread of ANS between the Great Lakes and Mississippi River basins through the Chicago Sanitary and Ship Canal and other aquatic pathways. In GLMRIS, USACE has identified thirteen ANS of Concern established in one basin with the risk for transfer to the other, analyzed and evaluated available ANS controls, and formulated alternatives specifically for the Chicago Area Waterway System (CAWS) with the goal of preventing ANS transfer between the two basins.

2. *The GLMRIS Report:* The GLMRIS Report identifies eight potential alternatives—from continuing current efforts to complete separation of the watersheds, and evaluates the potential of these alternatives to control the interbasin spread of thirteen ANS, which include fish (such as Asian carp), algae, crustaceans, plants and viruses. The report also identifies potential significant adverse impacts that alternatives may have on existing uses and users of the waterways, such as flood risk management, navigation, and water quality, and identifies mitigation measures that could be implemented to minimize these impacts.

Authority: This action is being undertaken pursuant to the Water Resources and Development Act of 2007, Section 3061, Pub. L. 110–114, and Section 1538 of Public Law 112–141 of the Moving Ahead for Progress in the 21st Century Act.

Dated: February 10, 2014.

Susanne J. Davis,

Chief, Planning Branch.

[FR Doc. 2014–03491 Filed 2–14–14; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Board on Coastal Engineering Research

AGENCY: Department of the Army, DoD.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Board on Coastal Engineering Research. This meeting is open to the public.

DATES: The Board on Coastal Engineering Research will meet from 8:00 a.m. to 5:00 p.m. on March 18, 2014, and reconvene from 8:00 a.m. to 12:00 p.m. on March 19, 2014.

ADDRESSES: Both sessions of the meeting will be held in the Washington Room, Fort Hamilton Community Club, 207 Sterling Drive, Brooklyn, NY 11252.

FOR FURTHER INFORMATION CONTACT: Colonel Jeffrey R. Eckstein, Designated Federal Officer (DFO) and Executive Secretary, U.S. Army Engineer Research and Development Center, Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199,

phone 601–634–2513, or *Jeffrey.R.Eckstein@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The Board on Coastal Engineering Research provides broad policy guidance and reviews plans for the conduct of research and the development of research projects in consonance with the needs of the coastal engineering field and the objectives of the U.S. Army Chief of Engineers.

Purpose of the Meeting: The purpose of the meeting is for the Board to discuss its accomplishments and impacts; contemporary Coastal Research, Development and Technology (RD&T) priorities and accomplishments; review U.S. Army the Chief of Engineers' Charge to the Board and discuss knowledge gaps, and receive a status report on the Field Research Facility Experiment Series in Fiscal Years 2015/2016.

Agenda: On Tuesday morning, March 18, 2014, the Board will review past initiatives and where they stand today, including a discussion of: contemporary coastal research, development and technology priorities; accomplishments, including Hurricane Sandy initiatives; infrastructure; and other Civil Works research areas. Tuesday afternoon will be devoted to a discussion of the Chief of Engineers' Charge to the Board.

On Wednesday morning, March 19, 2014, the Board will reconvene to review and discuss knowledge gaps identified through and assessment of the Chief's Charge and through RD&T involvement in Hurricane Sandy response and recovery. In addition, the Board will receive a status report on experiment planning and expectations for the Field Research Facility Experiment Series for Fiscal Years 2015/2016. The meeting will close with a discussion about potential topics to consider in the context of the next Board meeting.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, the meeting is open to the public. Because seating capacity is limited, advance registration is required. Registration can be accomplished as set forth below. Because the meeting of the Board will be held in a Federal Government facility on a military base (Fort Hamilton Military Community), security screening is required. A photo ID is required to enter the base. The name of each person seeking entry will be checked against the list of names of those persons who have registered to attend the meeting. Individuals will be directed to the Fort Hamilton Community Club. Please note that Fort Hamilton guards have the right to inspect vehicles seeking to enter and exit the base. Anyone arriving the base on foot may be required to proceed through a metal detector and the guards may exercise the right to search bags and belongings. The Fort Hamilton Community Club is fully handicap accessible. Wheelchair access is available from the rear entrance of the building.

Written Comments of Statements: Pursuant to 41 CFR 102–3.015(j) and 102–3.140 and section 10(a)(3) of the FACA, the public or interested organizations may submit written comments or statements to the Board, in response to the stated agenda of the open meeting or in regard to the Board's mission in general. Written comments or statements should be submitted to Colonel Jeffrey R. Eckstein, DFO, via electronic mail, the preferred mode of submission, as the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The DFO will review all submitted written comments or statements and provide them to members of the Board for their consideration. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the DFO at least five calendar days prior to the meeting to be considered by the Board. Written comments or statements received after this date may not be provided to the Board until its next meeting.

Registration: Individuals who wish to attend the one or both sessions of this meeting of the Board must register with the DFO by email, the preferred method of contact, no later than March 12, using the electronic mail contact information found in the **FOR FURTHER INFORMATION CONTACT** section. The communication should include the registrant's full name, title, affiliation or employer, email address, and daytime phone number. If applicable, include written comments or statements with the registration email.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2014–03445 Filed 2–14–14; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Application for New Awards; Alaska Native Education Program

AGENCY: Office of Elementary and Secondary Education, Department of Education

ACTION: Notice.

Overview Information: Alaska Native Education Program.

Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.356A.

DATES: Applications Available: February 18, 2014.

Deadline for Transmittal of Applications: April 21, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Alaska Native Education (ANE) program is to support innovative projects that enhance the educational services provided to Alaska Native children and adults. These projects may include the activities authorized under section 7304(a)(2) and (a)(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

Note: Congress has expressly authorized the use of FY 2014 program funds for construction of facilities that support the operation of Alaska Native education programs.

Priorities: This competition includes one competitive preference priority and one invitational priority. In accordance with 34 CFR 75.105(b)(2)(iv), the competitive priority is from section 7304(c) of the ESEA, as amended (20 U.S.C. 7544(c)). The invitational priority is for applications that propose to carry out activities that preserve and strengthen Native culture and language.

Competitive Preference Priority:

For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award an additional 10 points to an application that meets this priority.

This priority is:

Competitive Preference Priority—Alaska Native Regional Nonprofit Organization (10 points).

An applicant that is an Alaska Native regional nonprofit organization or a consortium that includes at least one Alaska Native regional nonprofit organization.

Note: In order to receive a competitive preference under this priority, the applicant

must provide documentation supporting its claim that it meets this priority.

Under this competition, we also are particularly interested in applications that address the following priority.

Invitational Priority: For FY 2014, and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Invitational Priority 1—Preservation of Native Culture and Language.

Applications that propose to carry out activities that preserve and strengthen Native culture and language.

Definitions: These definitions are from section 7306 of the ESEA (20 U.S.C. 7546) and 34 CFR 77.1(c). For purposes of this competition, the following definitions apply:

Alaska Native has the same meaning as the term "Native" has in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)). (20 U.S.C. 7546).

Alaska Native Organization means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and another organization that has or commits to acquire expertise in the education of Alaska Natives; and has Alaska Natives in substantive and policymaking positions within the organization. (20 U.S.C. 7546).

Strong theory means a rational for the proposed process, product, strategy, or practice that includes a logic model. (34 CFR 77.1(c)).

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (i.e., the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally. (34 CFR 77.1(c)).

Program Authority: 20 U.S.C. 7544.

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

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

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $11,020,912.

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

Estimated Range of Awards: $300,000 to $1,056,000.

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 22.

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

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* (a) Alaska Native organizations; (b) educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages; (c) cultural and community-based organizations with experience in developing or operating programs to benefit Alaska Natives; and (d) consortia of organizations and entities described in this paragraph.

Note: A State educational agency (SEA) or local educational agency (LEA), including a charter school that is considered an LEA under State law, may apply for an award under this program only as part of a consortium involving an Alaska Native organization. The consortium may also include other eligible applicants.

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

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the program office. To obtain a copy via the Internet, use following address: *http://www2.ed.gov/programs/alaskanative/index.html.* To obtain a copy from the program office, contact: Almita Reed, U.S. Department of Education, 400 Maryland Avenue SW., room 3E335, Washington, DC 20202–6200. Telephone: (202) 260–1979 or by email: *Almita.Reed@ed.gov.*

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

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

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to no more than 25 pages, using the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: February 18, 2014.

Deadline for Transmittal of Applications: April 21, 2014.

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

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

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under *For Further Information Contact* in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a

disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This competition is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* Under section 7304(b) of the ESEA, as amended (20 U.S.C. 7544(b)), not more than five percent of the funds provided to a grantee under this competition for any fiscal year may be used for administrative purposes. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

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

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

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

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

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

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

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

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

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

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

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

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

7. *Other Submission Requirements:*

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

a. *Electronic Submission of Applications.*

Applications for grants under the ANE program, CFDA number 84.356A, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

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

You may access the electronic grant application for the ANE program at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.356, not 84.356A).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov*.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a .PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable .PDF file. If you upload a file type other than a read-only, non-modifiable .PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with the page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

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

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

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

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

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

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the *Grants.gov* system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

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

Address and mail or fax your statement to: Almita Reed, U.S. Department of Education, 400 Maryland Avenue SW., room 3E335, Washington, DC 20202–6200.

FAX: (202) 260–8969.

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

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.356A) LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

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

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

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

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

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

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

(1) A private metered postmark.

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

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

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

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

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.356A) 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34

CFR 75.210. The maximum score for all criteria is 100 points. The maximum possible score for each criterion is indicated in parentheses. The selection criteria for this competition are as follows:

(a) *Need for project* (20 points). The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the magnitude or severity of the problem to be addressed by the proposed project.

(b) *Quality of the project design* (20 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (10 points).

(ii) The extent to which the proposed project is supported by strong theory (as defined in 34 CFR 77.1(c)) (10 points).

(c) *Quality of the management plan* (20 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project (10 points).

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project (10 points).

(d) *Adequacy of resources (10 points).* The Secretary considers the adequacy of the resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project (10 points).

(e) *Quality of project evaluation* (10 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies (5 points).

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes (5 points).

(d) *Quality of project services* (20 points) The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age or disability. In addition, the Secretary considers the extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services (20 points).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has developed the following performance measures for measuring the overall effectiveness of the ANE program: (1) The percentage of Alaska Native students in schools served by the program who meet or exceed proficiency standards in reading, mathematics, and science on the Alaska State assessments; (2) the percentage of Alaska Native children participating in early learning and preschool programs who consistently demonstrate school readiness in language and literacy as measured by the Revised Alaska Development Profile; and (3) the percentage of Alaska Native students in schools served by the program who graduate from high school with a high school diploma in four years.

All grantees will be expected to submit an annual performance report that includes data addressing these performance measures, to the extent that they apply to the grantee's project.

5. *Continuation Awards:* In making a continuation award, the Secretary may

consider, under 34 CFR 75.253, the extent to which a grantee has made "substantial progress toward meeting the objectives in its approved application." This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Almita Reed, U.S. Department of Education, 400 Maryland Avenue SW., room 3E335, Washington, DC 20202–6200. Telephone: (202) 260–1979 or by email: *Almita.Reed@ed.gov.*

If you use a TDD, call the FRS, toll free at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in the text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 12, 2014.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2014–03475 Filed 2–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Native Hawaiian Education Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Native Hawaiian Education Program

Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.362A.

DATES: Applications Available: February 18, 2014.

Deadline for Transmittal of Applications: April 21, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Native Hawaiian Education (NHE) program is to support innovative projects that enhance the educational services provided to Native Hawaiian children and adults. These projects may include those activities authorized under section 7205(a)(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

Note: Congress expressly authorized that FY 2014 program funds may be used to support the construction, renovation, or modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, that is run by the Department of Education of the State of Hawaii that serves a predominately Native Hawaiian student body.

Priorities: This competition includes six competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(iv), competitive preference priorities one through four are from section 7205(a)(2) of the ESEA (20 U.S.C. 7515(a)(2)). Competitive preference priorities five and six are from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637).

Competitive Preference Priorities: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional twelve points to an application, depending on how well the application meets one or more of these priorities.

These priorities are:

Competitive Preference Priority 1—Needs of At-risk Children and Youth. (2 points)

Projects that are designed to address the needs of at-risk children and youth.

Competitive Preference Priority 2—Native Hawaiian Underemployment. (2 points)

Projects that are designed to address needs in fields or disciplines in which Native Hawaiians are underemployed.

Competitive Preference Priority 3—Hawaiian Language Instruction. (2 points)

Projects that are designed to address the use of the Hawaiian language in instruction.

Competitive Preference Priority 4—Beginning Reading and Literacy. (2 points)

Projects that are designed to address beginning reading and literacy among students in kindergarten through third grade.

Competitive Preference Priority 5—Improving Early Learning Outcomes. (2 points)

Projects that are designed to improve school readiness and success for high-need children (as defined in this notice) from birth through third grade (or for any age group of high-need children within this range) through a focus on one or more of the following priority areas:

(a) Physical well-being and motor development.

(b) Social-emotional development.

(c) Language and literacy development.

(d) Cognition and general knowledge, including early numeracy and early scientific development.

(e) Approaches toward learning.

Competitive Preference Priority 6—Improving Achievement and High School Graduation Rates. (2 points)

Projects that are designed to address one or more of the following priority areas:

(a) Accelerating learning and helping to improve high school graduation rates (as defined in this notice) and college enrollment rates for students in rural local educational agencies (as defined in this notice).

(b) Accelerating learning and helping to improve high school graduation rates (as defined in this notice) and college enrollment rates for students with disabilities.

(c) Accelerating learning and helping to improve high school graduation rates (as defined in this notice) and college enrollment rates for English learners.

(d) Accelerating learning and helping to improve high school graduation rates (as defined in this notice) and college enrollment rates for high-need students (as defined in this notice).

(e) Accelerating learning and helping to improve high school graduation rates (as defined in this notice) and college enrollment rates in high-poverty schools (as defined in this notice).

(f) Accelerating learning and helping to improve high school graduation rates (as defined in this notice) and college enrollment rates for all students in an inclusive manner that ensures that the specific needs of high-need students (as defined in this notice) participating in the project are addressed.

Note: In order to receive additional points under a competitive preference priority, an application must provide adequate and sufficient information that clearly substantiates its claim that it meets the competitive priority.

Definitions: These definitions are from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637), and 34 CFR 77.1 (c).

Graduation rate means a four-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1) and may also include an extended-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1)(v) if the State in which the proposed project is implemented has been approved by the Secretary to use such a rate under Title I of the ESEA. (76 FR 27637).

High-need children and high-need students means children and students at risk of educational failure, such as children and students who are living in poverty, who are English learners, who are far below grade level or who are not on track to becoming college- or career-ready by graduation, who have left school or college before receiving, respectively, a regular high school diploma or a college degree or certificate, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who are pregnant or parenting teenagers, who have been incarcerated, who are new immigrants, who are migrant, or who have disabilities. (76 FR 27637).

High-poverty school means a school in which at least 50 percent of students are eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act or in which at least 50 percent of students are from low-income families as determined using one of the criteria specified under section 1113(a)(5) of the ESEA, as amended. For middle and high schools, eligibility may be calculated on the basis of comparable data from feeder schools. Eligibility as a high-poverty school under this definition is determined on the basis of the most currently available data. (76 FR 27637).

Rural local education agency means a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the ESEA. Eligible applicants may determine whether a particular LEA is eligible for these programs by referring to information on the Department's Web site at *http://www2.ed.gov/nclb/freedom/local/reap.html.* (76 FR 27637).

Strong theory means a rationale for the propose process, product, strategy, or practice that includes a logic model. (34 CFR 77.1 (c)).

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy. Or practice (i.e., the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally. (34 CFR 77.1 (c)).

Program Authority: 20 U.S.C. 7515.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637).

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

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $9,540,200.

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

Estimated Range of Awards: $250,000 to $950,000.

Estimated Average Size of Awards: $425,000.

Estimated Number of Awards: 22.

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

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Native Hawaiian educational organizations; Native Hawaiian community-based organizations; public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language; and consortia of the previously mentioned organizations, agencies, and institutions.

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

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free: 1–800–877–8339.

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

If you request an application from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.362A.

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

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

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to no

more than 25 pages, using the following standards:

- A "page" is 8.5" × 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: February 18, 2014.

Deadline for Transmittal of Applications: April 21, 2014.

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

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

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

4. *Intergovernmental Review:* This competition is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* Under section 7205(b) of the ESEA, not more than five percent of funds provided to a grantee under this competition for any fiscal year may be used for administrative purposes. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

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

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

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

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

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

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

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

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

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

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

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

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

7. *Other Submission Requirements:*

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

a. *Electronic Submission of Applications.*

Applications for grants under the NHE program, CFDA number 84.362A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

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

You may access the electronic grant application for the NHE program at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.362, not 84.362A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and

submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a .PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable .PDF file. If you upload a file type other than a read-only, non-modifiable .PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with the page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

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

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

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

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

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

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

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

Address and mail or fax your statement to: Joanne Osborne, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E214, Washington, DC 20202–6200. FAX: (202) 260–8969.

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

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.362A) LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

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

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

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

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

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

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

(1) A private metered postmark.

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

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

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

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

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.362A), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the following paragraphs. The maximum score for all criteria is 100 points. The maximum possible score for each criterion is indicated in parentheses.

(a) *Need for project (20 points).* The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project (10 points).

(ii) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals (10 points).

(b) *Significance (10 points).* The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the potential for generalizing from the findings or results of the proposed project.

(c) *Quality of the project design (30 points).* The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (10 points).

(ii) The extent to which the proposed project is supported by strong theory (as defined in 34 CFR 77.1) (10 points).

(iii) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition (10 points).

(d) *Adequacy of resources (10 points).* The Secretary considers the adequacy of the resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (10 points).* The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(f) *Quality of the project evaluation (20 points).* The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project (10 points).

(ii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other the settings (10 points).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for the grant under this competition, you must ensure that you have in place the

necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 (GPRA) performance measures for this program: (1) The percentage of Native Hawaiian students in schools served by the program who meet or exceed proficiency standards in reading, mathematics, and science on the State assessments; (2) The percentage of Native Hawaiian children participating in early education programs who consistently demonstrate school readiness in literacy as measured by the Hawaii School Readiness Assessment; (3) The percentage of Native Hawaiian students in schools served by the program who graduate from high school with a regular high school diploma, as defined in 34 CFR 200.19(b)(1)(iv), in four years; and (4) The percentage of students participating in a Hawaiian language program conducted under the Native Hawaiian Education program who meet or exceed proficiency standards in reading on a test of the Hawaiian language.

All grantees will be expected to submit an annual performance report that includes data addressing these performance measures, to the extent that they apply to the grantee's project.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made "substantial progress toward meeting the objectives in its approved application."

This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes identified in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Joanne Osborne, U.S. Department of Education, 400 Maryland Avenue SW., room 3E214, Washington, DC 20202–6200. Telephone: (202) 401–1265 or by email: *Joanne.Osborne@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disk) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in the text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 12, 2014.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2014–03477 Filed 2–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–53–000.

Applicants: BIF II US Gen AcquireCo LLC, Safe Harbor Water Power Corp., LSP Safe Harbor Holdings, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act and Requests for Confidential Treatment and Waivers of LSP Safe Harbor Holdings, LLC, et. al.

Filed Date: 2/7/14.

Accession Number: 20140207–5017.

Comments Due: 5 p.m. ET 2/28/14.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG14–25–000.

Applicants: Marsh Hill Energy LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Marsh Hill Energy LLC.

Filed Date: 2/4/14.

Accession Number: 20140204–5107.

Comments Due: 5 p.m. ET 2/25/14.

Docket Numbers: EG14–26–000.

Applicants: OCI Solar Power LLC.

Description: EWG Self-Certification of EG of the OCI Alamo 1 LLC facility by OCI Solar Power LLC.

Filed Date: 2/6/14.

Accession Number: 20140206–5097.

Comments Due: 5 p.m. ET 2/27/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–1933–003.

Applicants: Green Mountain Power Corporation.

Description: Updated Market Power Analysis in northeast region of Green Mountain Power Corporation.

Filed Date: 2/7/14.

Accession Number: 20140207–5089.

Comments Due: 5 p.m. ET 4/8/14.

Docket Numbers: ER14–460–002.

Applicants: Appalachian Power Company.

Description: 20140207 TCC At K Revision to be effective 2/14/2014.

Filed Date: 2/7/14.

Accession Number: 20140207–5092.

Comments Due: 5 p.m. ET 2/28/14.

Docket Numbers: ER14–1269–000.

Applicants: AES Alamitos, LLC.

Description: Order 784 Tariff Filing to be effective 3/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5112.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1270–000.

Applicants: PJM Interconnection, L.L.C.

Description: Revisions to PJM OATT & OA re PJM Member Data Communications to be effective 4/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5113.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1271–000.

Applicants: AES Armenia Mountain Wind, LLC.

Description: Order 784 Tariff Amendment to be effective 2/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5115.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1272–000.

Applicants: AES Beaver Valley, LLC.

Description: Order 784 Tariff Amendment to be effective 2/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5116.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1273–000.

Applicants: AES ES Tait, LLC.

Description: Order 784 Tariff Amendment to be effective 2/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5117.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1274–000.

Applicants: AES Laurel Mountain, LLC.

Description: Order 784 Tariff Amendment to be effective 2/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5120.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1275–000.

Applicants: AES Redondo Beach, L.L.C.

Description: Order 784 Tariff Amendment to be effective 2/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5121.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1276–000.

Applicants: Mountain View Power Partners, LLC.

Description: Order 784 Tariff Amendment to be effective 2/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5123.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1277–000.

Applicants: Mountain View Power Partners IV, LLC.

Description: Order 784 Tariff Amendment to be effective 2/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5126.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1278–000.

Applicants: AES Huntington Beach, L.L.C.

Description: Order 784 Tariff Amendment to be effective 2/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5129.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1279–000.

Applicants: Arizona Public Service Company.

Description: Rate Schedule No. 271 Agency Agreement between APS and SCE to be effective 2/28/2014.

Filed Date: 2/7/14.

Accession Number: 20140207–5000.

Comments Due: 5 p.m. ET 2/28/14.

Docket Numbers: ER14–1280–000.

Applicants: Dogwood Energy LLC.

Description: Amendment to December 30, 2013 Market-Based Rate Tariff Filing to be effective 3/1/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5135.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1281–000.

Applicants: Powerex Corp.

Description: Amendment to Powerex Corp. Rate Schedule No. 1 to be effective 4/7/2014.

Filed Date: 2/6/14.

Accession Number: 20140206–5136.

Comments Due: 5 p.m. ET 2/27/14.

Docket Numbers: ER14–1282–000.

Applicants: Liberty Utilities (Granite State Electric) Corp.

Description: Market-Based Sales Tariff to be effective 2/8/2014.

Filed Date: 2/7/14.

Accession Number: 20140207–5035.

Comments Due: 5 p.m. ET 2/28/14.

Docket Numbers: ER14–1283–000.

Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, Inc.

Description: 2014–02–07_Rate Sch 39_ETI–ETEC JPZ Agr to be effective 12/19/2013.

Filed Date: 2/7/14.

Accession Number: 20140207–5040.

Comments Due: 5 p.m. ET 2/28/14.

Docket Numbers: ER14–1284–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Reliability-Related Information Policy Changes to be effective 4/8/2014.

Filed Date: 2/7/14.

Accession Number: 20140207–5079.

Comments Due: 5 p.m. ET 2/28/14.

Docket Numbers: ER14–1284–001.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Reliability-Related Information Policy Changes to be effective 4/8/2014.

Filed Date: 2/7/14.

Accession Number: 20140207–5088.

Comments Due: 5 p.m. ET 2/28/14.

Docket Numbers: ER14–1285–000.

Applicants: Liberty Utilities (Granite State Electric) Corp.

Description: Notice of Cancellation to be effective 2/8/2014.

Filed Date: 2/7/14.

Accession Number: 20140207–5080.

Comments Due: 5 p.m. ET 2/28/14.

Docket Numbers: ER14–1286–000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: TO LGIA between National Grid and Carr Street SA no. 2076. to be effective 12/16/2013.

Filed Date: 2/7/14.

Accession Number: 20140207–5087.

Comments Due: 5 p.m. ET 2/28/14.

Docket Numbers: ER14–1287–000.

Applicants: Southern California Edison Company.

Description: LGIAs with Alta Wind Q97, LLC and Alta Wind Q153, LLC to be effective 4/9/2014.

Filed Date: 2/7/14.

Accession Number: 20140207–5091.

Comments Due: 5 p.m. ET 2/28/14.

Docket Numbers: ER14–1288–000.

Applicants: Liberty Utilities (Granite State Electric) Corp.

Description: Notice of Succession to be effective 2/8/2014.

Filed Date: 2/7/14.

Accession Number: 20140207–5093.

Comments Due: 5 p.m. ET 2/28/14.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA13–1–000; LA13–2–000; LA13–3–000.

Applicants: NextEra Energy Companies.

Description: Amending December 19, 2013, et. al., Quarterly Land Acquisition Reports of the NextEra Energy Companies.

Filed Date: 1/29/14.

Accession Number: 20140129–5248.

Comments Due: 5 p.m. ET 2/19/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests,

service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 7, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–03418 Filed 2–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–446–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Neg Rate Agmt Filing (Enterprise 41933) to be effective 2/6/2014.
Filed Date: 2/6/14.
Accession Number: 20140206–5018.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP14–447–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 02/06/14 Negotiated Rates—JP Morgan Ventures Energy Corp (HUB) 6025–89 to be effective 2/5/2014.
Filed Date: 2/6/14.
Accession Number: 20140206–5024.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP14–448–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 02/06/14 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 2/6/2014.
Filed Date: 2/6/14.
Accession Number: 20140206–5026.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP14–449–000.
Applicants: Questar Overthrust Pipeline Company.
Description: Cashout Index Price to be effective 3/10/2014.
Filed Date: 2/6/14.
Accession Number: 20140206–5046.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP14–450–000.
Applicants: Questar Pipeline Company.
Description: Cashout Index Pricing to be effective 3/10/2014.
Filed Date: 2/6/14.
Accession Number: 20140206–5047.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP14–451–000.
Applicants: East Cheyenne Gas Storage, LLC.
Description: Non-conforming Agreements Filing 2–6–14 to be effective 3/8/2014.
Filed Date: 2/6/14.
Accession Number: 20140206–5053.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP14–452–000.
Applicants: Guardian Pipeline, L.L.C.
Description: Negotiated Rate PAL Agreement—Exelon Generation Company, L.L.C. to be effective 2/6/2014.
Filed Date: 2/6/14.
Accession Number: 20140206–5122.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP14–453–000.
Applicants: Enable Gas Transmission, LLC, Enable Mississippi River Transmission, L.
Description: Petition for Limited Waiver of the Enable Interstate Pipelines Regarding Portions of Order No. 787.
Filed Date: 2/6/14.
Accession Number: 20140206–5139.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP14–454–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 02/07/14 Negotiated Rates—JP Morgan Ventures Energy Corp (HUB) 6025–89 to be effective 2/6/2014.
Filed Date: 2/7/14.
Accession Number: 20140207–5146.
Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: RP14–455–000.
Applicants: Guardian Pipeline, L.L.C.
Description: Negotiated Rate PAL Agreement—Chevron U.S.A., Inc. to be effective 2/10/2014.
Filed Date: 2/7/14.
Accession Number: 20140207–5163.
Comments Due: 5 p.m. ET 2/19/14.

Docket Numbers: RP14–456–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 02/10/14 Negotiated Rates—Trafigura (HUB) 7445–89 to be effective 2/8/2014.
Filed Date: 2/10/14.
Accession Number: 20140210–5000.
Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: RP14–457–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 02/10/14 Negotiated Rates—United Energy Trading, LLC (HUB) 5095–89 to be effective 2/8/2014.
Filed Date: 2/10/14.
Accession Number: 20140210–5001.
Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: RP14–458–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Neg Rate Agmts Filing (Macquarie 41957 and Wells Fargo 41956) to be effective 2/8/2014.
Filed Date: 2/10/14.
Accession Number: 20140210–5028.
Comments Due: 5 p.m. ET 2/24/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–1031–006.
Applicants: Trailblazer Pipeline Company LLC.
Description: Interim Rates Correction to be effective 2/1/2014.
Filed Date: 2/6/14.
Accession Number: 20140206–5134.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP14–402–001.
Applicants: Texas Eastern Transmission, LP.
Description: Amendment to ConocoPhillips Releases 2–01–2014 to be effective 2/1/2014.
Filed Date: 2/6/14.
Accession Number: 20140206–5092.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP14–403–001.
Applicants: Texas Eastern Transmission, LP.
Description: Amendment to ConocoPhillips Releases 4–01–2014 to be effective 4/1/2014.
Filed Date: 2/6/14.
Accession Number: 20140206–5099.
Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: RP12–993–005.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Supplement to Stipulation and Agreement Tariff Record Filing to be effective 2/1/2014.
Filed Date: 2/7/14.
Accession Number: 20140207–5115.
Comments Due: 5 p.m. ET 2/19/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 10, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–03419 Filed 2–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–460–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/10/2014 Negotiated Rates—JP Morgan Ventures Energy Corp (HUB) 6025–89 to be effective 2/8/2014.

Filed Date: 2/10/14.

Accession Number: 20140210–5092.

Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: RP14–461–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/10/14 Negotiated Rates Sequent Energy Management (HUB) 3075–89 to be effective 2/11/2014.

Filed Date: 2/11/14.

Accession Number: 20140211–5000.

Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: RP14–462–000.

Applicants: Gulf South Pipeline Company, LP.

Description: PAL Neg Rate Agmts (41965, 41966, 41967, 41970) to be effective 2/11/2014.

Filed Date: 2/11/14.

Accession Number: 20140211–5030.

Comments Due: 5 p.m. ET 2/24/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 11, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–03420 Filed 2–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–29–000]

New York Association of Public Power (Complainant) v. Niagara Mohawk Power Corporation, The New York Independent System, Operator, Inc. (Respondents); Notice of Complaint

Take notice that on February 6, 2014, pursuant to section 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and section and 206 of the Federal Power Act, 16 U.S.C. 824(e), the New York Association of Public Power (NYAPP) filed a formal complaint against Niagara Mohawk Power Corporation (NMPC) and The New York Independent System Operator, Inc. (NYISO) alleging that, NMPC's use of an 11.5 percent return on common equity (ROE) in calculating rates for transmission services under the NYISO's Open Access Transmission Tariff (OATT) rate is unjust and unreasonable. NYAPP requests the Commission issue an order to reduce the 11.5 percent ROE used in calculating rates for transmission service under the NYISO's OATT to a just and reasonable level of 9.46 percent, inclusive of a 50 basis point adder for participation in the NYISO, with a corresponding overall weighted cost of capital of 6.60 percent.

The NYAPP certifies that copies of the complaint were served on the contacts of NMPC and the NYISO as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on February 26, 2014.

Dated: February 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–03435 Filed 2–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12613–004]

Tygart LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380, the Office of Energy Projects has reviewed the application for an original license for the proposed 30-megawatt (MW) Tygart Hydroelectric Project to be located on the Tygart River in Taylor County, West Virginia, at the U.S. Army Corps of Engineers' (Corps) Tygart Dam and has prepared an environmental assessment (EA).

In the EA, Commission staff analyzes the potential environmental effects of licensing the project and concludes that issuing a license for the construction and operation of the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room or may be viewed on

the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Comments on the EA should be filed within 30 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–12613–004.

For Further Information Contact: Allyson Conner at (202) 502–6082.

Dated: February 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–03437 Filed 2–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1153–000]

Verso Androscoggin Power LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

February 10, 2014.

This is a supplemental notice in the above-referenced proceeding of Verso Androscoggin Power LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is March 3, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–03436 Filed 2–14–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9906–40–OEI]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or email at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 1176.11; NSPS for New Residential Wood Heaters; 40 CFR part 60 subparts A and AAA; was approved on 01/02/2014; OMB Number 2060–0161; expires on 01/31/2017; Approved without change.

EPA ICR Number 1078.10; NSPS for Phosphate Rock Plants; 40 CFR part 60 subparts A and NN; was approved on 01/02/2014; OMB Number 2060–0111; expires on 01/31/2017; Approved without change.

EPA ICR Number 2355.03; Restructuring of Stationary Source Audit Program (Renewal); 40 CFR parts 51, 60 61 and 63; was approved on 01/02/2014; OMB Number 2060–0652; expires on 01/31/2017; Approved without change.

EPA ICR Number 2421.04; Conditional Exclusion from RCRA Definition of Hazardous Waste for Carbon Dioxide Streams Managed in UIC Class VI Wells for the Purpose of Geologic Sequestration (Final Rule); 40 CFR 261.4(h); was approved on 01/03/2014; OMB Number 2050–0207; expires on 01/31/2017; Approved without change.

EPA ICR Number 1063.12; NSPS for Sewage Sludge Treatment Plants; 40 CFR part 60 subparts A and O; was approved on 01/07/2014; OMB

Number 2060–0035; expires on 01/31/2017; Approved without change.

EPA ICR Number 1158.11; NSPS for Rubber Tire Manufacturing; 40 CFR part 60 subparts A and BBB; was approved on 01/07/2014; OMB Number 2060–0156; expires on 01/31/2017; Approved without change.

EPA ICR Number 2072.05; NESHAP for Lime Manufacturing; 40 CFR part 63 subparts A and AAAAA; was approved on 01/22/2014; OMB Number 2060–0544; expires on 01/31/2017; Approved without change.

EPA ICR Number 1895.08; Revisions to the Total Coliform Rule (Final Rule); 40 CFR parts 141 and 142; was approved on 01/23/2014; OMB Number 2040–0205; expires on 08/31/2015; Approved without change.

EPA ICR Number 0193.11; NESHAP for Beryllium; 40 CFR parts 61 subpart A and C; was approved on 01/29/2014; OMB Number 2060–0092; expires on 01/31/2017; Approved without change.

Comment Filed

EPA ICR Number 2459.01; Performance-Based Measurement System for Fuels (Proposed Rule); in 40 CFR part 80; OMB filed comment on 01/03/2014.

John Moses,

Director, Collections Strategies Division.

[FR Doc. 2014–03335 Filed 2–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9013–5]

Environmental Impact Statements; Notice of Availability

Responsible Agencyy: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 02/03/2014 Through 02/07/2014 Pursuant to 40 CFR 1506.9.

Notice

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: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20140035, Draft EIS, FHWA, NY, Interstate 87 (I–87) Exit 4 Access Improvements, *Comment Period Ends:* 04/01/2014, *Contact:* Jonathan McDade 518–431–4127.

EIS No. 20140036, Final EIS, BIA, NV, RES Americas Moapa Solar Energy Center, *Review Period Ends:* 03/17/2014, *Contact:* Garry Cantley 602–379–6750 Ext. 1256.

EIS No. 20140037, Final EIS, NPS, CA, Merced Wild and Scenic River Final Comprehensive Management Plan, *Review Period Ends:* 03/17/2014, *Contact:* Kathleen Morse 209–379–1110.

EIS No. 20140038, Draft Supplement, NMFS, 00, Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico, *Comment Period Ends:* 03/31/2014, *Contact:* Jess Beck-Stimpert 727–551–5755.

Amended Notices

EIS No. 20140012, Draft EIS, HHS, GA, Centers for Disease Control and Prevention Roybal Campus 2015–2025 Master Plan, *Comment Period Ends:* 04/10/2014, *Contact:* George Chandler 404–245–2763. Revision to the FR Notice Published 01/24/2014; Extending Comment Period from 03/10/2014 to 04/10/2014.

Dated: February 11, 2014.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2014–03317 Filed 2–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9906–79–OAR]

Meeting of the Mobile Sources Technical Review Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee (MSTRS) will meet virtually on March 3, 2014. The MSTRS is a subcommittee under the Clean Air Act Advisory Committee. This is an open meeting. The meeting will include discussion and review of the SmartWay Legacy Fleet Work Group's Report. The preliminary agenda for the meeting and any notices about change in venue will be posted on the Subcommittee's Web site: *http://www.epa.gov/air/caaac/mobile_sources.html.* MSTRS listserver subscribers will receive notification when the agenda and report are available on the Subcommittee Web site. To subscribe to the MSTRS listserver, send an email to *Etchells.elizabeth@epa.gov.*

DATES: Monday, March 3, 2014 from 3:00 p.m. to 4:30 p.m. EST.

Virtual Location: This is a virtual meeting via Adobe Connect webinar software. On March 3, 2014 at 3 p.m. EST, to join the webinar go to: *https://epa.connectsolutions.com/mstrs/* and click "Enter as Guest". Also, please call (866) 299–3188 and enter conference call code 202 343 9231# for the audio portion of the meeting.

FOR FURTHER INFORMATION CONTACT: Elizabeth Etchells, Designated Federal Officer, Transportation and Climate Division, Mailcode 6406J, U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460; Ph: 202–343–9231; email: *Etchells.elizabeth@epa.gov*

Background on the work of the Subcommittee is available at: *http://www.epa.gov/air/caaac/mobile_sources.html.* Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Ms. Etchells at the address above by February 27, 2014. The Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

SUPPLEMENTARY INFORMATION: During the meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

For Individuals With Disabilities: For information on access or services for individuals with disabilities, please contact Ms. Etchells (see above). To request accommodation of a disability, please contact Ms. Etchells, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 8, 2014.

Christopher Grundler,

Director, Office of Transportation and Air Quality.

[FR Doc. 2014–03449 Filed 2–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9906–83–OEI; EPA–HQ–OEI–2013–0731]

Creation of a New System of Records Notice: My Workplace

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Office of Environmental Information (OEI) is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). EPA is implementing the My Workplace system of records utilizing Microsoft Office 365 and SharePoint Online to deliver a cost effective, user-friendly, collaboration solution that will enhance productivity by facilitating communication, coordination and collaboration Agency-wide.

DATES: Persons wishing to comment on this system of records notice must do so by March 31, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2013–0731, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: oei.docket@epa.gov.*
- *Fax:* 202–566–1752.
- *Mail:* OEI Docket, Environmental Protection Agency, Mail code: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* OEI Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. For more information, go to *http://www.epa.gov/epahome/dockets.htm.*

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2013–0731. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available (e.g., CBI or other information for which disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone numbers for the Public Reading Room and the OEI Docket are (202) 566–1744 and (202) 566–1752, respectively.

FOR FURTHER INFORMATION CONTACT: Lin Darlington, Associate Chief, Policy and Program Management Branch, Office of Information Analysis and Access, Office of Environmental Information, 202–566–0696.

SUPPLEMENTARY INFORMATION:

General Information

EPA proposes to create a new system of records under the Privacy Act to enhance the Agency's communication and collaboration environment. EPA is implementing My Workplace, utilizing Microsoft Office 365 and SharePoint Online, to deliver a cost effective, user-friendly, agency-wide collaboration solution that will help transform the way employees work at EPA. My Workplace will enhance productivity by making it easier for the Agency's multi-disciplinary, geographically dispersed workforce stay better informed by facilitating communication, coordination, collaboration and innovation, thus allowing EPA to deliver better on its mission of protecting human health and the environment.

The My Workplace collaboration tool will contain information about employees obtained from other Agency systems (e.g., name, user id, work phone number) or voluntarily provided by the users (e.g., home phone number, home address). The system will contain employees' names, user identification numbers, telephone numbers, office numbers and locations, organizational information, skill sets, education and experience. This information will be used to foster communication and enhance the ability of employees to locate individuals with relevant experience and skill sets.

EPA plans to use a feature of the system that consists of personalized profiles for each employee as an Agency directory to help connect subject matter experts to Agency projects. The profiles will include work-related information (office location, office phone number) as well as optional information voluntarily provided by the employee such as work experience and educational history or photographs. The use of the profile will improve information sharing and collaboration among colleagues and make it easier for EPA staff to locate the knowledge skills and abilities required for Agency projects and initiatives.

My Workplace will use Lync, an instant messaging and video conferencing tool, to promote discussion and communication through instant messaging and online meetings. Lync will include the information contained in the personalized profiles and will temporarily display additional information about a user's presence or status, based on the user's online activity, (e.g., "user has been away for 20 minutes"). This feature is active by default, but users may disable it. Users will also have the option of posting a personalized status message for other users to see on their profile. The information for both Lync and the personalized profiles will be stored in Microsoft's Shared Government Cloud and will be accessible by users of the system. Initial profile information will be populated using EPA's existing directory information; however, users will have the ability to update and manage their profiles.

My Workplace will allow users to establish team collaboration workspaces; facilitate sharing of documents, policies and information; and network through the SharePoint features. The SharePoint environment will include Agency policies, procedures, forms, organization charts, links to other sites that are helpful for users, and links to other EPA SharePoint sites containing shared documents and other information. Sharepoint will include content on program and regional offices, services and support,

and projects and activities. My Workplace will include a directory of all users, including contact information, titles and professional business information. Users will be able to set up a personal profile, upload pictures, and publish content and messages that are similar to email. My Workplace will also allow employees to join groups, connect with colleagues, receive newsfeeds when new information is posted, and identify colleagues with specialized knowledge and/or expertise to participate in collaborative efforts. Employees will also be able to use their profiles to apply to participate on virtual collaboration projects and teams.

The system will be managed and maintained by EPA's Office of Environmental Information.

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SYSTEM NAME:

My Workplace

SYSTEM LOCATION:

Environmental Protection Agency (EPA), Office of Environmental Information (OEI), 1200 Pennsylvania Ave. NW., Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees, contractors on the EPA network and invited stakeholders, including but not limited to grantees, contractors, other federal or state officials, and industry partners.

CATEGORIES OF RECORDS IN THE SYSTEM:

For EPA employees this includes, but is not limited to, user name, common name or nickname, email address, organization, supervisor name, subordinates, office telephone, telework telephone, government cell phone number, fax number, personal cell phone, home phone, blackberry PIN, building location, office location, mail code, mailing address, courier address, home address, employee's title or position classification, other position title, professional affiliation, clearances, skills, disciplines with experience and knowledge, current and past projects and work activities, membership in inter-Agency or intra-agency formal workgroups or informal communities of practice, membership in professional associations, education, certifications, publications, detail status and photograph. Additionally, users of Lync may have status information, personalized messages and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 40 U.S.C. 11315, 44 U.S.C. 3506.

PURPOSE(S):

To enhance and improve efficiencies in the dissemination and exchange of information within the EPA and allow colleagues to more easily connect with each other.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

EPA's General Routine Uses: A, C, D, E, F, G, H, J, K, L apply to this system. Please refer to *http://www.epa.gov/privacy/notice/general.htm* for a full explanation of these routine uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer records are stored on a secure server and accessed over the Web via encryption software. Paper records, when created, are kept in file folders and cabinets in secure rooms. When individuals download information, it is stored on encrypted, password secured Agency computers. All records will have appropriate administrative, technical and physical safeguards to ensure their security and confidentiality.

RETRIEVABILITY:

Information is retrievable by name of the user; organizational information is retrievable by organization name.

SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through various administrative, technical and physical security measures. Technical security measures within EPA include restrictions on computer access to authorized individuals, required use of strong passwords that are frequently changed, use of encryption for certain data types and transfers, and regular review of security procedures and best practices to enhance security. Physical measures include restrictions on building access to authorized individuals, only, and by maintaining records in lockable offices and filing cabinets.

RETENTION AND DISPOSAL:

The records will be managed in accordance with EPA retention schedule 129, Item b.

SYSTEM MANAGER(S) AND ADDRESS:

Lin Darlington, Office of Environmental Information, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

NOTIFICATION PROCEDURES:

Requests to determine whether this system of records contains a record pertaining to you must be sent to the Agency's Freedom of Information Office. The address is U.S. Environmental Protection Agency; 1200 Pennsylvania Ave. NW., Room 6416, WJC West, Washington, DC 20460; (202) 566–1667; Email: *(hq.foia@epa.gov)*; Attn: Privacy Act Officer.

RECORD ACCESS PROCEDURE:

Individuals seeking access to their own personal information in this system of records are required to provide adequate identification (e.g., driver's license, military identification card, employee badge or identification card and, if necessary, proof of authority). Additional identity verification procedures may be required as warranted. Requests must meet the requirements of EPA regulations at 40 CFR part 16.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Requests must be submitted to the Agency contact indicated on the initial document for which the related contested record was submitted.

RECORD SOURCE CATEGORIES:

The sources for information in the system are the individuals about whom the records are maintained and other EPA information systems.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: November 20, 2013.

Renee P. Wynn,

Acting Assistant Administrator, and Acting Chief Information Officer.

[FR Doc. 2014–03431 Filed 2–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9906–82–OEI; EPA–HQ–OEI–2012–0483]

Amendment of the Federal Docket Management System (EPA/GOV–2)

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 USC 552a), the Environmental Protection Agency (EPA) is giving notice that it is amending the Federal Docket Management System (FDMS) system of records to include additional categories of records. The amendment is required

to address additional categories of information collected from Freedom of Information Act (FOIA) requesters by some participating agencies and information voluntarily provided, even when not required. The categories of records in the system are being amended to include social security numbers, dates of birth for requesters, requester alias(es), alien numbers assigned to travelers crossing national borders and the requester's parents' names. The FOIA system, "FOIAonline", is a software application on the FDMS system infrastructure. The FOIAonline system is used by participating agencies to electronically receive, process, track and store requests from the public for federal records; post responsive records to a Web site; collect data for annual reporting requirements to the Department of Justice, and manage internal FOIA administration activities. In addition to the current FDMS functionalities, the FOIA system allows the public to submit and track FOIA requests and appeals; access requests and responsive records online, and obtain the status of requests filed with participating agencies.

DATES: Persons wishing to comment on this system of records notice must do so by March 31, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2012–0483 by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: oei.docket@epa.gov.*
- *Fax:* 202–566–1752.
- *Mail:* OEI Docket, Environmental Protection Agency, Mail code: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* OEI Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2012–0483. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov*. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment, and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available (e.g., confidential or other information for which disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: eRulemaking Program Management Office, (202) 566–1385, U.S. EPA, Office of Environmental Information, M/C 2282T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

General Information

EPA is amending the Federal Docket Management System (FDMS) (System number: EPA–GOV–2) to include additional categories of records. The original system of record notice for FDMS was published in the **Federal Register** on March 24, 2005 and was amended on October 2, 2013 to add records collected in a Freedom of Information Act (FOIA) system. The FDMS regulatory system contains **Federal Register** notices, materials supporting regulatory actions such as scientific and economic analyses, and public comments. The repository also contains dockets that are non-rulemaking. The system is used by 39 federal agencies that conduct rulemaking activities. Each agency is responsible for managing its own docket and rulemaking documents. An agency may share documents with other agencies or persons in addition to making them available to the public on the regulations.gov Web site. Each agency has sole responsibility for documents submitted in support of its rulemakings. These documents will be processed by the responsible agencies.

Some agencies require individuals to provide personally identifiable information when submitting a comment (e.g., name and contact information) that the agency can use if it experiences a problem receiving the comment or requires additional information to process the comment. A comment that meets all requirements of the recipient agency will be posted on the regualtions.gov Web site for public viewing. All the contents of posted comments will be searchable. Each agency manages, accesses, and controls the information in the regulatory system that is submitted to it and maintains the sole ability to disclose the information it receives.

The FOIA system, FOIAonline, is used by participating agencies to administratively control and process requests for records in compliance with FOIA and to automate agency FOIA administration activities. FOIAonline provides a secure, login access Web site for agencies to receive and store requests; assign and process requests; post responses online; produce agencies' annual reports to the Department of Justice and manage FOIA requests electronically. The system allows the public to submit and track requests; search and download requests and responsive records; correspond with processing staff and file appeals as registered users. Each participating agency manages, accesses, and controls requests submitted to it through FOIAonline, including responding to requests for information in the possession of the agency and making information available in the system's repository of released records. The types of FOIA requests submitted to agencies by FOIA requesters vary according to an agency's mission as does the type of information an agency requires from requesters when they submit a FOIA. Social security numbers and other types

of personally identifiable information may be provided although not required. Agencies will ensure that sensitive PII is not made publicly available.

The name of a FOIA requester will be publicly available and searchable by the public based on an Agency's policies. With the exception of a requester's name, any other personally identifiable information provided by a requester during the process of completing the online request form or creating an online account (e.g., home addresses, email address and contact information) will not be posted to the Web site, nor will it be searchable by the public. Personally identifiable information determined to be publicly releasable and contained in documents released to the public under FOIA (e.g., the names and official contact information of government employees or the names of agency correspondents) will be publicly available and searchable by the public if posted by a participating agency based on their internal policies.

Dated: December 19, 2013.

Renee P. Wynn,

Acting Assistant Administrator, and Acting Chief Information Officer.

EPA–GOVT–2

SYSTEM NAME:

Federal Docket Management System (FDMS)

SYSTEM LOCATION:

U.S. EPA, Research Triangle Park, NC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual commenting on a federal agency's rulemaking activities or submitting supporting materials and individuals requesting access to records pursuant to the Freedom of Information Act, 5 U.S.C. 552 (FOIA) or appealing initial denials of their requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Agency rulemaking materials including, but not limited to, **Federal Register** publications, supporting rulemaking documentation, scientific and financial studies and public comments. Records also include the requests filed for agency records pursuant to FOIA, including individuals' names, mailing addresses, email addresses, phone numbers, social security numbers, dates of birth, alias(es) used by the requester, alien numbers assigned to travelers crossing national borders, requester's parents' names, user names and passwords for registered users, FOIA tracking numbers, dates requests are submitted and received, related appeals and agency responses. Records also include communications with requesters, internal FOIA administration documents (e.g., billing invoices) and responsive records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 206(d) of the E-Government Act of 2002 (Pub. L. 107–347, 44 U.S.C. Ch 36); Freedom of Information Act, 5 U.S.C. 552; Privacy Act of 1974, 5 U.S.C. 552a; Clinger-Cohen Act of 1986, 40 U.S.C. 11318; and 5 U.S.C. 301.

PURPOSE(S):

To provide the public a central online location to search, view, download and comment on Federal rulemaking documents and a single location to submit and track FOIA requests and appeals filed with participating agencies, along with providing the agencies electronic FOIA processing and administrative capabilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, K, and L apply to this system. Records may also be disclosed to another Federal agency (a) with an interest in an agency record in connection with a referral of a Freedom of Information Act (FOIA) request to that agency for its views or decision on disclosure or (b) in order to obtain advice and recommendations concerning matters on which the agency has specialized experience or particular competence that may be useful to agencies in making required determinations under FOIA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

FDMS security protocols meet all required security standards issued by the National Institute of Science and Technology (NIST). Records in FDMS are maintained in a secure, password protected electronic system that utilizes security hardware and software to include multiple firewalls, active intruder detection, and role-based access controls. Additional safeguards will vary by agency.

RETRIEVABILITY:

The system has the ability to retrieve records by numerous data elements and key word searches, including name, agency, dates, subject, docket type, docket sub-type, agency docket ID, docket title, docket category, document type, CFR Part, date received and **Federal Register** publication date, FOIA tracking number and other information retrievable with full-text searching capability.

ACCESSING:

The public may access regulatory records in the system at *www.regulations.gov* and FOIA records at *https://foiaonline.regulations.gov.*

SAFEGUARDS:

FDMS security protocols meet multiple NIST security standards from authentication to certification and accreditation. Records in the system are maintained in a secure, password protected electronic system that utilizes security hardware and software to include multiple firewalls, active intruder detection, and role-based access controls. Additional safeguards vary by agency for the regulatory records. Security controls are commensurate with those required for an information system rated moderate for confidentiality, integrity and availability as prescribed by NIST.

RETENTION AND DISPOSAL:

Each Federal agency handles its records in accordance with its records schedule as approved by the National Archives and Records Administration (NARA). FOIA records are covered under NARA General Record Schedule 14—Information Services Records unless a participating agency's records are managed under other record schedules approved by NARA.

SYSTEM MANAGER(S) ADDRESS AND CONTACT INFORMATION:

eRulemaking PMO, Office of Information Collection, Office of Environmental Information, U.S. EPA, M/C 2821T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

NOTIFICATION PROCEDURE:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should contact the agency conducting the rulemaking activity or to the agency that provided the FOIA response, as appropriate.

RECORD ACCESS PROCEDURE:

Individuals seeking access to their own personal information in this system of records is required to provide adequate identification (e.g., driver's license, military identification card, employee badge or identification card and, if necessary, proof of authority). Additional identity verification procedures may be required as warranted. Requests must meet the

requirements of EPA regulations at 40 CFR part 16.

CONTESTING RECORDS PROCEDURES:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Requests must be submitted to the agency contact indicated on the initial document for which the related contested record was submitted.

RECORD SOURCE CATEGORIES:

Records deriving for individuals commenting on federal rulemaking activities and filing FOIA requests and appeals.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 2014–03430 Filed 2–14–14; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9906–90–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("CAA" or the "Act"), notice is hereby given of a proposed consent decree to address a lawsuit filed by Sierra Club in the United States District Court for the District of Columbia: *Sierra Club* v. *McCarthy*, Civil Action No. 1:13-cv-00385 (BAH) (D.D.C.). On March 25, 2013, Plaintiff filed a complaint, and on June 7, 2013 filed an amended complaint, alleging that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency ("EPA"), failed to: (a) Take timely final action to approve, disapprove, or partially approve/disapprove a State Implementation Plan ("SIP") submission made by Georgia on July 20, 2010 addressing Georgia Rule for Air Quality 391–3–1–.02(uuu) and (b) take action, within 60 days after they were filed, granting or denying several petitions submitted by Sierra Club requesting that EPA object to CAA Title V permits issued by the Georgia Environmental Protection Division for Georgia Power Company's Scherer Steam-Electric Generating Plant, Hammond Steam-Electric Generating Plant, Wansley Steam-Electric Generating Plant, Kraft Steam-Electric Generating Plant, and McIntosh Steam-Electric Generating Plant. The proposed consent decree would establish deadlines for EPA to take such actions.

DATES: Written comments on the proposed consent decree must be received by *March 20, 2014.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2014–0150, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Karen Bennett Bianco, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–3298; fax number: (202) 564–5603; email address: *bennett.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by Sierra Club seeking to compel the Administrator to take actions under CAA sections 110(k)(2), (3) and 505(b)(2). Under the terms of the proposed consent decree, EPA would agree to sign a notice of final rulemaking to approve, disapprove, or approve in part and disapprove in part Georgia's July 20, 2010 SIP Submittal addressing Georgia Rule for Air Quality 391–3–1-.02(uuu) ("GA SIP") no later than November 16, 2016, unless Georgia withdraws its July 20, 2010 SIP submittal. The proposed consent decree also states that no later than April 14, 2014, EPA shall sign its response granting or denying the Sierra Club petitions regarding Georgia Power Company's Scherer Steam-Electric Generating Plant, Permit No. 4911–207–0008–V–03–0, Hammond Steam-Electric Generating Plant, Permit No. 4911–115–0003–V–03–0, Wansley Steam-Electric Generating Plan, Permit No. 4911–149–0001–V–03–0, Kraft Steam-Generating Plant, Permit No. 4911–051–0006–V–03–0, and McIntosh Steam-Electric Generating Plant, Permit No. 4911–103–0003–V–03–0, pursuant to section 505(b)(2) of the CAA.

Under the terms of the proposed consent decree, EPA will deliver notice of each action to the Office of the Federal Register for review and publication within 15 business days of signature. In addition, the proposed consent decree outlines the procedure for the Plaintiff to request costs of litigation, including attorney fees.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2014–0150) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search".

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper,

will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do i submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an "anonymous access" system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: February 7, 2014.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2014–03427 Filed 2–14–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of an effort to streamline the process to seek feedback from the public on service delivery, the Federal Communications Commission (FCC) has submitted a Generic Information Collection Request to OMB for approval under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520). The FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; and ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 21, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Walter Boswell, Federal Communications Commission, via the Internet at *walter.boswell@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Walter Boswell, Office of Managing Director, (202) 418–2178 or by email at *walter.boswell@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1149.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, and state, local, or tribal government.

Number of Respondents: 259,600.

Estimated Time per Response: .166 hours (10 minutes).

Frequency of Response: On time reporting requirement.

Obligation to Respond: Voluntary.

Total Annual Burden: 43,267 hours.

Total Annual Costs: N/A.

Nature and Extent of Confidentiality: Responses to feedback instruments will be confidential.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or change in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative

information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods of assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–03330 Filed 2–14–14; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–OGP–2014–01; Docket 2014–0002; Sequence 6]

GSA's Travel Data Challenge Competition

AGENCY: Office of Government-wide Policy, General Services Administration.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce a challenge competition hosted by GSA's Office of Government-wide Policy that will begin on February 14th, 2014. The competition will be open until April 11, 2014. The competition details can be viewed at *www.challengepost.com* on or after February 14th. The goal of this challenge is to ask the public to develop a smart technology solution that has the capability to provide agencies with key insights and recommendations for cost savings behaviors related to travel. GSA will challenge solvers to create a tool using sample GSA travel data that can then be replicated across Government to aid agencies in making smarter travel decisions. Furthermore, GSA will ask members of the public to provide recommendations for improvement in data collection.

DATES: February 18, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Pearlman at *katherine.pearlman@gsa.gov* or 202–738–2591.

SUPPLEMENTARY INFORMATION: The U.S. General Services Administration (GSA) manages a broad portfolio of key, government-wide operations and policies. In managing this portfolio, GSA has access to extensive government operations data—data which may hold potential solutions to some federal agencies' most pressing problems. GSA's Office of Government-wide Policy, sponsor of the Travel Data Challenge, is looking to bring a quantitative approach to the data the federal government collects in order to help agencies make smarter business decisions, and to allow them to drive greater saving and efficiencies. Pursuing this goal supports several of GSA's highest priorities in serving our partners, including delivering better value and savings, and leading with innovation.

In this GSA Travel Data Challenge, the public is asked to develop a technology-driven solution using GSA travel data that allows an agency to identify opportunities to reduce costs. As such, GSA challenges the public to create a tool using GSA travel data that could be replicated across government to every agency, using their own travel data. Sample data sets with GSA travel data will be provided. However, in order to solve the key purpose of this competition, challenge solvers should address how the tool can be replicated using travel data from other agencies. This tool is intended to show agencies where and how they can save money on federal travel. The tool is not intended to publicly display any agency's travel data and users will need to log in via a certified username and password to interact with the tool. One of the key purposes of the tool will be to provide agencies with visibility into their travel spending and recommendations for cost-savings behaviors. In addition, the tool will enhance internal transparency and hold agencies accountable for their spending—steps which help to save money for American taxpayers.

A second part of the GSA Travel Data Challenge asks the public to identify specific gaps in the travel data collected by the government, and to provide recommendations for how the government can improve insights into federal travel spending through additional data collection. The purpose for this information is to gain an understanding of what the government could do with additional data elements, if those data elements were to be collected by agencies. This will help increase awareness of needed improvements in data collection, and further the goal of leading greater transparency into government spending.

Details of Challenge

Design and create a digital interactive tool that utilizes federal travel data collected by GSA, in coordination with any other publicly available data sets. The technology tool should be innovative! GSA does not want an analysis tool that tells what is already known. This should be a forward-thinking tool that enhances transparency and helps to hold agencies accountable for what they are spending on travel, while also providing agencies with recommendations for how to reduce costs.

The tool should visually display data to provide meaningful insights that can help drive smarter travel decisions by federal employees. The ultimate goal is to help federal agencies drive cost saving behaviors in travel through easy to understand information. The tool should accomplish two tasks:

(1) Visually display data in a way that will show agencies how and where they are spending money on travel, and

(2) Through analysis of the data, show primary categories or cost drivers that can enable federal agencies to reduce and/or contain official travel costs compared to appropriate benchmarks (as determined through research as well as the sample data provided). Focus on attributes that consistently result in the travelers acquiring the lowest cost of a trip. Use this information to benchmark historical data against real time planning and provide action items to help travel managers monitor and improve traveler behaviors, resulting in greater travel savings through transparency. Finally, identify valuable insights that could be gained through improved data collection efforts.

Examples of Questions That Submissions to the GSA Travel Data Challenge Should Answer Include

Are travelers booking airline reservations far in advance to secure low cost airfare? How many days in advance are travelers booking their trips, taking into consideration industry standards and benchmarks? For example, is there a correlation between booking time and cost?

Are travelers utilizing travel services, such as FedRooms®?

Are travelers booking online?

With regard to data visibility issues, is key data being missed? Highlight where data is missing, e.g., where a traveler

may have not used our existing systems, therefore, data is lacking.

What data elements are missing that could be valuable to an agency travel manager or chief financial officer?

How much could an agency save if they adjusted one or a set of cost-driving behaviors such as, time of year of travel, booking online, travel to certain cities during certain times, booking in advance?

Data

Challenge solvers will be provided with sample data sets to use in designing the tool. The tool should have the capability to be updated with data from additional agencies, making the tool scalable, dynamic, and configurable. Challenge solvers should not be limited to only the data provided. Be creative and use other public data sets that can give users a better understanding of their travel options. Document all data sources and explain why they are useful. Examples of additional resources include data.gov, City Pairs, per diem rates, and Fedrooms property lists. You are encouraged to conduct research in order to find other data sources that are publicly available.

Eligibility for Challenge

Eligibility to participate in the GSA Travel Data Challenge and win a prize is limited to entities/individuals that:

(1) Have agreed to the rules of the competition as explained in this posting. (2) Are either a private entity or individual, provided further that in the case of a private entity, it is incorporated in and maintains a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, is a citizen or permanent resident of the United States; and that the participant is not a federal entity or federal employee acting within the scope of employment. An individual or entity shall not be deemed ineligible because the individual or entity used federal facilities or consulted with federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

Participants agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this competition, whether the injury, death, damage, or loss arose through negligence or otherwise. Participants also agree to obtain liability insurance or demonstrate financial responsibility, in an amount to cover a third party for death, bodily injury, property damage, or loss resulting from an activity carried out in connection with participation in this competition. Entrants are hereby advised that diligent care must be taken to avoid the appearance of Government endorsement of Entrant's competition participation and submission. Moreover, as is customary when doing business with the Federal Government, Entrant may not refer to GSA's use of your submission (be it product or service) in any commercial advertising or similar promotions in a manner that states or implies that the product or service being used is endorsed or preferred by GSA or any other element of the Federal Government, or that the Federal Government considers it to be superior to other products or services. The intent of this policy is to prevent the appearance of Federal Government bias toward any one product or service.

Entrant agrees that GSA's trademarks, logos, service marks, trade names, or the fact that GSA awarded a prize to Entrant, shall not be used by Entrant to imply direct GSA endorsement of Entrant or Entrant's submission. Both Entrant and GSA may list the other party's name in a publicly available customer or other list so long as the name is not displayed in a more prominent fashion than any other third party name.

Prizes

GSA may award up to three prizes but is not required to award all three prizes if the judges determine that only one or two entries meet the scope and requirements laid out for this challenge, or if the Agency plans to only use code from one or two entries. Funding for this GSA Travel Data Challenge award will come from the Office of Government-wide Policy's FY2014 Budget and will be made to winner(s) of the competition via electronic funds transfer, within 30 days of announcement of the winner(s).

The prizes may include three awards:

Grand Prize: $35,000.

Runner up: $30,000.

Honorable mention: $25,000.

Requirements

The final product should be a tool that is housed online and can be updated to include data sets from other agencies. Capabilities should also include updating data in the most efficient time cycle, such as monthly, quarterly, annually or as new information becomes available.

The final tool should be in Open Source Code. Open source refers to a program in which the source code is available to the general public for use and/or modification from its original design free of charge. In order to be Open Source Initiative Certified, the tool must meet following six criteria:

1. The author or holder of the license of the source code cannot collect royalties on the distribution of the program;

2. The distributed program must make the source code accessible to the user;

3. The author must allow modifications and derivations of the work under the program's original name;

4. No person, group, or field of endeavor can be denied access to the program;

5. The rights attached to the program must not depend on the program being part of a particular software distribution; and

6. The licensed software cannot place restrictions on other software that is distributed with it.

The winner(s) of the competition will, in consideration of the prize to be awarded, grant to GSA a perpetual, non-exclusive, royalty-free license to use any and all intellectual property to the winning entry for any governmental purpose, including the right to permit such use by any other agency or agencies of the Federal Government. All other rights of the winning entrant will be retained by the winner of the competition.

Scope

Any federal travel data and information that is publicly available is included in the scope of this challenge. Summary-level sample data will be provided.

PROJECT GOALS AND OBJECTIVES

Goals	Objectives
Design a tool to aggregate, synthesize, and display GSA's travel data in a way that is easy to understand and will help drive cost-saving behaviors.	—Utilize visual aids such as charts and graphs to display data. —Include capabilities for geospatial data visualization of data. —Create benchmarks and identify behaviors that can help to lower costs.
Allow for easy updates to the data	—As new data is collected later on by the Government, backend users must be easily able to update the dashboards to reflect these changes.
Allow for users to compare data to appropriate benchmarks, across agencies and within one agency.	—Design an interactive dashboard with which users can filter to view data in the following ways: 1. All travel data for one agency across topic areas—cities traveled to, dates traveled, extent of stay, cost of trip, annual travel costs, monthly travel costs, etc. 2. All data for one topic area across agencies. 3. Agency data for one topic area as compared to other specific, mission-similar or size-similar agencies. 4. Agency data for one topic area as compared to Governmentwide trends.

PROJECT MILESTONES/DELIVERABLES

Date	Milestone/deliverable description
April 11, 2014	Solver design due to GSA OGP.
May 9, 2014	Winner(s) announced.
June 6, 2014	Prize(s) Awarded.

Judging Criteria

Requirements

The solution must be an online, interactive tool that meets the goals and objectives provided in this document.

The solution must be in open source code.

The solution must include documentation of all data sources used.

The solution must include a description of how the tool can be updated with additional data from other agencies

The solver must provide recommendations to enhance Government insights through improvements in data collection.

SUBMISSIONS WILL BE JUDGED BASED ON THE FOLLOWING METRIC

Criteria	Technical competence and capabilities	Use of data to provide effective outcomes	Creativity/innovation	Valuable information and insights regarding data
Description	The tool addresses the primary goal of the challenge. It is a finished product that can provide insightful analysis and show agencies how and where they are spending money on travel. The tool can provide recommendations for cost-savings behaviors. The tool can be easily updated with new data by the back-end user.	The tool aggregates, synthesizes and displays travel data in a way that is easy to understand, visually appealing, and will help drive understanding of current trends as well as recommendations for future savings.	The tool exceeds any internal capability that GSA has for analysis of travel data through its incorporation of creative design elements and innovative capabilities..	The solver provides recommendations for additional data elements to be collected by the Government. The solver identifies gaps in the data and utilizes external data sources and research to aid the government in setting future data collection policies
Weight	50%	20%	10%	20%.
Level 1	Does not meet the goals and requirements of the challenge.	Data is not used, or outcomes are off base. Unsuitable for use by the government.	Lacks creativity and innovation.	Information is not provided.
Level 2	Meets few elements of the requirements of the challenge and goes a short way towards meeting the goal of the challenge.	Meets few elements of the requirements of the challenge and goes a short way towards meeting the goal of the challenge.	Shows little signs of creativity and innovation.	Information is lacking real recommendations or insights.
Level 3	Meets most of the requirements outlined in the challenge and contributes to the overall goal of the challenge.	Uses some of the data provided by OGP, and/or other sources, but the outcomes presented through the data are not of a high quality.	Is innovative or creative in at least one meaningful way.	Information is useful and insightful in at least one meaningful way.
Level 4	Meets all requirements outlined in the challenge, and provides substantial contribution to the goal of the challenge.	Uses the data provided by OGP, as well as other sources of data to produce effective outcomes.	Is extremely innovative and creative.	Information is useful and provides the government with some suggestions for future improvement in data collection.

SUBMISSIONS WILL BE JUDGED BASED ON THE FOLLOWING METRIC—Continued

Criteria	Technical competence and capabilities	Use of data to provide effective outcomes	Creativity/innovation	Valuable information and insights regarding data
Level 5	Solver product meets all requirements outlined in the challenge and provides additional, unique, useful capabilities that meet the overall goal of the challenge.	Uses the data provided by OGP as well as additional, publicly-available data from a variety of sources to produce outstanding outcomes.	Is extremely innovative and creative, leading to new insights and desirable outcomes.	Information provided is extensive, well thought-out, valuable, and insightful.

Judges

There will be six judges, each a senior career official of GSA with expertise in government-wide policy, travel, information technology, and/or acquisition. Each judge will award a score to each submission and the winner(s) of the competition will be decided based on the highest average overall score. GSA will also have a technical advisor from Sabre, Inc who will assist the judges in evaluating the submissions as needed. However, the technical advisor will not vote in determining the prizes. Judges will only participate in judging submissions for which they do not have any conflicts of interest.

Judges are: Anne Rung, GSA Associate Administrator for Government-wide Policy—Craig Flynn, Director—Travel Policy Division, Office of Government-wide Policy—Kris Rowley, GSA Office of the Chief Information Officer—Tim Burke, GSA Federal Acquisition Service—Jon Bearscove, GSA FAS Region 10—Sonny Hashmi—Acting Chief Information Officer—GSA Technical Advisor: Sam Gilliland, Sabre Technologies.

Registration: Anyone intending to participate in the Travel Data Challenge can register by contacting Katherine Pearlman via *katherine.pearlman@gsa.gov.* Upon registration, you will be sent the sample data sets to use in solving the challenge.

Submission of Entries

Entries must be submitted online via ChallengePost by 11:59 p.m. EST on April 11th, 2014.

Dated: February 10, 2014.

Anne Rung,

Associate Administrator, Office of Government-wide Policy, General Services Administration.

[FR Doc. 2014–03191 Filed 2–14–14; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "Pharmacy Survey on Patient Safety Culture Comparative Database." In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on December 6th, 2013 and allowed 60 days for public comment. One comment was received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by March 20, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@ahrq.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Pharmacy Survey on Patient Safety Culture Comparative Database.

In 1999, the Institute of Medicine called for health care organizations to develop a "culture of safety" such that their workforce and processes focus on improving the reliability and safety of care for patients (IOM, 1999; *To Err is Human: Building a Safer Health System*). To respond to the need for tools to assess patient safety culture in health care, AHRQ developed and pilot tested the Pharmacy Survey on Patient Safety Culture with OMB approval (OMB NO. 0935–0183; Approved 08/12/2011). The survey is designed to enable pharmacies to assess staff opinions about patient and medication safety and quality-assurance issues, and includes 36 items that measure 11 dimensions of patient safety culture. AHRQ made the survey publicly available along with a Survey User's Guide and other toolkit materials in October 2012 on the AHRQ Web site.

The AHRQ Pharmacy Survey on Patient Safety Culture (Pharmacy SOPS) Comparative Database consists of data from the AHRQ Pharmacy Survey on Patient Safety Culture. Pharmacies in the U.S. are asked to voluntarily submit data from the survey to AHRQ, through its contractor, Westat. The Pharmacy SOPS Database is modeled after three other SOPS databases: Hospital SOPS [OMB NO. 0935–0162; Approved 05/04/2010]; Medical Office SOPS [OMB NO. 0935–0196; Approved 06/12/12]; and Nursing Home SOPS [OMB NO. 0935–0195; Approved 06/12/12] that were originally developed by AHRQ in response to requests from hospitals, medical offices, and nursing homes interested in knowing how their patient safety culture survey results compare to those of other similar health care organizations.

Rationale for the information collection. The Pharmacy SOPS survey and the Pharmacy SOPS Comparative Database will support AHRQ's goals of promoting improvements in the quality and safety of health care in pharmacy

settings. The survey, toolkit materials, and comparative database results are all made publicly available on AHRQ's Web site. Technical assistance is provided by AHRQ through its contractor at no charge to pharmacies, to facilitate the use of these materials for pharmacy patient safety and quality improvement.

The goal of this project is to create the Pharmacy SOPS Comparative Database. This database will:

(1) Allow pharmacies to compare their patient safety culture survey results with those of other pharmacies,

(2) provide data to pharmacies to facilitate internal assessment and learning in the patient safety improvement process, and

(3) provide supplemental information to help pharmacies identify their strengths and areas with potential for improvement in patient safety culture.

This study is being conducted by AHRQ through its contractor, WESTAT, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve these goals the following data collections will be implemented:

(1) Registration Form—The point-of-contact (POC), the pharmacy manager or a survey participating organization, completes a number of data submission steps and forms, beginning with completion of an online Registration Form. The purpose of this form is to collect basic demographic information about the pharmacy and initiate the registration process.

(2) Pharmacy Background Characteristics Form—The purpose of this form, completed by the pharmacy manager or a participating organization, is to collect background characteristics of the pharmacy. This information will be used to analyze data collected with the Pharmacy SOPS survey.

3) Data Use Agreement—The purpose of the data use agreement, completed by the pharmacy manager or participating organization is to state how data submitted by pharmacies will be used and provide confidentiality assurances.

(4) Data Files Submission –POCs upload their data file(s), using the pharmacy data file specifications, to ensure that users submit standardized and consistent data in the way variables are named, coded, and formatted. The number of submissions to the database is likely to vary each year because pharmacies do not administer the survey and submit data every year.

Survey data from the AHRQ Pharmacy Survey on Patient Safety Culture are used to produce three types of products: (1) A Pharmacy SOPS Comparative Database Report that is made publicly available on the AHRQ Web site, (2) Individual Pharmacy Survey Feedback Reports that are confidential, customized reports produced for each pharmacy that submits data to the database (the number of reports produced is based on the number of pharmacies submitting each year); and (3) Research data sets of individual-level and pharmacy-level de-identified data to enable researchers to conduct analyses.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondent's time to participate in the database. An estimated 150 POCs, each representing an average of 10 individual pharmacies each, will complete the database submission steps and forms annually. Completing the registration form will take about 5 minutes. The Pharmacy Background Characteristics Form is completed by all POCs for each of their pharmacies (150 x 10 = 1,500 forms in total) and is estimated to take 5 minutes to complete. Each POC will complete a data use agreement which takes 3 minutes to complete and submitting the data will take an hour on average. The total burden is estimated to be 296 hours.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to submit their data. The cost burden is estimated to be $14,392 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Registration Form	150	1	5/60	13
Pharmacy Background Characteristics Form	150	10	5/60	125
Data Use Agreement	150	1	3/60	8
Data Files Submission	150	1	1	150
Total	600	NA	NA	296

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate*	Total cost burden
Registration Form	150	13	$48.62	$632
Pharmacy Background Characteristics Form	150	125	48.62	6,078
Data Use Agreement	150	8	48.62	389
Data Files Submission	150	150	48.62	7,293
Total	600	296	NA	14,392

Mean hourly wage rate of $48.62 for General and Operations Managers (SOC code 11–1021) was obtained from the May 2012 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 446110—Pharmacies and Drug Stores located at *http://www.bls.gov/oes/current/naics5_446110.htm*.

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research, quality improvement and information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: February 6, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–03484 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: *"AHRQ Grants Reporting System (GRS)."* In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on December 6th, 2013 and allowed 60 days for public comment. One comment was received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by March 20, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

AHRQ Grants Reporting System (GRS)

AHRQ has developed a systematic method for its grantees to report project progress and important preliminary findings for grants funded by the Agency. This system, the Grants Reporting System (GRS), was first approved by OMB on November 10, 2004. The system addressed the shortfalls in the previous reporting process and established a consistent and comprehensive grants reporting solution for AHRQ. The GRS provides a centralized repository of grants research progress and additional information that can be used to support initiatives within the Agency. This includes future research planning and support to administration activities such as performance monitoring, budgeting, knowledge transfer as well as strategic planning.

This Project has the following goals:

(1) To promote the transfer of critical information more frequently and efficiently and enhance the Agency's ability to support research designed to improve the outcomes and quality of health care, reduce its costs, and broaden access to effective services;

(2) To increase the efficiency of the Agency in responding to ad-hoc information requests; and

(3) To support Executive Branch requirements for increased transparency and public reporting;

(4) To establish a consistent approach throughout the Agency for information collection regarding grant progress and a systematic basis for oversight and for facilitating potential collaborations among grantees; and,

(5) To decrease the inconvenience and burden on grantees of unanticipated ad-hoc requests for information by the Agency in response to particular (one-time) internal and external requests for information.

Method of Collection

Grants Reporting System—Grantees use the GRS to report project progress and important preliminary findings for grants funded by the Agency. Grantees submit a progress report on a quarterly basis which is reviewed by AHRQ personnel. All users access the GRS system through a secure online interface which requires a user id and password entered through the GRS Login screen. When status reports are due, AHRQ notifies Principle Investigators (PI) and Vendors via email.

The GRS is an automated user-friendly resource that is utilized by AHRQ staff for preparing, distributing, and reviewing reporting requests to grantees for the purpose of information sharing. AHRQ personnel are able to systematically search on the information collected and stored in the GRS database. Personnel will also use the information to address internal and/or external requests for information regarding grant progress, preliminary findings, and other requests, such as Freedom of Information Act requests, and producing responses related to federally mandated programs and regulations.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents. It will take grantees an estimated 10 minutes to enter the necessary data into the Grant Reporting System (GRS) and reporting will occur four times annually. The total annualized burden hours are estimated to be 333 hours.

Exhibit 2 shows the estimated annualized cost burden for the respondents. The total estimated cost burden for respondents is $11,772.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Data entry into GRS	500	4	10/60	333
Total	500	na	na	333

EXHIBIT 2. ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Data entry into GRS	500	333	$35.35	$11,772
Total	500	333	na	$11,772

*Based upon the average wages for Healthcare Practitioner and Technical Occupations (29–0000), "National Compensation Survey: Occupational Wages in the United States, May 2012," U.S. Department of Labor, Bureau of Labor Statistics.

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: February 6, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–03487 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health care Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Health care Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: *"Assessing the Impact of the National Implementation of TeamSTEPPS Master Training Program."* In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on August 27th, 2013 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by March 20, 2014.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

Assessing the Impact of the National Implementation of TeamSTEPPS Master Training Program

As part of their effort to fulfill their mission goals, AHRQ, in collaboration with the Department of Defense's (DoD) Tricare Management Activity (TMA), developed TeamSTEPPS® (aka Team Strategies and Tools for Enhancing Performance and Patient Safety) to provide an evidence-based suite of tools and strategies for training teamwork-based patient safety to health care professionals. In 2007, AHRQ and DoD coordinated the national implementation of the TeamSTEPPS program. The main objective of this program is to improve patient safety by training a select group of stakeholders such as Quality Improvement Organization (QIO) personnel, High Reliability Organization (HRO) staff, and health care system staff in various teamwork, communication, and patient safety concepts, tools, and techniques and ultimately helping to build national capacity for supporting teamwork-based patient safety efforts in health care organizations and at the state level. The implementation includes the availability of voluntary training of Master Trainers in various health care systems capable of stimulating the utilization and adoption of TeamSTEPPS in their health care delivery systems, providing technical assistance and consultation on

implementing TeamSTEPPS, and developing various channels of learning (e.g., user networks, various educational venues) for continuation support and improvement of teamwork in health care. During this effort, AHRQ has trained more than 2400 participants to serve as the Master Trainer infrastructure supporting national adoption of TeamSTEPPS. Participants in training become Master Trainers in TeamSTEPPS and are afforded the opportunity to observe the tools and strategies provided in the program in action. In addition to developing Master Trainers, AHRQ has also developed a series of support mechanisms for this effort including a data collection Web tool, a TeamSTEPPS call support center, and a monthly consortium to address any challenges encountered by implementers of TeamSTEPPS.

To understand the extent to which this expanded patient safety knowledge and skills have been created, AHRQ will conduct an evaluation of the National Implementation of TeamSTEPPS Master Training program. The goals of this evaluation are to examine the extent to which training participants have been able to:

(1) Implement the TeamSTEPPS products, concepts, tools, and techniques in their home organizations and,

(2) spread that training, knowledge, and skills to their organizations, local areas, regions, and states.

This study is being conducted by AHRQ through its contractor, Health Research & Educational Trust (HRET), pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve the goals of this assessment the following two data collections will be implemented:

(1) Web-based questionnaire to examine post-training activities and teamwork outcomes as a result of training from multiple perspectives. The questionnaire is directed to all master training participants. Items will cover post-training activities, implementation experiences, facilitators and barriers to implementation encountered, and perceived outcomes as a result of these activities.

(2) Semi-structured interviews will be conducted with members from organizations who participated in the TeamSTEPPS Master Training program. Information gathered from these interviews will be analyzed and used to draft a "lessons learned" document that will capture additional detail on the issues related to participants' and organizations' abilities to implement and disseminate the TeamSTEPPS post-training. The organizations will vary in terms of type of organization (e.g., QIO or hospital associations versus health care systems) and region (i.e., Northeast, Midwest, Southwest, Southeast, Mid-Atlantic, and West Coast). In addition, we will strive to ensure representativeness of the sites by ensuring that the distribution of organizations mirrors the distribution of organizations in the master training population. For example, if the distribution of organizations is such that only one out of every five organizations is a QIO, we will ensure that a maximum of two organizations in the sample are QIOs. The interviews will more accurately reveal the degree of training spread for the organizations included. Interviewees will be drawn from qualified individuals serving in one of two roles (i.e., implementers or facilitators). The interview protocol will be adapted for each role based on the respondent group and to some degree, for each individual, based on their training and patient safety experience.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondent's time to participate in the study. Semi-structured interviews will be conducted with a maximum of 9 individuals from each of 9 participating organizations and will last about one hour each. The training participant questionnaire will be completed by approximately 10 individuals from each of about 240 organizations and is estimated to require 20 minutes to complete. The total annualized burden is estimated to be 881 hours.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to participate in the study. The total cost burden is estimated to be $38,923.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Semi-structured interview	9	9	60/60	81
Training participant questionnaire	240	10	20/60	800
Total	249	NA	NA	881

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Semi-structured interview	9	81	$44.18	$3,579
Training participant questionnaire	240	800	44.18	35,344
Total	249	881	NA	38,923

*Based upon the mean of the average wages for all health professionals (29–0000) for the training participant questionnaire and for executives, administrators, and managers for the organizational leader questionnaire presented in the National Compensation Survey: Occupational Wages in the United States, May, 2012, U.S. Department of Labor, Bureau of Labor Statistics. *http://www.bls.gov/oes/current/oes_nat.htm#37–0000.*

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: January 29, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–03482 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Common Formats for Patient Safety Data Collection and Event Reporting

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of Availability—New Common Formats

SUMMARY: As authorized by the Secretary of HHS, AHRQ coordinates the development of common definitions and reporting formats (Common Formats) for reporting patient safety events to Patient Safety Organizations (PSOs) and other entities. The purpose of this notice is to announce the availability of a new type of Common Formats for public review and comment—*Common Formats for Surveillance—Hospital.*

DATES: Ongoing public input.

ADDRESSES: The newly released *Common Formats for Surveillance—Hospital*—which includes modules entitled Generic Adverse Event Information, Blood or Blood Product, Delivery-Maternal, Delivery-Neonatal, Device or Medical/Surgical Supply Including Health Information Technology (HIT), Fall, Medications, Pressure Ulcer, Readmissions, Surgery or Anesthesia, Venous Thromboembolism, and Other Outcomes of Interest—can be accessed electronically at the following HHS Web site: *http://www.PSO.AHRQ.gov/index.html*

FOR FURTHER INFORMATION CONTACT: Glenn Egelman, M.D., Center for Quality Improvement and Patient Safety, AHRQ, 540 Gaither Road, Rockville, MD 20850; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *PSO@AHRQ.HHS.GOV.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b-21 to b-26, (Patient Safety Act) and the related Patient Safety and Quality Improvement Final Rule, 42 CFR Part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008: 73 FR 70731–70814, provide for the formation of PSOs, which collect, aggregate, and analyze confidential information regarding the quality and safety of healthcare delivery. The Patient Safety Act (at 42 U.S.C. 299b-24(b)(1)(F)) requires PSOs to collect information from providers in a standardized manner that permits valid comparisons of similar cases among similar providers, to the extent practical and appropriate. As explained in 42 CFR 3.102(b)(1)(iii)(A)(1), one option for a PSO to satisfy this requirement is by certifying that it is using the Secretary's published guidance for common formats and definitions in its collection of information from healthcare providers.

The Patient Safety Act and Patient Safety Rule establish a framework by which doctors, hospitals, skilled nursing facilities, and other healthcare providers may assemble information regarding patient safety events and quality of care. Information that is assembled and developed by providers for reporting to PSOs and the information received and analyzed by PSOs—called patient safety work product—is privileged and confidential. Patient safety work product is used to conduct patient safety activities, which may include identifying events, patterns of care, and unsafe conditions that increase risks and hazards to patients. Definitions and other details about PSOs and patient safety work product are included in the Patient Safety Act and Patient Safety Rule which can be accessed electronically at: *http://www.PSO.AHRQ.gov/REGULATIONS/REGULATIONS.htm.*

Definition of Common Formats

The term Common Formats refers to the common definitions and reporting formats, specified by AHRQ, that allow healthcare providers to collect and submit standardized information regarding patient safety events. The Common Formats are not intended to replace any current mandatory reporting system, collaborative/voluntary reporting system, research-related reporting system, or other reporting/recording system; rather the formats are intended to enhance the ability of healthcare providers to report information that is standardized both clinically and electronically.

In collaboration with the interagency Federal Patient Safety Workgroup (PSWG), the National Quality Forum (NQF) and the public, AHRQ has developed Common Formats for two settings of care—acute care hospitals and skilled nursing facilities—in order to facilitate standardized data collection. The scope of Common Formats applies to all patient safety concerns including: Incidents—patient safety events that reached the patient, whether or not there was harm; near misses or close calls—patient safety events that did not reach the patient; and unsafe conditions—circumstances that increase the probability of a patient safety event.

Until now, Common Formats have been designed to support only traditional event reporting. *Common Formats for Surveillance—Hospital* are designed to provide, through retrospective review of medical records, information that is complementary to that derived from event reporting systems. These formats will facilitate improved detection of events and calculation of adverse event rates in populations reviewed.

Common Formats Development

In anticipation of the need for Common Formats, AHRQ began their development by creating an inventory of functioning private and public sector patient safety reporting systems. This inventory provides an evidence base that informed construction of the Common Formats. The inventory includes many systems from the private sector, including academic settings, hospital systems, and international reporting systems (e.g., from the United Kingdom and the Commonwealth of

Australia). In addition, virtually all major Federal patient safety reporting systems are included, such as those from the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), the Department of Defense (DoD), and the Department of Veterans Affairs (VA).

Since February 2005, AHRQ has convened the PSWG to assist AHRQ with developing and maintaining the Common Formats. The PSWG includes major health agencies within HHS—CDC, Centers for Medicare and Medicaid Services, FDA, Health Resources and Services Administration, Indian Health Service, National Institutes of Health, National Library of Medicine, Office of the National Coordinator for Health Information Technology, Office of Public Health and Science, and Substance Abuse and Mental Health Services Administration—as well as the DoD and VA.

When developing Common Formats, AHRQ first reviews existing patient safety event reporting systems from a variety of health care organizations. In collaboration with the PSWG and Federal subject matter experts, AHRQ drafts and releases beta versions of the Common Formats for public review and comment. The PSWG assists AHRQ with assuring the consistency of definitions/formats with those of relevant government agencies as refinement of the Common Formats continues. To the extent practicable, the Common Formats are also aligned with World Health Organization (WHO) concepts, framework, and definitions for patient safety.

Commenting on Common Formats: Common Formats for Surveillance—Hospital

To allow for greater participation by the private sector in the subsequent development of the Common Formats, AHRQ engaged the NQF, a non-profit organization focused on health care quality, to solicit comments and advice to guide the further refinement of the Common Formats. The NQF then convenes an expert panel to review the comments received and provide feedback. Based upon the expert panel's feedback, AHRQ, in conjunction with the PSWG, revises and refines the Common Formats.

The Agency is specifically interested in obtaining feedback from both the private and public sectors to guide the improvement of the formats. Information on how to comment and provide feedback on the *Common Formats for Surveillance—Hospital* is available at: *http://www.Qualityforum.ORG/projects/commonformats.aspx.*

More information about the Common Formats can be obtained through AHRQ's PSO Web site: *http://www.PSO.AHRQ.gov/index.html.*

Dated: February 6, 2014.

Richard Kronick,

Director.

[FR Doc. 2014–03492 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0283]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Final Guidance for Industry on Chemistry, Manufacturing, and Controls Postapproval Manufacturing Changes To Be Documented in Annual Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Final Guidance for Industry on Chemistry, Manufacturing, and Controls Postapproval Manufacturing Changes to be Documented in Annual Reports " has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: On November 6, 2013; the Agency submitted a proposed collection of information entitled "Final Guidance for Industry on Chemistry, Manufacturing, and Controls Postapproval Manufacturing Changes to be Documented in Annual Reports" to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0758. The approval expires on January 31, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: *February 10, 2014.*

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03350 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0795]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Medical Devices; Third Party Review Under the Food and Drug Administration Modernization Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Medical Devices; Third Party Review Under the Food and Drug Administration Modernization Act (FDAMA)" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On December 19, 2013, the Agency submitted a proposed collection of information entitled "Medical Devices; Third Party Review Under FDAMA" to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0375. The approval expires on January 31, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: February 10, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03354 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0086]

Agency Information Collection Activities; Proposed Collection; Comment Request; Potential Tobacco Product Violations Reporting Form

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information contained in FDA's Tobacco Product Violations Reporting Form.

DATES: Submit either electronic or written comments on the collection of information by April 21, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Potential Tobacco Product Violations Reporting Form—(OMB Control Number 0910–0716)—Extension

On June 22, 2009, the President signed the Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act) (Pub. L. 111–31) into law. The Tobacco Control Act amended section 201 *et seq.* of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 321 *et seq.*) by adding a new chapter granting FDA important new authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. FDA is requesting an extension of OMB approval for the collection of information to accept consumer and other stakeholder feedback and notification of potential violations of the FD&C Act, as amended by the Tobacco Control Act.

FDA created a Tobacco Call Center (with a toll-free number: 1–877–CTP–1373). Callers are able to report potential violations of the Tobacco Control Act, and FDA will conduct targeted followup investigations based on information received. When callers report a violation, the caller will be asked to provide as much certain information as they can recall, including: The date the potential violation occurred; product type (e.g., cigarette, smokeless, roll-your-own); tobacco brand; potential violation type; type of potentially violative promotional materials; who potentially violated; and the name, address, phone number, and email address of the potential violator. The caller will also be asked to list the potential violator's Web site (if available), describe the potential violation, and provide any additional files or information pertinent to the potential violation.

FDA currently provides a form that may be used to solicit this information from the caller (Form FDA 3779, Potential Tobacco Product Violations Report), and seeks renewal of Form FDA 3779. This form is posted on FDA's Web site. The public and interested stakeholders are also able to report information regarding possible violations of the Tobacco Control Act through the following methods: Calling the Tobacco Call Center using the Center for Tobacco Products' (CTP) toll-free number; using a fillable Form FDA 3779 found on FDA's Web site; downloading a PDF version of the form to send via email or mail to FDA; requesting a copy of Form FDA 3779 by contacting CTP and sending by mail to FDA; and sending a letter to FDA's CTP. The public and interested stakeholders will also be able to report information regarding possible violations of the Tobacco Control Act in the future using FDA's tobacco violation reporting smartphone application.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity and Form FDA 3779	No. of Respondents	No. of Responses per respondent	Total annual responses	Average burden per response	Total hours
Reporting violations of the FD&C Act, as amended by the Tobacco Control Act, by telephone, Internet form, mail, smartphone application, or email..	400	2	800	0.25 (15 minutes)	200

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates that submitting the information (by telephone, Internet, mail, smartphone application, or email) will take 0.25 hours (i.e., 15 minutes) per response. FDA estimates the number of annual respondents to this collection of information will be 400, who will each submit 2 reports by telephone, Internet, mail, smartphone application, or email. This estimate is based on the rate of reporting through Form FDA 3779, reports received from FDA's toll-free telephone number and email address, and FDA experience. Each report is expected to take 0.25 hours to complete and submit; therefore, total burden hours for this collection of information is estimated to be 200 hours (800 responses x 0.25 hours per response). The total burden hours for this collection have decreased by 50 hours (from 250 to 200) because the number of estimated respondents decreased from 1,000 to 400, and the annual responses are expected to drop from 1,000 to 800 annually. Based on past submissions to FDA, the number of estimated annual respondents is expected to decrease from 1,000 to 400 and each respondent's number of submissions is expected to increase from 1 to 2 annually. Therefore, the number of responses are expected to decrease from 1,000 to 800 annually (400 respondents x 2 responses).

Dated: February 10, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03381 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0823]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Over-the-Counter Human Drugs; Labeling Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Over-the-Counter Human Drugs; Labeling Requirements" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On December 20, 2013; the Agency submitted a proposed collection of information entitled "Over-the-Counter Human Drugs; Labeling Requirements" to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0340. The approval expires on January 31, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: February 10, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03348 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0168]

Agency Information Collection Activities; Proposed Collection; Comment Request; Disclosure Regarding Additional Risks in Direct-to-Consumer Prescription Drug Television Advertisements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on research entitled "Disclosure Regarding Additional Risks in Direct-to-Consumer (DTC) Prescription Drug Television (TV) Advertisements (Ads)." This study will investigate the impact of limiting the risks presented in DTC prescription drug television ads to those that are serious and actionable, and including a disclosure to alert consumers that there are other product risks not disclosed in the ad.

DATES: Submit either electronic or written comments on the collection of information by April 21, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Disclosure Regarding Additional Risks in Direct-to-Consumer Prescription Drug Television Advertisements—(OMB Control Number 0910—NEW)

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes the FDA to conduct research relating to health information. Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 393(d)(2)(C)) authorizes FDA to conduct research relating to drugs and other FDA-regulated products in carrying out the provisions of the FD&C Act.

Prescription drug advertising regulations (21 CFR 202.1) require that broadcast (TV or radio) advertisements present the product's major risks in either audio or audio and visual parts of the advertisement; this is often called the "major statement." There is concern that as currently implemented in DTC ads, the major statement is often too long, which may result in reduced consumer comprehension, minimization of important risk information and, potentially, therapeutic noncompliance due to fear of side effects. At the same time, there is concern that DTC TV ads do not include adequate risk information or leave out important information. These are conflicting viewpoints. A possible resolution is to limit the risks in the major statement to those that are serious and actionable, and include a disclosure to alert consumers that there are other product risks not included in the ad. For example, the disclosure could be, "This is not a full list of risks and side effects. Talk to your doctor and read the patient labeling for [drug name] before starting it." The Office of Prescription Drug Promotion (or we) plans to investigate the effectiveness of this "limited risks plus disclosure" strategy through empirical research.

Our hypothesis is that, relative to inclusion of the full major statement, providing limited risk information along with the disclosure about additional risks will promote improved consumer perception and understanding of serious and actionable drug risks. We will also investigate other questions such as whether overall drug risk and benefit perceptions are affected by these changes. To examine differences between experimental conditions, we will conduct inferential statistical tests such as analysis of variance. With the sample size described below, we will have sufficient power to detect small- to medium-sized effects in the main study.

Participants will be consumers who self-identify as having been diagnosed with one of three possible medical conditions. All participants will be 18 years of age or older. We will exclude individuals who work in healthcare or marketing settings because their knowledge and experiences may not reflect those of the average consumer. Recruitment and administration of the study will take place over the Internet. Participation is estimated to take approximately 30 minutes.

Within medical condition, participants will be randomly assigned to view one of four possible versions of an ad, as depicted in table 1 below. One version will present the full major statement without the disclosure regarding additional risks (conditions C, G, and K). This version will implement existing ads in the marketplace. Stimuli variations for the other three versions will be achieved by replacing the audio track of the original ad with the revised risk and disclosure statements described above. Thus, a second version of the ad will include the full major statement plus the disclosure about additional risks (conditions A, E, and I). A third version will include an abbreviated statement of risks without the disclosure about additional risks (conditions G, H, and L). The fourth version will include an abbreviated statement of risks as well as the disclosure about additional risks (conditions B, F, and J).

After viewing the ad, participants will respond to questions about information in the ad. Preliminary measures are designed to assess perception and understanding of product risks and benefits; perception and understanding of the disclosure about additional risks; perceptions of product quality; intention to seek more information about the product; and perceptions of trust/skepticism regarding product claims and the sponsor. The questionnaire is available upon request.

TABLE 1—STUDY DESIGN

Medical condition	Disclosure regarding additional risks	Major statement	
		Version 1	Version 2
1	Present	A	B
	Absent	C	D
2	Present	E	F
	Absent	G	H
3	Present	I	J
	Absent	K	L

NOTE: Version 1 = current major statement; Version 2 = abbreviated major statement.

FDA estimates the burden of this collection of information as follows:

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

Disclosure regarding additional risks in DTC prescription drug TV ads	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Pilot study screener	3300	1	3300	0.03 (2 minutes)	99
Main study screener	10000	1	10,000	0.03 (2 minutes)	300
Pilot study	500	1	500	1	500
Main study	1500	1	1500	0.50 (30 minutes)	750
Total					1649

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: February 12, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03390 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0588]

Agency Information Collection Activities; Proposed Collection; Comment Request; Exceptions or Alternatives to Labeling Requirements for Products Held by the Strategic National Stockpile

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements related to the exceptions or alternatives to labeling requirements for products held by the Strategic National Stockpile (SNS).

DATES: Submit either electronic or written comments on the collection of information by April 21, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Exceptions or Alternatives to Labeling Requirements for Products Held by the Strategic National Stockpile—(OMB Control Number 0910–0614)—Extension

Under the Public Health Service Act (PHS Act), the Department of Health and Human Services stockpiles medical products that are essential to the health security of the nation (see PHS Act, 42 U.S.C. 247d–6b). This collection of medical products for use during national health emergencies, known as the SNS, is to "provide for the emergency health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a bioterrorist attack or other public health emergency."

It may be appropriate for certain medical products that are or will be held in the SNS to be labeled in a manner that would not comply with certain FDA labeling regulations given their anticipated circumstances of use in an emergency. However, noncompliance with these labeling requirements could render such products misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352).

Under §§ 201.26, 610.68, 801.128, and 809.11 (21 CFR 201.26, 610.68, 801.128, and 809.11), the appropriate FDA Center Director may grant a request for an exception or alternative to certain regulatory provisions pertaining to the labeling of human drugs, biological products, medical devices, and in vitro diagnostics that currently are or will be included in the SNS if certain criteria are met. The appropriate FDA Center Director may grant an exception or alternative to certain FDA labeling requirements if compliance with these labeling requirements could adversely

affect the safety, effectiveness, or availability of products that are or will be included in the SNS. An exception or alternative granted under the regulations may include conditions or safeguards so that the labeling for such products includes appropriate information necessary for the safe and effective use of the product given the product's anticipated circumstances of use. Any grant of an exception or alternative will only apply to the specified lots, batches, or other units of medical products in the request. The appropriate FDA Center Director may also grant an exception or alternative to the labeling provisions specified in the regulations on his or her own initiative.

Under § 201.26(b)(1)(i) (human drug products), § 610.68(b)(1)(i) (biological products), § 801.128(b)(1)(i) (medical devices), and § 809.11(b)(1)(i) (in vitro diagnostic products for human use), an SNS official or any entity that manufactures (including labeling, packing, relabeling, or repackaging), distributes, or stores such products that are or will be included in the SNS may submit, with written concurrence from an SNS official, a written request for an exception or alternative to certain labeling requirements to the appropriate FDA Center Director. Except when initiated by an FDA Center Director, a request for an exception or alternative must be in writing and must:

- Identify the specified lots, batches, or other units of the affected product;
- Identify the specific labeling provisions under this rule that are the subject of the request;
- Explain why compliance with the specified labeling provisions could adversely affect the safety, effectiveness, or availability of the product subject to the request;
- Describe any proposed safeguards or conditions that will be implemented so that the labeling of the product includes appropriate information necessary for the safe and effective use of the product given the anticipated circumstances of use of the product;
- Provide copies of the proposed labeling of the specified lots, batches, or other units of the affected product that will be subject to the exception or alternative; and
- Provide any other information requested by the FDA Center Director in support of the request.

If the request is granted, the manufacturer may need to report to FDA any resulting changes to the New Drug Application, Biologics License Application, Premarket Approval Application, or Premarket Notification (510(k)) in effect, if any. The submission and grant of an exception or an alternative to the labeling requirements specified in this rule may be used to satisfy certain reporting obligations relating to changes to product applications under 21 CFR 314.70 (human drugs), 21 CFR 601.12 (biological products), 21 CFR 814.39 (medical devices subject to premarket approval), or 21 CFR 807.81 (medical devices subject to 510(k) clearance requirements). The information collection provisions in §§ 314.70, 601.12, 807.81, and 814.39 have been approved under OMB control numbers 0910–0001, 0910–0338, 0910–0120, and 0910–0231 respectively. On a case-by-case basis, the appropriate FDA Center Director may also determine when an exception or alternative is granted that certain safeguards and conditions are appropriate, such as additional labeling on the SNS products, so that the labeling of such products would include information needed for safe and effective use under the anticipated circumstances of use.

Respondents to this collection of information are entities that manufacture (including labeling, packing, relabeling, or repackaging), distribute, or store affected SNS products. Based on the number of requests for an exception or alternative received by FDA in fiscal years 2012–13, FDA estimates an average of one request annually. FDA estimates an average of 24 hours preparing each request. The average burden per response for each submission is based on the estimated time that it takes to prepare a supplement to an application, which may be considered similar to a request for an exception or alternative. To the extent that labeling changes not already required by FDA regulations are made in connection with an exception or alternative granted under the final rule, FDA is estimating one occurrence annually in the event FDA would require any additional labeling changes not already covered by FDA regulations. FDA estimates 8 hours to develop and revise the labeling to make such changes. The average burden per response for each submission is based on the estimated time to develop and revise the labeling to make such changes.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
201.26(b)(1)(i), 610.68(b)(1)(i), 801.128(b)(1)(i), and 809.11(b)(1)(i)	1	1	1	24	24
201.26(b)(1)(i), 610.68(b)(1)(i), 801.128(b)(1)(i), and 809.11(b)(1)(i)	1	1	1	8	8
Total	32				

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: February 11, 2014.

Peter Lurie,

Acting Associate Commissioner for Policy and Planning.

[FR Doc. 2014–03382 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0192]

Agency Information Collection Activities; Proposed Collection; Comment Request; Establishing and Maintaining Lists of United States Milk Product Manufacturers/Processors With Interest in Exporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection entitled, "Establishing and Maintaining Lists of United States (U.S.) Milk Product Manufacturers/Processors with Interest in Exporting."

DATES: Submit either electronic or written comments on the collection of information by April 21, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Establishing and Maintaining Lists of U.S. Milk Product Manufacturers/Processors With Interest in Exporting (OMB Control Number 0910–0509)—Revision

The United States exports a large volume and variety of foods in international trade. For certain food products, foreign governments may require assurances from the responsible authority of the country of origin of an imported food that the processor of the food is in compliance with applicable country of origin regulatory requirements. With regard to U.S. milk products, FDA is the competent U.S. food safety authority to provide this information to foreign governments. We provide the requested information about processors in the form of lists. The lists are provided to the foreign governments and also posted online at *http://www.fda.gov/Food/GuidanceRegulation/ImportsExports/Exporting/default.htm*. The term "milk product," for purposes of this information collection, includes products defined in 21 CFR 1240.3(j) and any product requested by foreign governments to be included in this list process.

We currently provide Chile a list of U.S. milk product manufacturers/processors that have expressed interest in exporting their products to Chile, are subject to our jurisdiction, and are not the subject of a pending judicial enforcement action (i.e., an injunction or seizure) or a pending warning letter. In the **Federal Register** of June 22, 2005 (70 FR 36190), we announced the availability of a revised guidance document entitled, "Establishing and Maintaining a List of U.S. Dairy Product Manufacturers/Processors with Interest in Exporting to Chile." The guidance can be found at *http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ImportsExports/ucm078936.htm*.

FDA was asked to provide a list to China in response to China's State General Administration of the People's Republic of China for Quality Supervision and Inspection and Quarantine (AQSIQ) issuance of Administrative Measures for Registration of Overseas Manufacturers, known as AQSIQ Decree 145. Accordingly, we established and maintain for China a list that identifies U.S. milk product manufacturers/processors that have expressed interest to us in exporting milk products to China, are subject to our jurisdiction, and are not the subject of a pending judicial enforcement action (i.e., an injunction or seizure) or a pending warning letter. On January 9, 2014, we issued a guidance document entitled, "Establishing and Maintaining a List of U.S. Milk Product Manufacturers/Processors with Interest in Exporting to China." The guidance can be found at *http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ImportsExports/ucm378777.htm*.

As noted, we provided the new list to China in response to AQSIQ Decree 145. In accordance with 5 CFR 1320.13, FDA requested emergency OMB review and approval of the collections of information found in the guidance document. The routine course of OMB approval would not have been in the best interest of the public health because it would have delayed our ability to collect the information from firms and, thus, would have been disruptive in our efforts to facilitate services that have been requested by China in AQSIQ Decree 145. OMB granted the approval under the emergency clearance procedures on November 7, 2013.

The guidance documents are published under the authority of section 701(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(h)), which authorizes the Secretary to develop guidance documents with public participation presenting the views of the Secretary on matters under the jurisdiction of the FDA.

The guidance documents explain what information firms should submit to us in order to be considered for inclusion on the lists and what criteria we intend to use to determine eligibility for placement on the lists. The guidance documents also explain how we intend to update the list and how we intend to communicate any new information to the government that requested the list. Finally, the guidance documents note that the information is provided voluntarily by firms with the understanding that it will be posted on our Web site and communicated to, and possibly further disseminated by, the government that requested the list; thus, we consider the information on the lists to be information that is not protected from disclosure under 5 U.S.C. 552(b)(4).

Application for inclusion on each list is voluntary. In the guidance documents, we recommend that U.S. firms that want to be placed on either list send the following information to us: Name and address of the firm and the manufacturing plant; name, telephone number, and email address (if available) of the contact person; a list of products presently shipped and expected to be shipped in the next 3 years; identities of agencies that inspect the plant and the date of last inspection; plant number and copy of last inspection notice; and, if other than an FDA inspection, copy of last inspection report. We request that this information be updated every 2 years.

We use the information submitted by firms to determine their eligibility for placement on the list, which is published on our Web site. The purpose of the list is to help the governments of Chile and China in their determination of which U.S. milk product manufacturers are eligible to export to their respective countries.

Description of Respondents: Respondents to this information collection include U.S. food product manufacturers/processors subject to our jurisdiction that wish to export products requested by foreign governments to be included in this list process.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
New written requests to be placed on the list	125	1	125	1.5	188
Biennial updates	125	1	125	1.0	125
Occasional updates	50	1	50	0.5	25
Total					338

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the number of firms that will submit new written requests to be placed on the list, biennial updates, and occasional updates is based on the FDA's experience maintaining the list over the past 8 years. The estimate of the number of hours that it will take a firm to gather the information needed to be placed on the list or update its information is based on FDA's experience with firms submitting similar requests. FDA believes that the information to be submitted will be readily available to the firms.

Based on submissions received for the Chile list over the past 3 years and the China list over the past 3 months, we estimate that, annually, an average of 100 new firms will submit written requests to be placed on the China list and 25 new firms will seek to be placed on the Chile list, reported as 125 total respondents on line 1 of table 1. We estimate that a firm will require 1.5 hours to read the guidance, to gather the information needed, and to prepare a communication to FDA that contains the information and requests that the firm be placed on the list, for a total of 187.5 burden hours, rounded to 188, as reported on line 1 of table 1. Under the guidance, every 2 years each firm on the list must provide updated information in order to remain on the list.

There are approximately 250 firms on the 2 lists combined. We estimate that, each year, approximately half of the firms on the list, 125 firms, will resubmit the information to remain on the list. We estimate that a firm already on the list will require 1 hour to biennially update and resubmit the information to us, including time reviewing the information and corresponding with us, for a total of 125 hours. In addition, we expect that, each year, approximately 50 firms will need to submit an occasional update and each firm will require 0.5 hours to prepare a communication to us reporting the change, for a total of 125 hours.

Dated: February 12, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03389 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–N–0444]

Agency Information Collection Activities; Proposed Collection; Comment Request; Focus Groups as Used by the Food and Drug Administration (All FDA-Regulated Products)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on focus groups as used by FDA to gauge public opinion on all FDA-regulated products.

DATES: Submit either electronic or written comments on the collection of information by April 21, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Focus Groups as Used by the Food and Drug Administration (All FDA-Regulated Products)—(OMB Control Number 0910–0497)—Extension

FDA conducts focus group interviews on a variety of topics involving FDA-regulated products including, drugs, biologics, devices, food, tobacco, and veterinary medicine.

Focus groups provide an important role in gathering information because they allow for a more in-depth understanding of consumers' attitudes, beliefs, motivations, and feelings than do quantitative studies. Focus groups serve the narrowly defined need for direct and informal opinion on a specific topic and as a qualitative research tool have three major purposes:

- To obtain consumer information that is useful for developing variables and measures for quantitative studies,
- To better understand consumers' attitudes and emotions in response to topics and concepts, and,
- To further explore findings obtained from quantitative studies.

FDA will use focus group findings to test and refine their ideas, but will generally conduct further research before making important decisions such as adopting new policies and allocating or redirecting significant resources to support these policies.

FDA estimates the burden of this collection of information as follows:

Activity	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Focus Group Interviews	1440	1	1440	1.75	2520

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Annually, FDA projects about 20 focus group studies using 160 focus groups with an average of 9 persons per group, and lasting an average of 1.75 hours each. FDA is requesting this burden for unplanned focus groups so as not to restrict the agency's ability to gather information on public sentiment of its proposals in its regulatory and communications programs.

Dated: February 10, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03351 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0764]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Animal Feed Regulatory Program Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Animal Feed Regulatory Program Standards" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: On December 6, 2013; the Agency submitted a proposed collection of information entitled "Animal Feed Regulatory Program Standards" to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0760. The approval expires on January 31, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain*.

Dated: February 12, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03460 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0079]

Agency Information Collection Activities; Proposed Collection; Comment Request; Animal Generic Drug User Fee Act Cover Sheet

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the paperwork burden of animal drug sponsors to fill out the Animal Generic Drug User Fee Act (AGDUFA) cover sheet.

DATES: Submit either electronic or written comments on the collection of information by April 21, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Form FDA 3728, Animal Generic Drug User Fee Act Cover Sheet—21 U.S.C. 379j–21 (OMB Control Number 0910–0632)—Revision

Section 741 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379j–21) establishes three different kinds of user fees: (1) Fees for certain types of abbreviated applications for generic new animal drugs; (2) annual fees for certain generic new animal drug products; and (3) annual fees for certain sponsors of abbreviated applications for generic new animal drugs and/or investigational submissions for generic new animal drugs (21 U.S.C. 379j–21(a)). Because concurrent submission of user fees with applications is required, the review of an application cannot begin until the fee is submitted. Form FDA 3728 is the AGDUFA cover sheet, which is designed to provide the minimum necessary information to determine whether a fee is required for review of an application, to determine the amount of the fee required, and to account for and track user fees.

The Animal Generic Drug User Fee Amendments of 2013, signed by the President on June 13, 2013 (AGDUFA II) (Title II of Pub. L. 113–14), amended the FD&C Act authorizing FDA to collect user fees for certain abbreviated applications for generic new animal drugs, for certain generic new animal drug products, and for certain sponsors of such abbreviated applications for generic new animal drugs and/or investigational submissions for generic new animal drugs. To implement changes under the reauthorization by their effective date of October 1, 2013, FDA sought and received OMB approval to update its Form FDA 3728 as described here:

On page 1 of the electronic questions under "Select an Application Type" users must select "Original" and then choose either, "Abbreviated New Animal Drug Application (ANADA)—under provisions of 512(b)(2) of the FD&C Act (21 U.S.C. 360b(b)(2))"; or "Abbreviated New Animal Drug Application—for certain combination pioneer products approved under provisions of 512(d)(4) of the FD&C Act (21 U.S.C. 360b(d)(4))." If they select the first ANADA type, they will be charged 100 percent of the application fee. If they select the second ANADA type, then they will be charged at rate of 50 percent of the original application fee. To facilitate the application process in this regard, on Form FDA 3728 we have added a line in Section 3 that allows applicants to select the option, "3.2 Original Abbreviated New Animal Drug Application—for certain combination pioneer products approved under provisions of 512(d)(4) of the FD&C Act."

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Form FDA No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
3728	20	2	40	.08	3.2

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Respondents to this collection of information are generic animal drug applicants. Based on data for the past 3 years, FDA estimates there are approximately 20 submissions annually and a total of 3.2 burden hours.

Dated: February 10, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03352 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–P–0948]

Determination That STAVZOR (Valproic Acid) Delayed-Release Capsules, 125 Milligrams, 250 Milligrams, and 500 Milligrams, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined that STAVZOR (valproic acid) delayed-release capsules, 125 milligrams (mg), 250 mg, and 500 mg, was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for valproic acid, delayed-release capsules, 125 mg, 250 mg, and 500 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Na'Im R. Moses, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6223, Silver Spring, MD 20993–0002, 240–402–3990.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is known generally as the "Orange Book." Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

STAVZOR (valproic acid) delayed-release capsules, 125 mg, 250 mg, and 500 mg, is the subject of NDA 22–152, held by Banner Pharmacaps Inc., and initially approved on July 29, 2008. STAVZOR is indicated for acute treatment of manic or mixed episodes associated with bipolar disorder (with or without psychotic features), monotherapy and adjunctive therapy of complex partial seizures and simple and complex absence seizures, adjunctive therapy in patients with multiple seizure types that include absence seizures, and prophylaxis of migraine headaches.

In a letter dated June 25, 2013, Banner Pharmacaps Inc. notified FDA that STAVZOR (valproic acid) delayed-release capsules, 125 mg, 250 mg, and 500 mg, was being discontinued, and FDA moved the drug product to the "Discontinued Drug Product List" section of the Orange Book.

Pharmaceutics International, Inc., submitted a citizen petition dated August 7, 2013 (Docket No. FDA–2013–P–0948), under 21 CFR 10.30, requesting that the Agency determine whether STAVZOR (valproic acid) delayed-release capsules, 125 mg, 250 mg, and 500 mg, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that STAVZOR (valproic acid) delayed-release capsules, 125 mg, 250 mg, and 500 mg, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that STAVZOR (valproic acid) delayed-release capsules, 125 mg, 250 mg, and 500 mg, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of STAVZOR (valproic acid) delayed-release capsules, 125 mg, 250 mg, and 500 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list STAVZOR (valproic acid) delayed-release capsules, 125 mg, 250 mg, and 500 mg, in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to STAVZOR (valproic acid) delayed-release capsules, 125 mg, 250 mg, and 500 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: February 12, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03455 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0161]

Determination That GANITE (Gallium Nitrate) Injectable and Five Other Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined

that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the products as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Amy Hopkins, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6207, Silver Spring, MD 20993–0002, 301–796–5418.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, a drug is removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the Agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) Before an ANDA that refers to that listed drug may be approved, (2) whenever a listed drug is voluntarily withdrawn from sale and ANDAs that refer to the listed drug have been approved, and (3) when a person petitions for such a determination under 21 CFR 10.25(a) and 10.30. Section 314.161(d) provides that if FDA determines that a listed drug was withdrawn from sale for safety or effectiveness reasons, the Agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug products listed in the table in this document are no longer being marketed.

Application no.	Drug	Applicant
NDA 019961	GANITE (gallium nitrate) Injectable; Injection, 25 milligrams (mg)/milliliter (mL).	Chapter 7 Trustee of Genta Inc., 1628 John Kennedy Blvd., Philadelphia, PA 19103
NDA 020707	SKELID (tiludronate disodium) Tablet; Oral, Equivalent to (EQ) 200 mg Base.	Sanofi Aventis US LLC, 55 Corporate Dr., Bridgewater, NJ 08807.
NDA 022023	EMEND (fosaprepitant dimeglumine) Powder; Intravenous, EQ 115 mg Base/Vial.	Merck and Co Inc., RY33 200, P.O. Box 2000, Rahway, NJ 07065.
NDA 050039	GARAMYCIN (gentamicin sulfate ophthalmic solution) Solution; Drops, EQ 0.3% Base.	Schering Plough Corp., 2000 Galloping Hill Rd., Mail Stop K 6 1, Kenilworth, NJ 07033.
NDA 202343	JUVISYNC (simvastin; sitagliptin phosphate) Tablet; Oral, 10 mg, EQ 100 mg Base; 20 mg, EQ 100 mg Base; 40 mg, EQ 100 mg Base; 10 mg, EQ 50 mg Base; 20 mg, EQ 50 mg Base; 40 mg, EQ 50 mg Base.	Merck Sharp and Dohme Corp., 351 North Sumneytown Pike, UG 2CD 015, P.O. Box 1000, North Wales, PA 19454.
ANDA 071259	TRIMETHOPRIM (trimethoprim) Tablet; Oral, 200 mg.	TEVA Pharmaceuticals USA Inc., 650 Cathill Rd., Sellersville, PA 18960–1512.

FDA has reviewed its records and, under § 314.161, has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list the drug products listed in this document in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

Approved ANDAs that refer to the NDAs and ANDAs listed in this document are unaffected by the discontinued marketing of the products subject to those NDAs and ANDAs. Additional ANDAs that refer to these products may also be approved by the Agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: February 12, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03458 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0530]

Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings With Food and Drug Administration Staff; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled "Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with

FDA Staff." The purpose of this guidance is to provide an overview of the mechanisms available to application sponsors through which to obtain FDA feedback regarding potential or planned medical device submissions reviewed in the Center for Devices and Radiological Health (CDRH) and the Center for Biologics Evaluation and Research (CBER), including the Pre-Submission program (formerly the pre-Investigational Device Exemption (pre-IDE) program). In addition, the guidance provides recommendations regarding information that should be included in a Pre-Submission Package. This guidance also describes the procedures that CDRH and CBER intend to follow when manufacturers, their representatives, or application sponsors request a meeting with review staff.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled "Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with FDA Staff" to the Division of Small Manufacturers, International and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Program Operations Staff (IDE), Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–5640; or Elizabeth Hillebrenner, Office of In Vitro Diagnostics and Radiological Health, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5616, Silver Spring, MD 20993–0002, 301–796–6346; or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

Since its establishment in 1995, the pre-IDE program has been a successful resource for both medical device applicants and the FDA. Originally, this program was designed to provide applicants a mechanism to obtain FDA feedback on future IDE applications prior to their submission. Over time, the pre-IDE program evolved to include feedback on other device submission program areas, such as Premarket Approval (PMA) applications, Humanitarian Device Exemption applications, Evaluation of Automatic Class III Designations (de novo petitions), Premarket Notification (510(k)) Submissions, and Clinical Laboratory Improvement Amendments Waiver by Application, as well as to address questions related to whether a clinical study requires submission of an IDE.

The purpose of this guidance is to update the pre-IDE program to reflect this broader scope and make important modifications to reflect changes in the premarket program areas as a result of the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85). This guidance also further expands the scope of the program to include those devices regulated by CBER, including those that are regulated as biologics under the Public Health Service Act and require submission of an Investigational New Drug Application (IND) and/or a Biologics License Application. Accordingly, FDA is changing the name for this program from the pre-IDE program to the Pre-Submission (Pre-Sub) program.

Though successful, the Pre-Sub program has faced challenges, and the guidance is intended to address them and improve the Pre-Sub program by: (1) Describing the types of information that FDA would recommend submitting in order to get the best possible feedback from FDA; (2) outlining the process by which FDA meetings should be scheduled; and (3) explaining the Agency's expectations regarding advice given during the Pre-Sub process. This guidance outlines clear recommendations for sponsors and FDA staff.

In addition to the Pre-Sub program, the guidance addresses other types of FDA feedback already available to applicants through other mechanisms. The Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115) established two types of formal early collaboration meetings ("determination meetings" as described in section 513(a)(3)(D) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) and "agreement meetings" as described in section 520(g)(7) of the FD&C Act) to provide clear direction for testing and development of devices requiring clinical investigations to support marketing. FDAMA also requires that FDA, upon written request, must meet with a PMA applicant no later than 100 days after the receipt of a PMA application that has been filed to discuss the review status of the application (referred to as a "day-100 meeting" and described in section 515(d)(3) of the FD&C Act). For other premarket submissions under review, FDA will also grant meetings on an informal basis to discuss our requests for additional information to better ensure that the formal response to FDA's request will fully address the outstanding questions (these meetings are referred to as "submission issue meetings"). FDA will respond to requests for a determination (called "study risk determinations") whether a proposed device study is exempt from or subject to the IDE regulation (21 CFR part 812). For device studies that are subject to the IDE regulations, FDA will also provide its determination whether the study is a significant risk or nonsignificant risk study in response to a voluntary request for this information. In some cases, sponsors may wish to inform or educate FDA about ongoing device development or planned submissions without a specific request for feedback. FDA will, as resources allow, grant requests for such "informational meetings."

As part of the Medical Device User Fee Amendments of 2012 (MDUFA III), FDA committed to instituting a structured process for managing Pre-Subs. This final guidance establishes such a structured process for submission and management of Pre-Subs as well as other types of requests for feedback. In addition, the guidance describes how FDA will internally track these requests as "Q-Submissions," or "Q-Subs," including what types of submissions will be handled as supplements and amendments to an initial Q-Sub. FDA has also revised the optional CDRH Cover Sheet (Form FDA 3514) to include submission types that more closely track with the types of feedback requests discussed in the guidance.

FDA intends to provide the best possible advice in accordance with the information provided by the sponsor, to ensure it is captured accurately in the meeting minutes drafted by the sponsor,

and commit to that advice unless the circumstances sufficiently change such that our advice is no longer applicable, such as when a sponsor changes the intended use of their device after we provide feedback. It is also our intention to hold timely meetings with appropriate staff and managers present, as resources permit. However, both our ability to provide advice and to hold timely meetings are dependent on our receiving the necessary information from the sponsor in advance of the meeting.

Finally, the guidance describes the procedures that CDRH and CBER intend to follow when manufacturers, their representatives, or application sponsors request a meeting with review staff as the preferred method of feedback in response to a Pre-Sub, as an early collaboration meeting, or to discuss an existing regulatory submission. This guidance also recommends how to prepare for meetings with FDA staff.

In the **Federal Register** of July 13, 2012 (77 FR 41413), FDA announced the availability of the draft guidance document. Interested persons were invited to comment by October 11, 2012. Seventeen sets of comments were received with multiple recommendations pertaining to the administrative processes and policies regarding the Pre-Sub program and meetings with FDA staff. The guidance was revised to provide a broader overview of available mechanisms for FDA feedback prior to a planned submission, with references to other existing guidance documents for those mechanisms where available. The guidance was also reorganized to discuss the various feedback mechanisms first, with a second section including specifics about meeting procedures that apply to all types of FDA feedback mechanisms where a meeting or teleconference is requested. Finally, an acceptance checklist for these submissions has been added as an appendix to clearly outline how FDA intends to determine if a Q-Sub meets the definition of the identified Q-Sub type, and to determine if a qualifying request is administratively complete. It is not necessary for each element in the checklist to be present for the submission to be accepted. Instead, the acceptance checklist is intended to ensure only that the submission includes sufficient information for FDA to provide the requested feedback and/or identify the appropriate FDA attendees so that the meeting or teleconference can be scheduled.

FDA received comments regarding the proposed timeframes for feedback to be provided to the applicant. Specifically, the guidance outlines a proposed target of 75 days, but generally no longer than 90 days, for feedback in response to a Pre-Sub. Comments requested that FDA modify the guidance to include a timeframe of 60 days for response to a Pre-Sub. As part of the MDUFA III Commitment Letter (Ref. 1), FDA agreed to improve the Pre-Sub process "as resources permit," but, because there were no additional resources provided for this program as part of the overall MDUFA III program, the recommended timeframe for FDA feedback in a Pre-Sub represents the time in which FDA believes that feedback generally can be provided without the application of additional resources to this specific program.

Some comments expressed concern regarding FDA's recommendation that if more than 1 year has passed since our last feedback on key clinical trial design elements without a submission to the Agency, the sponsor should contact the review branch to confirm that the previous advice is still valid. The guidance has clarified that the reason for this recommendation is because clinical practice (including available alternative therapies or diagnostics) is rapidly evolving. The guidance has been further modified to clarify that a new Pre-Sub to the Agency is no longer recommended. Instead, confirmation that prior feedback is still valid can be accomplished through a phone call to the lead reviewer or branch chief.

In response to other minor substantive and editorial comments, FDA revised the guidance document to clarify the processes and policies as appropriate.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on requests for FDA feedback, including the Pre-Sub program, and meetings with FDA staff. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov*. To receive "Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with FDA Staff," you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1677 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance also refers to previously approved information collections found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 803 are approved under OMB control number 0910–0437; the collections of information in 21 CFR part 807, subpart E are approved under OMB control number 0910–0120; the collections of information in 21 CFR part 812 are approved under OMB control number 0910–0078; the collections of information in 21 CFR part 814 are approved under OMB control number 0910–0231; and the collections of information for Request for Feedback on Medical Device Submissions are approved under OMB control number 0910–0756.

V. Comments

Interested persons may submit either electronic comments to *http://www.regulations.gov* or written comments regarding this document to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

VI. Reference

The following reference is available electronically at *http://www.regulations.gov*. (FDA has verified the Web site address in this reference section, but we are not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

1. MDUFA III Commitment Letter, April 18, 2012, available at *http://www.fda.gov/downloads/MedicalDevices/NewsEvents/WorkshopsConferences/UCM295454.pdf*.

Dated: February 12, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03453 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Food and Drug Administration/Xavier University PharmaLink Conference—Leadership in a Global Supply Chain

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public conference.

The Food and Drug Administration (FDA) Cincinnati District, in cosponsorship with Xavier University, is announcing a public conference entitled "FDA/Xavier University PharmaLink Conference: Leadership in a Global Supply Chain." The public conference seeks solutions to important and complicated issues by aligning with the strategic priorities of FDA, and includes presentations from key FDA officials, global regulators, and industry experts. Each presentation challenges the status quo and conventional wisdom to create synergies focused on finding solutions which make a difference. The experience level of the audience has fostered engaged dialog that has led to innovative initiatives.

Dates and Times: The public conference will be held on March 19 and 20, 2014, from 8:30 a.m. to 5 p.m. and March 21, 2014, from 8:30 a.m. to 12:15 p.m.

Location: The public conference will be held on the campus of Xavier University, 3800 Victory Pkwy., Cincinnati, OH 45207, 513–745–3073 or 513–745–3020.

Contact Persons:

For information regarding this notice: Steven Eastham, Food and Drug Administration, Cincinnati South Office, 36 East 7th Street, Cincinnati, OH, 45202, 513–246–4134, email: *steven.eastham@fda.hhs.gov.*

For information regarding the conference and registration: Marla Phillips, Xavier University, 3800 Victory Pkwy., Cincinnati, OH 45207, 513–745–3073, email: *phillipsm4@xavier.edu.*

Registration: There is a registration fee. The conference registration fees cover the cost of the presentations, training materials, receptions, breakfasts, lunches, and dinners for the 2 1/2 days of the conference. There will be onsite registration. The cost of registration is as follows:

TABLE1.—REGISTRATION FEES [1]

Attendee type	Registration fees
Industry	$1,895
Small Business (<100 employees)	$1,295
Startup Manufacturer	$300
Academic	$300
Media	Free
Government	Free

[1] The fourth registration from the same company is free—all four attendees must register at the same time.

The following forms of payment will be accepted: American Express, Visa, Mastercard, and company checks.

To register online for the public conference, please visit the "Registration" link on the conference Web site at *http://www.XavierPharmaLink.com.* FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register.**

To register by mail, please send your name, title, firm name, address, telephone and fax numbers, email, and payment information for the fee to Xavier University, Attention: Matty Toomb, 3800 Victory Pkwy., Cincinnati, OH 45207. An email will be sent confirming your registration.

Attendees are responsible for their own accommodations. The conference headquarter hotel is the Downtown Cincinnati Hilton Netherlands Plaza, 35 West 5th Street, Cincinnati, OH 45202, 513–421–9100. To make reservations online, please visit the "Venue & Logistics" link at *http://www.XavierPharmaLink.com.* The hotel is expected to sellout during this timeframe, so early reservation in the conference room-block is encouraged.

If you need special accommodations due to a disability, please contact Marla Phillips (see Contact Persons) at least 7 days in advance of the conference.

SUPPLEMENTARY INFORMATION: The public conference helps fulfill the Department of Health and Human Services and FDA's important mission to protect the public health. The conference will engage those involved in FDA-regulated global supply chain quality and management through the following topics:

- The Impact of "The CDER Challenge" to Industry
- FDA and the Medicines and Healthcare Products Regulatory Agency (MHRA) Investigator Insights
- Operationalizing Effective Contract Partnerships
- Comparing Metrics with Other Companies—is There a Way? Why is it Vital?
- Complex Supply Chain Development
- The FDA Safety and Innovation Act (FDASIA): The New Frontier
- Why Your Incoming Supply is Not Reliable—Shifting Paradigms
- Innovation Versus Safety—The Impact of the Center for Drug Evaluation and Research's Restructure
- MHRA Perspective on Global Supply Chain Challenges
- How Did They Do That? Learn from Other Industries!

The conference includes:

- Networking by topic
- Case studies
- Small group discussions
- Action plans
- Keynote dinner at the Cincinnati Reds Baseball Stadium with the Chief Executive Officer of Patheon, James Mullen

The most pressing challenges of the global pharmaceutical industry require solutions which are inspired by collaboration to ensure the ongoing health and safety of patients. These challenges include designing products with the patient in mind, building quality into the product from the onset, selecting the right suppliers, and considering total product life-cycle systems. Meeting these challenges requires vigilance, innovation, supply chain strategy, relationship management, proactive change management, and a commitment to doing the job right the first time. FDA has made education of the drug and device manufacturing community a high priority to help ensure the quality of FDA-regulated drugs and devices.

The conference helps to achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393), which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The conference also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) by providing outreach activities by Government Agencies to small businesses.

Dated: February 12, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03454 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

2014 Medical Countermeasures Initiative Regulatory Science Symposium

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following meeting: 2014 Medical Countermeasures initiative (MCMi) Regulatory Science Symposium. The symposium is intended to provide a forum for the exchange of scientific ideas for medical countermeasure development and evaluation, communicate progress on regulatory science efforts related to the development and advancement of medical countermeasures, facilitate innovative directions, and inform stakeholders on medical countermeasure-related scientific progress and accomplishments.

Date and Time: This symposium will be held on June 2 and 3, 2014, from 8 a.m. to 5 p.m. Persons interested in attending the symposium in person or viewing via Web cast must register by May 23, 2014, at 5 p.m. EST.

Location: The symposium will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

Contact: Rakesh Raghuwanshi, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4283, 301–796–4769, FAX: 301–847–8615, email: *AskMCMi@fda.hhs.gov.*

Registration: If you wish to attend the symposium or view via Web cast, you must register at *http://www.fda.gov/medicalcountermeasures* by May 23, 2014, at 5 p.m. EST. When registering, you must provide the following information: (1) Your name, (2) title, (3) company or organization (if applicable), and (4) email address.

There is no fee to register for the symposium and registration will be on a first-come, first-served basis. Early registration is recommended because seating is limited. If you need special accommodations due to a disability, please enter pertinent information in the "Notes" section of the electronic registration form when you register.

Dated: February 11, 2014.

Peter Lurie,

Acting Associate Commissioner for Policy and Planning.

[FR Doc. 2014–03358 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0006]

Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Requirements and Commitments; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: Under the Food and Drug Administration Modernization Act of 1997 (FDAMA), the Food and Drug Administration (FDA) is required to report annually in the **Federal Register** on the status of postmarketing requirements and commitments required of, or agreed upon by, holders of approved drug and biological products. This notice is the Agency's report on the status of the studies and clinical trials that applicants have agreed to, or are required to, conduct.

FOR FURTHER INFORMATION CONTACT: Cathryn C. Lee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6484, Silver Spring, MD 20993–0002, 301–796–0700; or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Food and Drug Administration Modernization Act

Section 130(a) of FDAMA (Pub. L. 105–115) amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) by adding a new provision requiring reports of certain postmarketing studies, including clinical trials, for human drug and biological products (section 506B of the FD&C Act (21 U.S.C. 356b)). Section 506B of the FD&C Act provides FDA with additional authority to monitor the progress of a postmarketing study or clinical trial that an applicant has been required to, or has agreed to, conduct by requiring the applicant to submit a report annually providing information on the status of the postmarketing study/clinical trial. This report must also include reasons, if any, for failure to complete the study/clinical trial. These studies and clinical trials are intended to further define the safety, efficacy, or optimal use of a product, and therefore play a vital role in fully characterizing the product.

Under FDAMA, commitments to conduct postmarketing studies or clinical trials included both studies/clinical trials that applicants agreed to conduct, as well as studies/clinical trials that applicants were required to conduct under FDA regulations.[1]

B. The Food and Drug Administration Amendments Act of 2007

On September 27, 2007, the President signed Public Law 110–85, the Food and Drug Administration Amendments Act of 2007 (FDAAA). Section 901, in Title IX of FDAAA, created a new section 505(*o*) of the FD&C Act authorizing FDA to require certain studies and clinical trials for human drug and biological products approved under section 505 of the FD&C Act or section 351 of the Public Health Service Act (42 U.S.C. 262). Under FDAAA, FDA has been given additional authority to require applicants to conduct and report on postmarketing studies and clinical trials to assess a known serious risk, assess signals of serious risk, or identify an unexpected serious risk related to the use of a product. This new authority became effective on March 25, 2008. FDA may now take enforcement action against applicants who fail to conduct studies and clinical trials required under FDAAA, as well as studies and clinical trials required under FDA regulations (see sections 505(*o*)(1), 502(z), and 303(f)(4) of the FD&C Act (21 U.S.C. 355(*o*)(1), 352(z), and 333(f)(4))).

Although regulations implementing FDAMA postmarketing authorities use

[1] Before passage of FDAAA, FDA could require postmarketing studies and clinical trials under the following circumstances: To verify and describe clinical benefit for a human drug approved in accordance with the accelerated approval provisions in section 506(b)(2)(A) of the FD&C Act (21 CFR 314.510 and 601.41); for a drug approved on the basis of animal efficacy data because human efficacy trials are not ethical or feasible (21 CFR 314.610(b)(1) and 601.91(b)(1)); and for marketed drugs that are not adequately labeled for children under section 505B of the FD&C Act (Pediatric Research Equity Act; Pub. L. 108–155).

the term "postmarketing commitment" to refer to both required studies and studies applicants agree to conduct, in light of the new authorities enacted in FDAAA, FDA has decided it is important to distinguish between enforceable postmarketing requirements and unenforceable postmarketing commitments. Therefore, in this notice and report, FDA refers to studies/clinical trials that an applicant is required to conduct as "postmarketing requirements" (PMRs) and studies/clinical trials that an applicant agrees to but is not required to conduct as "postmarketing commitments" (PMCs). Both are addressed in this notice and report.

C. FDA's Implementing Regulations

On October 30, 2000 (65 FR 64607), FDA published a final rule implementing section 130 of FDAMA. This rule modified the annual report requirements for new drug applications (NDAs) and abbreviated new drug applications (ANDAs) by revising § 314.81(b)(2)(vii) (21 CFR 314.81(b)(2)(vii)). The rule also created a new annual reporting requirement for biologics license applications (BLAs) by establishing § 601.70 (21 CFR 601.70). The rule described the content and format of the annual progress report, and clarified the scope of the reporting requirement and the timing for submission of the annual progress reports. The regulations became effective on April 30, 2001 (66 FR 10815). The regulations apply only to human drug and biological products approved under NDAs, ANDAs, and BLAs. They do not apply to animal drugs or to biological products regulated under the medical device authorities.

The reporting requirements under §§ 314.81(b)(2)(vii) and 601.70 apply to PMRs and PMCs made on or before the enactment of FDAMA (November 21, 1997), as well as those made after that date. Therefore, studies and clinical trials required under FDAAA are covered by the reporting requirements in these regulations.

Sections 314.81(b)(2)(vii) and 601.70 require applicants of approved drug and biological products to submit annually a report on the status of each clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology study/clinical trial either required by FDA or that they have committed to conduct, either at the time of approval or after approval of their NDA, ANDA, or BLA. The status of PMCs concerning chemistry, manufacturing, and production controls and the status of other studies/clinical trials conducted on an applicant's own initiative are not required to be reported under §§ 314.81(b)(2)(vii) and 601.70 and are not addressed in this report. It should be noted, however, that applicants are required to report to FDA on these commitments made for NDAs and ANDAs under § 314.81(b)(2)(viii). Furthermore, section 505(*o*)(3)(E) of the FD&C Act, as amended by FDAAA, requires that applicants report periodically on the status of each required study/clinical trial and each study/clinical trial "otherwise undertaken * * * to investigate a safety issue * * *."

According to the regulations, once a PMR has been required, or a PMC has been agreed upon, an applicant must report on the progress of the PMR/PMC on the anniversary of the product's approval[2] until the PMR/PMC is completed or terminated and FDA determines that the PMR/PMC has been fulfilled or that the PMR/PMC is either no longer feasible or would no longer provide useful information. The annual progress report must include a description of the PMR/PMC, a schedule for completing the PMR/PMC, and a characterization of the current status of the PMR/PMC. The report must also provide an explanation of the PMR/PMC status by describing briefly the progress of the PMR/PMC. A PMR/PMC schedule is expected to include the actual or projected dates for the following: (1) Submission of the final protocol to FDA, (2) completion of the study/clinical trial, and (3) submission of the final report to FDA. The status of the PMR/PMC must be described in the annual report according to the following definitions:

- Pending: The study/clinical trial has not been initiated (i.e., no subjects have been enrolled or animals dosed), but does not meet the criteria for delayed (i.e., the original projected date for initiation of subject accrual or initiation of animal dosing has not passed);
- Ongoing: The study/clinical trial is proceeding according to or ahead of the original schedule;
- Delayed: The study/clinical trial is behind the original schedule;
- Terminated: The study/clinical trial was ended before completion, but a final report has not been submitted to FDA; or
- Submitted: The study/clinical trial has been completed or terminated, and a final report has been submitted to FDA.

[2] Some applicants have requested and been granted by FDA alternate annual reporting dates to facilitate harmonized reporting across multiple applications.

Databases containing information on PMRs/PMCs are maintained at the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER).

II. Summary of Information From Postmarketing Status Reports

This report, published to fulfill the annual reporting requirement under FDAMA, summarizes the status of PMRs and PMCs as of September 30, 2012. If a requirement or commitment did not have a schedule, or a postmarketing progress report was not received in the previous 12 months, the PMR/PMC is categorized according to the most recent information available to the Agency.[3]

Information in this report covers any PMR/PMC that was made, in writing, at the time of approval or after approval of an application or a supplement to an application, including PMRs required under FDAAA (section 505(*o*) (3) of the FD&C Act), PMRs required under FDA regulations (e.g., PMRs required to demonstrate clinical benefit of a product following accelerated approval (see footnote 1 of this document)), and PMCs agreed to by the applicant.

Information summarized in this report includes the following: (1) The number of applicants with open PMRs/PMCs, (2) the number of open PMRs/PMCs, (3) FDA-verified status of open PMRs/PMCs reported in § 314.81(b)(2)(vii) or § 601.70 annual reports, (4) the status of concluded PMRs/PMCs as determined by FDA, and (5) the number of applications for which an annual report was expected, but was not submitted within 60 days of the anniversary date of U.S. approval or an alternate reporting date that has been granted by FDA.[4]

Additional information about PMRs/PMCs is provided on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PostmarketingPhaseIVCommitments/default.htm*. Neither the Web site nor this notice include information about PMCs concerning chemistry, manufacturing, and controls. It is FDA

[3] Although the data included in this report do not include a summary of reports that applicants have failed to file by their due date, the Agency notes that it may take appropriate regulatory action in the event reports are not filed on a timely basis.

[4] The type of information included in this report is the same as in previous ones. However, as a result of improved data capture and refinement of analytical methods, some values in the fiscal year (FY) 2012 report are notably different from those reported in the previous reports. FDA intends to use the data capture and analytical methods applied to the FY2012 report in future annual reports. For clarity and comparison purposes, relevant data for the FY2012 report are provided using both the updated and previously used methods (see footnotes 5, 7, and 8).

policy not to post information on the Web site until it has been verified and reviewed for suitability for public disclosure. Numbers published in this notice cannot be compared with the numbers resulting from searches of the Web site because this notice incorporates totals for all PMRs/PMCs in FDA databases, including PMRs/PMCs undergoing review for accuracy. In addition, the status information reported in this notice will be updated annually while the Web site is updated quarterly (i.e., in January, April, July, and October).

An applicant may have multiple approved products, and an approved product may have multiple PMRs and/or PMCs. As of September 30, 2012, there were 172 unique applicants with 1,069 open PMRs/PMCs under 476 unique NDAs/ANDAs.[5] For BLAs, there were 72 unique applicants with 430 open PMRs/PMCs under 101 unique applications.

Applicants must submit an annual status report on the progress of each open PMR/PMC within 60 days of the anniversary date of U.S. approval of the original application or an alternate reporting date that has been granted by FDA. There were 432 NDAs/ANDAs with an annual status report due in fiscal year (FY) 2012.[6] Of the 432 annual status reports due, 61 percent (264/432) were received on time;[7] 19 percent (82/432) were received, but not on time; and 20 percent (86/432) were not received at any time during FY2012.[8]

For BLAs, there were 101 annual status reports expected in FY2012. Of those expected, 68 percent (69/101) were received on time; 12 percent (12/101) were received, but not on time; and 20 percent (20/101) were not received at any time during FY2012.

III. About This Report

This report provides six separate summary tables. The tables in this document distinguish between PMRs and PMCs and between on-schedule and off-schedule PMRs and PMCs according to the original schedule milestones. On-schedule PMRs/PMCs are categorized as pending, ongoing, or submitted. Off-schedule PMRs/PMCs that have missed one of the original milestone dates are categorized as delayed or terminated. The tables include data as of September 30, 2012.

Table 1 of this document provides an overall summary of the data on all PMRs and PMCs. Tables 2 and 3 of this document provide detail on PMRs. Table 2 of this document provides additional detail on the status of on-schedule PMRs.

Table 1 of this document shows that most open PMRs (81 percent for NDAs/ANDAs and 83 percent for BLAs) and most open PMCs (73 percent for NDAs/ANDAs and 76 percent for BLAs) are progressing on schedule (i.e., are not delayed or terminated). Overall, of the PMRs that are pending (i.e., have not been initiated, but do not meet the definition for delayed), 78 percent (411/527) were created within the past 3 years.

Table 2 of this document shows that 53 percent (260/527) of pending PMRs for drug and biological products are in response to the Pediatric Research and Equity Act (PREA), under which FDA requires sponsors to study new drugs, when appropriate, for pediatric populations. Under section 505B(a)(3) (21 U.S.C. 355c(a)(3)) of the FD&C Act, the initiation of these studies generally is deferred until required safety information from other studies has first been submitted and reviewed. PMRs for products approved under the animal efficacy rule (21 CFR 314.600 for drugs; 21 CFR 601.90 for biological products) can be conducted only when the product is used for its indication as a counterterrorism measure. In the absence of a public health emergency, these studies/clinical trials will remain pending indefinitely. The next largest category of pending PMRs for drug and biological products (45 percent, 253/527) comprises those studies/clinical trials required by FDA under FDAAA, which became effective on March 25, 2008.

Table 3 of this document provides additional detail on the status of off-schedule PMRs. The majority of off-schedule PMRs (which account for 19 percent of the total for NDAs/ANDAs and 17 percent for BLAs) are delayed according to the original schedule milestones (98 percent (141/144) for NDAs/ANDAs; 93 percent (26/28) for BLAs). In certain situations, the original schedules may have been adjusted for unanticipated delays in the progress of the study/clinical trial (e.g., difficulties with subject enrollment in a trial for a marketed drug or need for additional time to analyze results). In this report, study/clinical trial status reflects the status in relation to the original study/clinical trial schedule regardless of whether FDA has acknowledged that additional time may be required to complete the study/;clinical trial.

Tables 4 and 5 of this document provide additional detail on the status of PMCs. Table 4 of this document provides additional detail on the status of on-schedule PMCs. Pending PMCs comprise 52 percent (111/215) of the on-schedule NDA/ANDA PMCs and 40 percent (79/200) of the on-schedule BLA PMCs.

Table 5 of this document provides additional details on the status of off-schedule PMCs. The majority of off-schedule PMCs (which account for 27 percent for NDAs/ANDAs and 24 percent for BLAs) are delayed according to the original schedule milestones (92 percent (72/78) for NDAs/ANDAs; 97 percent (61/63) for BLAs).

Table 6 of this document provides details about PMRs and PMCs that were concluded in FY2012. The majority of concluded PMRs and PMCs were fulfilled (67 percent of NDA/ANDA PMRs and 63 percent of BLA PMRs; 58 percent of NDA/ANDA PMCs and 85 percent of BLA PMCs).

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[5] The number of unique NDAs/ANDAs (476) is noticeably different from the corresponding number in the FY2011 Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Requirements and Commitments (77 FR 13339, March 6, 2012). The FY2011 calculation (198) was based on PMRs/PMCs that were both open at the end of the FY and had received a status update during the year. The FY2012 calculation includes *all* PMRs/PMCs open at the end of FY2012, regardless of when the last status update occurred. Applying FY2011 calculation methods to FY2012 results in 252 unique NDAs/ANDAs with open PMRs/PMCs.

[6] The number of expected annual status reports (432) is different from the total number of unique NDAs/ANDAs with open PMRs/PMCs (476) because not all NDAs/ANDAs had an annual status report due during FY2012. PMRs/PMCs associated with multiple NDAs/ANDAs may submit the annual status report to only one of the applications. In addition, if all of the PMRs/PMCs for an application were established in FY2012, or if all PMRs/PMCs for an application were concluded before the annual status report due date, submission of an annual status report would not be expected.

[7] In the FY2011 FR notice, the percentage of NDA/ANDA annual status reports submitted on time (79 percent) was based on applications that had *both* an open PMR/PMC as of September 30, 2011, *and* had received an annual report during the FY. The corresponding FY2012 calculation is based on applications with an annual status report due date during FY2012, regardless of whether a report was actually received during the FY or whether PMRs/PMCs were closed as of September 30, 2012. Applying the FY2011 calculation method to FY2012 results in 84 percent (166/197) of NDA/ANDA annual status reports submitted on time.

[8] The FY2011 FR notice reported that 100 percent of the annual status reports due, but not submitted on time, were submitted before the close of FY2011. The corresponding percentage is only 49 percent in FY2012. In FY2011, the percentage of annual reports not received on time was based only on reports received within FY2011. The FY2012 calculation considers all reports expected, not just those actually received during FY2012. Applying the FY2011 calculation method to FY2012 results in 100 percent (31/31) of annual status reports due, but not submitted on time, that were submitted before the close of FY2012.

TABLE 1—SUMMARY OF POSTMARKETING REQUIREMENTS AND COMMITMENTS

[Numbers as of September 30, 2012]

	Number of NDA/ANDA PMRs/PMCs (% of total PMR or % of total PMC)	Number of BLA PMRs/PMCs (% of total PMR or % of total PMC) [1]
Number of open PMRs	776	167
On-schedule open PMRs (see table 2 of this document).	632 (81%)	139 (83%)
Off-schedule open PMRs (see table 3 of this document).	144 (19%)	28 (17%)
Number of open PMCs	293	263
On-schedule open PMCs (see table 4 of this document).	215 (73%)	200 (76%)
Off-schedule open PMCs (see table 5 of this document).	78 (27%)	63 (24%)

[1] On October 1, 2003, FDA completed a consolidation of certain therapeutic products formerly regulated by CBER into CDER. Consequently, CDER now reviews many BLAs. Fiscal year statistics for postmarketing requirements and commitments for BLAs reviewed by CDER are included in BLA totals in this table.

TABLE 2—SUMMARY OF ON-SCHEDULE POSTMARKETING REQUIREMENTS

[Numbers as of September 30, 2012]

On-Schedule Open PMRs	Number of NDA/ANDA PMRs (% of total PMR)	Number of BLA PMRs (% of total PMR) [1]
Pending (by type):		
Accelerated approval	10	2
PREA [2]	236	24
Animal efficacy [3]	2	0
FDAAA safety (since March 25, 2008)	203	50
Total	451 (58%)	76 (46%)
Ongoing:		
Accelerated approval	11	8
PREA [2]	40	6
Animal efficacy [3]	0	0
FDAAA safety (since March 25, 2008)	68	28
Total	119 (15%)	42 (25%)
Submitted:		
Accelerated approval	0	1
PREA [2]	20	7
Animal efficacy [3]	0	0
FDAAA safety (since March 25, 2008)	42	13
Total	62 (8%)	21 (13%)
Combined total	632 (81%)	139 (84%)

[1] See note 1 for table 1 of this document.

[2] Many PREA studies have a pending status. PREA studies are usually deferred because the product is ready for approval in adults. Initiation of these studies may be deferred until additional safety information from other studies has first been submitted and reviewed.

[3] PMRs for products approved under the animal efficacy rule (§ 314.600 for drugs; § 601.90 for biological products) can be conducted only when the product is used for its indication as a counterterrorism measure. In the absence of a public health emergency, these studies/clinical trials will remain pending indefinitely.

TABLE 3—SUMMARY OF OFF-SCHEDULE POSTMARKETING REQUIREMENTS

[Numbers as of September 30, 2012]

Off-schedule open PMRs	Number of NDA/ANDA PMRs (% of total PMR)	Number of BLA PMRs (% of total PMR) [1]
Delayed:		
Accelerated approval	5	2
PREA	107	14
Animal efficacy	1	0
FDAAA safety (since March 25, 2008)	28	10
Total	141 (18.2%)	26 (16%)
Terminated	3 (0.4%)	2 (1%)

TABLE 3—SUMMARY OF OFF-SCHEDULE POSTMARKETING REQUIREMENTS—Continued

[Numbers as of September 30, 2012]

Off-schedule open PMRs	Number of NDA/ANDA PMRs (% of total PMR)	Number of BLA PMRs (% of total PMR) [1]
Combined total	144 (19%)	28 (17%)

[1] See note 1 for table 1 of this document.

TABLE 4—SUMMARY OF ON-SCHEDULE POSTMARKETING COMMITMENTS

[Numbers as of September 30, 2012]

On-schedule open PMCs	Number of NDA/ANDA PMCs (% of total PMC)	Number of BLA PMCs (% of total PMC) [1]
Pending	111 (38%)	79 (30%)
Ongoing	56 (19%)	71 (27%)
Submitted	48 (16%)	50 (19%)
Combined total	215 (73%)	200 (76%)

[1] See note 1 for table 1 of this document.

TABLE 5—SUMMARY OF OFF-SCHEDULE POSTMARKETING COMMITMENTS

[Numbers as of September 30, 2012]

Off-schedule open PMCs	Number of NDA/ANDA PMCs (% of total PMC)	Number of BLA PMCs (% of total PMC) [1]
Delayed	72 (25%)	61 (23%)
Terminated	6 (2%)	2 (0.8%)
Combined tota	78 (27%)	63 (24%)

[1] See note 1 for table 1 of this document.

TABLE 6—SUMMARY OF CONCLUDED POSTMARKETING REQUIREMENTS AND COMMITMENTS

[October 1, 2011 to October 1, 2012]

	Number of NDA/ANDA PMRs/PMCs (% of Total)	Number of BLA PMRs/PMCs (% of Total) [1]
Concluded PMRs:		
Requirement met (fulfilled)	74 (67%)	12 (63%)
Requirement not met (released and new revised requirement issued).	6 (6%)	1 (5%)
Requirement no longer feasible or product withdrawn (released).	30 (27%)	6 (32%)
Total	110	19
Concluded PMCs:		
Commitment met (fulfilled)	66 (58%)	34 (85%)
Commitment not met (released and new revised requirement/commitment issued).	0 (0)	0 (0)
Commitment no longer feasible or product withdrawn (released).	47 (42%)	6 (15%)
Total	113	40

[1] See note 1 for table 1 of this document.

Dated: February 6, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–03353 Filed 2–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received within 60 days of this notice.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Rural Health Care Services Outreach Supplement Performance Measures.

OMB No. 0915–xxxx—NEW

Abstract: The fiscal year (FY) 2013 supplemental funding to the Rural Health Care Services Outreach Program grantees is a one-time supplemental funding under Section 330A(e) of the Public Health Service (PHS) Act (42 U.S.C. 254c(e)) to promote rural health care services outreach by expanding the delivery of health care services to include new and enhanced services in rural areas. The supplemental funding will specifically focus on supporting the current scope of their project, allowing grantees to further enhance outreach and enrollment assistance activities in their communities. This supplemental funding will support the Affordable Care Act's (ACA) outreach and enrollment activities to the Health Insurance Marketplaces. Grantees will be able to raise awareness of affordable insurance options and provide assistance and information to the uninsured about enrolling in available sources of insurance, such as Medicare, Medicaid, the Children's Health Insurance Program (CHIP), and private insurance in the Marketplace through this supplemental funding.

The overarching goal is to increase the number of eligible individuals educated about their coverage options and enrollees to the Health Insurance Marketplaces or other available sources of insurance, such as Medicare, Medicaid, and the Children's Health Insurance Program as a result of this supplemental funding.

Need and Proposed Use of the Information: For this program, performance measures were drafted to provide data to the program and to enable HRSA to provide aggregate program data. These measures cover the principal topic areas of interest to the Office of Rural Health Policy, including: (a) Organizational information; (b) outreach and enrollment personnel; (c) outreach and education; (d) enrollment; and (e) additional resources. Several measures will be used for this program.

Likely Respondents: The respondents would be recipients of the Rural Health Care Services Outreach supplemental funding award.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

Total Estimated Annualized burden hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Rural Health Care Services Outreach Supplement Performance Measures ..	52	1	52	1.5	78
Total	52	1	52	1.5	78

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Dated: February 10, 2014.

Jackie Painter,

Deputy Director, Division of Policy and Information Coordination.

[FR Doc. 2014–03442 Filed 2–14–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act

(Public Law 92–463), notice is hereby given of the following meeting:

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: March 6, 2014, 1:00 p.m. to 4:15 p.m. EDT; March 7, 2014, 9:00 a.m. to 12:00 p.m. EDT.

Place: Parklawn Building (and via audio conference call and Adobe Connect), Conference Room 10–65, 5600 Fishers Lane, Rockville, MD 20857.

The ACCV will meet on Thursday, March 6, 2014, 1:00 p.m. to 4:15 p.m. EDT and Friday, March 7, 2014, 9:00 a.m. to 12:00 p.m. EDT. The public can join the meeting by:

1. (In Person) Persons interested in attending the meeting [in person] are encouraged to submit a written notification to: Annie Herzog, DVIC, Healthcare Systems Bureau (HSB), Health Resources and Services Administration (HRSA), Room 11C–26, 5600 Fishers Lane, Rockville, Maryland 20857 or email: *aherzog@hrsa.gov.* Since this meeting is held in a federal government building, attendees will need to go through a security check to enter the building and participate in the meeting. This written notification is encouraged so that a list of attendees can be provided to expedite entry through security. Persons may attend in person without providing written notification, but their entry into the building may be delayed due to security checks and the requirement to be escorted to the meeting by a federal government employee. To request an escort to the meeting after entering the building, call Mario Lombre at (301) 443–3196. The meeting will be held at the Parklawn Building, Conference Room 10–65, 5600 Fishers Lane, Rockville, MD 20857.

2. (Audio Portion) Calling the conference phone number, 877–917–4913, and providing the following information:

Leaders Name: Dr. Vito Caserta
Password: ACCV

3. (Visual Portion) Connecting to the ACCV Adobe Connect Pro Meeting using the following URL: *https://hrsa.connectsolutions.com/accv/* (copy and paste the link into your browser if it does not work directly, and enter as a guest). Participants should call and connect 15 minutes prior to the meeting in order for logistics to be set up. If you have never attended an Adobe Connect meeting, please test your connection using the following URL: *https://hrsa.connectsolutions.com/common/help/en/support/meeting_test.htm* and get a quick overview by following URL: *http://www.adobe.com/go/connectpro_overview.* Call (301) 443–6634 or send an email to *aherzog@hrsa.gov* if you are having trouble connecting to the meeting site.

Agenda: The agenda items for the March meeting will include, but are not limited to: (1) Updates from the Division of Vaccine Injury Compensation (DVIC), Department of Justice, National Vaccine Program Office, Immunization Safety Office (Centers for Disease Control and Prevention), National Institute of Allergy and Infectious Diseases (National Institutes of Health) and Center for Biologics, and Evaluation and Research (Food and Drug Administration); (2) Report from the ACCV Process Workgroup; (3) Review of Vaccine Information Statements; and (4) Presentation on Pneumococcal Polysaccharide (Pneumovax 23) Vaccine Safety Review. A draft agenda and additional meeting materials will be posted on the ACCV Web site *(http://www.hrsa.gov/vaccinecompensation/accv.htm)* prior to the meeting. Agenda items are subject to change as priorities dictate.

Public Comment: Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Annie Herzog, DVIC, Healthcare Systems Bureau (HSB), Health Resources and Services Administration (HRSA), Room 11C–26, 5600 Fishers Lane, Rockville, MD 20857 or email: *aherzog@hrsa.gov.* Requests should contain the name, address, telephone number, email address, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. DVIC will notify each presenter by email, mail, or telephone of their assigned presentation time. Persons who do not file an advance request for a presentation, but desire to make an oral statement, may announce it at the time of the public comment period. Public participation and ability to comment will be limited to space and time as it permits.

FOR FURTHER INFORMATION CONTACT: Anyone requiring information regarding the ACCV should contact Annie Herzog, DVIC, HSB, HRSA, Room 11C–26, 5600 Fishers Lane, Rockville, MD 20857; telephone (301) 443–6634 or email: *aherzog@hrsa.gov.*

Dated: February 11, 2014.

Jackie Painter,

Deputy Director, Division of Policy and Information Coordination.

[FR Doc. 2014–03441 Filed 2–14–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Multiple Antigenic Peptide Assays for Detection of HIV and SIV Type Retroviruses

Description of Technology: CDC scientists have developed multiple antigenic peptide immunoassays for the detection of human immunodeficiency virus (HIV) and/or simian immunodeficiency virus (SIV). HIV can be subdivided into two major types, HIV–1 and HIV–2, both of which are believed to have originated as result of zoonotic transmission. Humans are increasingly exposed to many different SIVs by wild primates. For example, human exposure to SIVs frequently occurs as a consequence of the bush meat hunting and butchering trade in Africa. Human exposure to SIVs may lead, or may have already led, to transmission of SIVs with potential for new virus induced immunodeficiency epidemics. Unfortunately, new cases of

zoonotic virus transmission may go undetected because of the lack of SIV-specific tests. Thus, there is the potential to compromise the safety of the blood donor supply system and seed a new HIV-like epidemic. This invention addresses these problems by providing a way to test all primates for the many divergent lentivirus strains to identify primary infections and prevent secondary transmission.

Potential Commercial Applications:

- Detection and differentiation of HIV–1, HIV–2 and SIVs
- HIV/SIV surveillance
- SIV/HIV/AIDS research
- Sero-monitoring of potential zoonotic transmissions
- Blood-donation supply assurance tool

Competitive Advantages:

- Fills an unmet need for SIV-specific tests
- Sensitive and specific
- Easily adapted to kit/array format
- Research indicates greater sensitivity than standard HIV enzyme immunoassays (EIAs) for detecting SIV infections

Development Stage: In vitro data available.

Inventors: Marcia L. Kalish, Clement B. Ndongmo, Chou-Pong Pau, William M. Switzer, Thomas M. Folks (all of CDC).

Publication:

1. Ndongmo CB, *et al.* New multiple antigenic peptide-based enzyme immunoassay for detection of simian immunodeficiency virus infection in nonhuman primates and humans. J Clin Microbiol. 2004 Nov;42(11):5161–9. [PMID 15528710]
2. Kalish ML, *et al.* Central African hunters exposed to simian immunodeficiency virus. Emerg Infect Dis. 2005 Dec;11(12):1928–30. [PMID 16485481]

Intellectual Property: HHS Reference No. E–294–2013/0—

- PCT Application No. PCT/US2004/011022 filed 08 Apr 2004
- US Patent No. 8,254,461 issued on 03 Sep 2013
- Various international patent applications pending or issued

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov*

Auscultatory Training System and Telemedicine Tool with Accurate Reproduction of Physiological Sounds

Description of Technology: This CDC developed auscultatory training apparatus includes a database of prerecorded physiological sounds (e.g., lung, bowel, or heart sounds) stored on a computer for playback. Current teaching tools, which utilize previously recorded sounds, suffer from the disadvantage that playback environments cause considerable distortion and errors in sound reproduction. For example, to those trainees using such systems, the reproduced respiratory sounds do not "sound" as if they are being generated by a live patient. Moreover, the aforementioned playback distortions often make it difficult for the listener to hear and interpret the subtleties of a recorded respiratory maneuver.

This device includes a software program that allows a user to select prerecorded sounds for playback. The program will also generate an inverse model of the playback system in the form of a digital filter. The inverse model processes a selected sound to cancel the distortions of the playback system so the sound is accurately reproduced. The program also permits the extraction of a specific sound component from a prerecorded sound so only the extracted sound component is audible during playback. In addition to the obvious role of a teaching tool for medical professionals, this invention could have applications as a diagnostic screening and/or telemedicine tool.

Potential Commercial Applications:

- Auscultatory training for health care professionals
- Telemedicine tool
- Diagnostic screening comparison and control

Competitive Advantages:

- Accurate, realistic reproduction of in situ physiological sounds
- Apparatus features noise-cancelling filter to eliminate ambient distortion artifacts during playback
- Device is extremely portable
- Allows for isolation and playback of specific elements of a recording

Development Stage:

- In situ data available (on-site)
- Prototype

Inventors: Walter G. McKinney, Jeff S. Reynolds, Kimberly A. Friend, William T. Goldsmith, David G. Frazer (all of CDC).

Publications:

1. Goldsmith WT, *et al.* A system for recording high fidelity cough sound and airflow characteristics. Ann Biomed Eng. 2010 Feb;38(2):469–77. [PMID 19876736]
2. Abaza AA, *et al.* Classification of voluntary cough sound and airflow patterns for detecting abnormal pulmonary function. Cough. 2009 Nov 20;5:8. [PMID 19930559]

Intellectual Property: HHS Reference No. E–283–2013/0—

- U.S. Patent No. 7,209,796 issued 24 Apr 2007
- International patent application pending (Canada)

Related Technology: HHS Reference No. E–245–2013/0.

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov*.

Enterovirus Molecular Diagnostic Test Kit

Description of Technology: CDC researchers have developed a reverse transcription/semi-nested polymerase chain reaction (RT-snPCR) assay for diagnosis of enterovirus infections within clinical specimens. Clinical laboratories currently identify enteroviruses by virus isolation and subsequent virus neutralization tests, or serological assays. In addition to being time consuming, these approaches are labor, cost and material intensive.

The enterovirus molecular diagnostic test is prepared in a kit form, consisting of three reagent preparations (three separate test steps), to which a technician adds enzymes and RNA extracted from a clinical specimen. This format is amenable to commercial manufacturing processes. The assay primers were designed for broad specificity and amplify all recognized enterovirus serotypes. In the course of assay development, PCR products have been successfully amplified and sequenced from cerebrospinal fluid, nasopharyngeal swabs, eye swabs, rectal swabs and stool suspensions, allowing for unambiguous identification of the infecting virus in all cases. This assay will be useful for the diagnosis of numerous common illnesses, such as foot-and-mouth disease, respiratory illness, conjunctivitis, neonatal illness, and myocarditis, among several others.

Potential Commercial Applications:

- Detection and identification of enterovirus infections, such as foot-and-mouth disease
- Diagnostic evaluations of respiratory or neonatal illnesses
- Enterovirus surveillance programs for humans and animals/livestock

Competitive Advantages:

- Ready for commercialization
- Easily adaptable to kit form
- Rapid, cost-efficient serotype identification
- High specificity and precision
- Assay covers all known human enterovirus serotypes

Development Stage: In vitro data available

Inventors: William A. Nix and M. Steven Oberste (CDC)

Publications:

1. Nix WA, *et al.* Sensitive, seminested PCR

amplification of VP1 sequences for direct identification of all enterovirus serotypes from original clinical specimens. J Clin Microbiol. 2006 Aug;44(8):2698–704. [PMID 16891480]
2. Nix WA, *et al.* Identification of enteroviruses in naturally infected captive primates. J Clin Microbiol. 2008 Sep;46(9):2874–8. [PMID 18596147]

Intellectual Property: HHS Reference No. E–257–2013/0—

- U.S. Patent No. 7,247,457 issued 24 Jul 2007
- U.S. Patent No. 7,714,122 issued 11 May 2010
- Various international patents issued or pending

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov*

Generation of Artificial Mutation Controls for Diagnostic Testing

Description of Technology: This technology relates to a method of generating artificial compositions that can be used as positive controls in a genetic testing assay, such as a diagnostic assay for a particular genetic disease. Such controls can be used to confirm the presence or absence of a particular genetic mutation. The lack of easily accessible, validated mutant controls has proven to be a major obstacle to the advancement of clinical molecular genetic testing, validation, quality control (QC), quality assurance (QA), and required proficiency testing. This method provides a consistent and renewable source of positive control material, as well as an alternative to patient-derived mutation-positive samples.

Potential Commercial Applications: Generation of positive controls for molecular genetic tests, particularly for tests to detect cystic fibrosis.

Competitive Advantages:

- Positive controls can be included in new kits or packaged with pre-existing assays
- Increased accuracy in diagnosis compared to current controls
- Consistent and renewable source for high-quality controls containing mutations of interest

Development Stage:

- Early-stage
- In vitro data available

Inventors: Wayne W. Grody (Regents of Univ of CA), Michael R. Jarvis (Regents of Univ of CA), Ramaswamy K. Iyer (Regents of Univ of CA), Laurina O. Williams (CDC).

Intellectual Property: HHS Reference No. E–255–2013/0—

- U.S. Patent No. 8,603,745 issued 10 Dec 2013
- Various international patent applications pending or issued

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov*

Novel In Vitro Granuloma Model for Studying Tuberculosis and Drug Efficacy

Description of Technology: CDC researchers have developed an *in vitro* model system designed to simulate early-stage *Mycobacterium tuberculosis* infection and induced granuloma formation. This modeling platform can be used for studying tuberculosis pathogenicity, identifying phenotypically-interesting clinical isolates, studying early-stage host cytokine/chemokine responses, and *in vitro* candidate-drug screening. The approach incorporates autologous human macrophages, human peripheral blood mononuclear cells, and mycobacteria to mimic *in situ* granuloma formation in a controllable *in vitro* environment. This technology would be broadly useful for investigations into the numerous facets of early granuloma host-pathogen interaction, ultimately leading to improved prevention, intervention, and treatment strategies.

Potential Commercial Applications:

- In vitro modeling system
- Basic research into tuberculosis-host interactions
- Drug candidate screening

Competitive Advantages:

- Low-cost alternative for modeling mycobacterial infections within complex tissue systems
- Allows researchers to examine early-stage granuloma formation in a highly controllable, human-based modeling system
- Cost-effective screening of potential therapeutic compounds and/or phenotypically-interesting mycobacteria

Development Stage:

- In vitro data available
- Prototype

Inventors: Frederick D. Quinn, et al. (CDC).

Publication: Birkness KA, *et al.* An in vitro model of the leukocyte interactions associated with granuloma formation in Mycobacterium tuberculosis infection. Immunol Cell Biol. 2007 Feb–Mar;85(2):160–8. [PMID 17199112].

Intellectual Property: HHS Reference Nos. E–249–2013/0 and E–249–2013/2—

- PCT Application No. PCT/US2002/000309 filed on 07 Jan 2002, which published as WO 2002/054073 on 11 Jul 2002 (claiming priority to 08 Jan 2001)
- U.S. Patent No. 7,105,170 issued 12 Sep 2006
- Various international patents issued or pending

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Diagnostic Antigens for the Identification of Latent Tuberculosis Infection

Description of Technology: CDC researchers have developed technology for sero-diagnosis of typically symptomless latent stage tuberculosis disease, posing a threat to individuals under immunosuppressive or anti-inflammatory therapies. Specifically, this diagnostic approach exploits *M. tuberculosis* secreted latency specific antigens, such as alpha-crystallin, in the blood or urine of patients. This type of test could easily be developed into an inexpensive dip-stick format with high specificity (no cross-reactivity with other mycobacteria), rapidity, and sensitivity (fewer bacteria needed for a positive identification). Because secreted antigens are recognized more readily by the immune system, serum-derived antibodies to these antigens can correspondingly be used for diagnostic or research use.

Potential Commercial Applications:

- Development of a latent tuberculosis diagnostic
- Improvements to current diagnostics
- Public health/tuberculosis monitoring programs
- Screening elderly patients before beginning anti-inflammatory and/or anti-arthritis therapy

Competitive Advantages:

- Rapid and inexpensive diagnostic for latent stage tuberculosis
- Specific for latent form, unlike current IGRA/TST diagnostics
- Easily developed as a cost effective dip-stick test
- Provides high specificity (no cross-reactivity with other mycobacteria) and sensitivity (fewer bacteria needed for a positive identification)

Development Stage:

- In vitro data available
- In vivo data available (human)

Inventors: Frederick D. Quinn, *et al.* (CDC).

Publication: Stewart JN, *et al.* Increased pathology in lungs of mice after infection with an alpha-crystallin mutant of Mycobacterium tuberculosis: Changes in cathepsin proteases and certain cytokines. Microbiology. 2006 Jan;152(Pt 1):233–44. [PMID 16385133].

Intellectual Property: HHS Reference Nos. E–249–2013/1 and E–249–2013/2—

- PCT Application No. PCT/US2002/000309 filed on 07 Jan 2002, which published as WO 2002/054073 on 11 Jul 2002 (claiming priority to 08 Jan 2001)
- U.S. Patent No. 7,105,170 issued 12 Sep 2006
- Various international patents issued or pending

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Methods and Apparatus for Computer-Aided Cough Sound Analysis

Description of Technology: CDC researchers have developed a system that allows subjects to cough into a tubing system allowing the acoustics generated to be recorded with high fidelity and generated data is transferred to a computer for subsequent analysis. Lung diseases can be differentiated by the location of effect in the lungs that produce variations in cough sounds and patterns. Based on these differences, analysis software estimates the lung disease type of the subject. Those who benefit from cough sound analysis include subjects in the early stages of undetected lung disease, subjects with conditions not easily diagnosed by standard techniques, subjects who demonstrate difficulty performing forced expiratory maneuvers and other pulmonary function tests (e.g., elderly, young and very sick patients), and workers whose respiratory functioning may change during the workday.

Potential Commercial Applications:

- Clinical screening for early-stage respiratory illnesses
- Occupational health and safety
- Physiological data collection and algorithmic analysis
- Preventative and early intervention health care

Competitive Advantages:

- Increased accuracy in recorded observations
- Improved objectivity in analysis compared to traditional auscultatory methods
- Broadens the diagnostic toolset of primary/initial care physicians and respiratory therapists
- Portable for field studies and on-site screening/diagnostic uses

Development Stage:

- In situ data available (on-site)
- Prototype

Inventors: William T. Goldsmith, David Frazer, Jeffrey Reynolds, Aliakbar Afshari, Kimberly Friend, Walter McKinney (all of CDC).

Publications:

1. Wysong P. Ever Wonder What a Cough Looks Like? The Medical Post 1998;34(21):14. (Third-party Magazine Article about this technology)
2. Abaza AA, *et al.* Classification of voluntary cough sound and airflow patterns for detecting abnormal pulmonary function. Cough. 2009 Nov 20;5:8. [PMID 19930559]
3. Goldsmith WT, *et al.* A system for recording high fidelity cough sound and airflow characteristics. Ann Biomed Eng. 2010 Feb;38(2):469–77. [PMID 19876736]

Intellectual Property: HHS Reference No. E–245–2013/0—

- U.S. Patent No. 6,436,057 issued 20 Aug 2002
- Canada Patent 2,269,992 issued 22 Dec 2009

Related Technology: HHS Reference No. E–283–2013/0.

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Methods of Retaining Methylation Pattern Information in Globally Amplified DNA

Description of Technology: CDC researchers have developed a novel method that generates globally amplified DNA copies retaining parental methylation information; making accurate DNA-archiving for methylation studies much more feasible and cost-effective than undertaking such an endeavor with alternate technologies. This unique approach eliminates a significant bottleneck in the collection of methylation information in the genome(s) of an individual organism, hosts and pathogens. Thus, this technology provides numerous opportunities for investigations into cytosine methylation patterns, ultimately benefiting efforts of early detection, control and prevention of many chronic and infectious diseases.

Potential Commercial Applications:

- Epigenetics investigators and related products manufacturers
- Studies into pathogenesis regulation, chronic diseases, gene silencing, etc.
- Cancer and obesity research
- Basic research applications

Competitive Advantages:

- Overcomes a significant barrier inhibiting efficient DNA methylation archival studies
- Substantially reduces the required quantity of sample DNA
- Developed kits will be universally applicable to all species using DNA methylation as regulatory mechanisms of growth, development and/or pathogenesis
- Usable in all situations of limited amounts of DNA, including studies with single cells
- Improved cost effectiveness and study feasibility compared to alternate technologies

Development Stage: In vitro data available.

Inventors: Mangalathu Rajeevan and Elizabeth R. Unger (CDC).

Publication: Rajeevan MS, *et al.* Quantitation of site-specific HPV 16 DNA methylation by pyrosequencing. J Virol Methods. 2006 Dec;138(1–2):170–6. [PMID 17045346].

Intellectual Property: HHS Reference No. E–243–2013/0—U.S. Patent No. 7,820,385 issued 26 Oct 2010.

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Inexpensive, Personal Dust Detector Tube/Dosimeter Operating on a Gas Detector Tube Platform

Description of Technology: This CDC developed dust detector tube is designed to provide inexpensive, short-term, time weighted average dust exposure data feedback directly to device users. This invention operates upon a conventional gas detector tube platform and can be used with any low volume pump that can electronically measure pump back pressure. The device consists of three sections: the first defines the size of the dust and removes moisture, the second uses a filter whose pressure differential corresponds with cumulative dust loading, and a final section employs a pressure transducer.

Current methods require expensive instantaneous and short-term monitors or gravimetric filters that must be carefully pre- and post-weighed to determine the average dust exposure of a user's work-shift. This novel dust dosimeter fills the need for an inexpensive short-term determination of personal dust exposure aiding in the assessment and preservation of worker respiratory health.

Potential Commercial Applications:

- Dust, gas and particulate detector/dosimeter manufacturers
- Industry applications where worker-exposure to dust will be a concern, especially mining, construction and demolition fields
- Worker health and safety, related insurance agency concerns

Competitive Advantages:

- Provides inexpensive, short-term assessment of personal dust exposure
- Gas detector tube platform makes commercialization of this instrument

quite simple and efficient for related manufacturers/distributors

• Standardizing detection platforms increases cost-efficiency (especially for smaller companies) as the same pump can be used to measure both dust and gas

Development Stage: In situ data available (on-site).

Inventors: Jon Volkwein, Harry Dobroski, Steven Page (all of CDC).

Publication: Volkwein JC, *et al.* Laboratory evaluation of pressure differential-based respirable dust detector tube. Appl Occup Environ Hyg. 2000 Jan;15(1):158–64. [PMID 10712071].

Intellectual Property: HHS Reference No. E–238–2013/0—U.S. Patent No. 6,401,520 issued 11 Jun 2002.

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Peptide Sequences for *Chlamydophila pneumoniae* Vaccine and Serological Diagnosis

Description of Technology: CDC researchers have isolated select *Chlamydophila pneumoniae* peptide epitopes for development of vaccines and diagnostic assays. Currently, *C. pneumoniae* infection of humans has been linked to a wide variety of acute and chronic diseases, such as asthma, endocarditis, atherosclerotic vascular disease, chronic obstructive pulmonary disease, sarcoidosis, reactive arthritis and multiple sclerosis. There is presently no available peptide vaccine for the pathogen and reliable and accurate diagnostic methods are limited.

This technology encompasses polypeptide sequences that are specifically recognized by anti-*C. pneumoniae* antibodies. These antigens may be useful for improving diagnostic methods by reducing the variability and high backgrounds found with methods that rely on whole organisms for detection. Further, this technology may also be useful for production of peptide or DNA-based vaccines directed against *C. pneumoniae.*

Potential Commercial Applications:

- *C. pneumoniae* vaccine and/or therapeutic developments
- Public health surveillance programs
- Clinical serological diagnostics development

Competitive Advantages:

- No peptide vaccine for *C. pneumoniae* is presently available
- Present assays for the diagnosis of *C. pneumoniae* infections are laborious and limited in efficacy

Development Stage: In vitro data available.

Inventors: Eric L. Marston, Jacquelyn S. Sampson, George M. Carlone, Edwin W. Ades (all of CDC).

Publication: Marston EL, *et al.* Newly characterized species-specific immunogenic Chlamydophila pneumoniae peptide reactive with murine monoclonal and human serum antibodies. Clin Diagn Lab Immunol. 2002 Mar;9(2):446–52. [PMID 11874892].

Intellectual Property: HHS Reference No. E–235–2013/0—U.S. Patent No. 7,223,836 issued 29 May 2007.

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

CD40 Ligand: Adjuvant for Enhanced Immune Response to Respiratory Syncytial Virus

Description of Technology: CDC researchers have developed methods and adjuvants for enhancing a subject's immune response to respiratory syncytial virus (RSV) by inclusion of a CD40 binding protein. RSV has long been recognized as a major respiratory tract pathogen of infants, as well as older children and the elderly. Established, successful methods for preventing RSV are currently unavailable. CD40 ligand (CD40L, also known as CD154) is an important costimulatory molecule found on the T-cell and is critical for the development of immunity. CD40L may provide a novel adjuvant to enhance cytokine and antibody response to RSV, directing a subject's immune response further towards Th1-mediated outcomes rather than a less effective Th2-type response. This Th2-type response has been previously suggested as the cause of previous live-RSV vaccine failures. This technology, appropriately developed and integrated into an RSV vaccination agenda, may be useful in improving the efficacy of current or future RSV vaccines.

Potential Commercial Applications:

- Improvements to current RSV vaccines
- Public health vaccination programs
- Enhancing antibody response and T-cell costimulation for targeted immunogenic outcomes
- Pharma development programs focusing on care for neonates, children and the elderly

Competitive Advantages:

- Increased expression of Th1-type cytokines and antibody production
- Enhanced CD40 costimulation
- May overcome prior live-RSV vaccine issues (which generated a primarily Th2-type immune response) by steering post-vaccination immunity further towards a preferred Th1-type (IL–2 and IFN-gamma) response, enhancing virus clearance in vivo

Development Stage:

- In vitro data available
- In vivo data available (animal)

Inventors: Ralph A. Tripp, Larry J. Anderson, Michael P. Brown (all of CDC)

Publication: Tripp RA, *et al.* CD40 ligand (CD154) enhances the Th1 and antibody responses to respiratory syncytial virus in the BALB/c mouse. J Immunol. 2000 Jun 1;164(11):5913–21. [PMID 10820273]

Intellectual Property: HHS Reference No. E–233–2013/0—

- PCT Application No. PCT/US2001/003584 filed 02 Feb 2001, which published as WO 2001/056602 on 09 Aug 2001
- U.S. Patent No. 7,371,392 issued 13 May 2008
- U.S. Patent No. 8,354,115 issued 15 Jan 2013
- Various international patents issued

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Recombinant Polypeptides for Clinical Detection of Taenia solium and Diagnosis of Cysticercosis

Description of Technology: CDC scientists have developed synthetic/recombinant polypeptides that can be used for the creation of inexpensive, high-quality cysticercosis diagnostic assays. *Taenia solium* is a species of pathogenic tapeworm. Intestinal infection with this parasite is referred to as taeniasis and it is acquired by ingestion of *T. solium* cysticerci found in raw and undercooked pork, or food contaminated with human or porcine excrement. Many infections are asymptomatic, but infection may be characterized by insomnia, anorexia, abdominal pain and weight loss. Cysticercosis is the formation of cysticerci in various body tissues resulting from the migration of the *T. solium* larvae out of the intestine. Although infection with *T. solium* is itself not dangerous, cysticercosis can be fatal. In the present invention, specific antigen encoding nucleotide sequences have been cloned; assays based on the produced antigens may be useful for improvements over the existing Western blot diagnostic method for identifying individuals with cysticercosis. Additionally, these polypeptides may have applications in developing vaccines and therapeutics to prevent taeniasis.

Potential Commercial Applications:

- Diagnosis of *T. solium* infection and confirmation of cysticercosis
- Zoonotic disease research and surveillance
- Public health monitoring programs
- Livestock health and food-source monitoring
- Therapeutics/vaccine development

Competitive Advantages:

- May provide a rapid, accurate, sensitive and safe alternative to current radiologic, Western blot and biopsy diagnostic methods
- Can be easily formatted as a simple-to-use assay kit for FAST–ELISA
- Cost-effective, and quite useful for developing regions of the world

Development Stage: In vitro data available

Inventors: Victor C. Tsang, Ryan M. Greene, Patricia P. Wilkins, Kathy Hancock (all of CDC)

Publication: Greene RM, *et al.* Taenia solium: molecular cloning and serologic evaluation of 14– and 18–kDa related, diagnostic antigens. J Parasitol. 2000 Oct;86(5):1001–7. [PMID 11128471]

Intellectual Property: HHS Reference No. E–230–2013/0—

- PCT Application No. PCT/US2001/003584 filed 02 Feb 2001, which published as WO 2001/075448 on 11 Oct 2011
- U.S. Patent No. 7,094,576 issued 22 Aug 2006
- U.S. Patent No. 7,595,059 issued 29 Sep 2009

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Automated Microscopic Image Acquisition, Compositing and Display Software Developed for Applied Microscopy/Cytology Training and Analysis

Description of Technology: Micro-Screen is a CDC developed software program designed to capture images and archive and display a compiled image(s) from a portion of a microscope slide in real time. This program allows for the re-creation of larger images that are constructed from individual microscopic fields captured in up to five focal planes and two magnifications. This program may be especially useful for the creation of data archives for diagnostic and teaching purposes and for tracking histological changes during disease progression.

Potential Commercial Applications:

- Medical/cytology training, education and certification
- All aspects of applied microscopy/histology, microbial smears, hematology, parasitology, etc.
- Clinical diagnostics
- Basic and applied biology lab research
- Forensic analysis

Competitive Advantages:

- Readily adaptable to other microscopic disciplines
- Automated imaging and display provides increased cost efficiency and improves objectivity of analysis and testing
- Can be used to develop a database of standards or reference images for a variety of pathologies and/or applied microscopy concerns

Development Stage:

- In vitro data available
- In situ data available (on-site)

Inventors: MariBeth Gagnon, Roger Taylor, James V. Lange, Tommy Lee, Carlyn Collins, Richard Draut, Edward Kujawski (all of CDC).

Publication: Taylor RN, *et al.* CytoView. A prototype computer image-based Papanicolaou smear proficiency test. Acta Cytol. 1999 Nov–Dec;43(6):1045–51. [PMID 10578977]

Intellectual Property: HHS Reference No. E–228–2013/0—

- U.S. Patent No. 7,027,628 issued 11 Apr 2006
- U.S. Patent No. 7,305,109 issued 04 Dec 2007

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov*

Ultrasonic in situ Respirator Seal-Leakage Detection With Real-time Feedback Capabilities

Description of Technology: This CDC invention entails methods and apparatuses for *in situ* testing seal integrity and improved operation of respiratory masks (respirators). A variety of external factors, such as individual face shape, user environment, mask age and material used to construct the respirator, can lead to device malfunction and failure to sufficiently protect a user. To address these limitations, this invention relies on ultrasonic wave detection to assess face seal quality and other potential leak paths, as needed. Airborne ultrasound travel through atmosphere and will travel through respirator leaks. Applying this phenomena to occupational health and safety, CDC researchers have developed novel ultrasonics technology to identify and quantify respirator seal leakage in real-time. Small, low power consuming, and inexpensive apparatuses and methods for generating and detecting ultrasound may be easily obtained and customized for a given respirator and/or application.

By correlating user activity to seal sensor data, a precise understanding and awareness of respirator integrity may be obtained. When coupled with a subject alarm, these integrated values can immediately alert a user when a threshold of environmental exposure has been reached. Such real-tiine feedback will be invaluable to users in dangerous occupational activities, such as firefighters, biodefense and chemical spill first responders, mining applications, etc. Additionally, this invention possesses immense value for respirator mask manufacturers and workplace training programs for employees engaged in mandatory respirator usage applications.

Potential Commercial Applications:

- Manufacturers of respirators, leakage assessment devices and applied ultrasonic technology
- Regulators of respiratory protection plans
- Biohazard, biodefense and hazardous chemical handling and disposal
- Surgery/hospital training and use

Competitive Advantages:

- Small, low power consuming, and inexpensive apparatuses and methods may be employed
- Real-time monitoring and feedback greatly diminish risk of user exposure to environmental hazards

Development Stage:

- In situ data available (on-site)
- Prototype

Inventors: Jonathan Szalajda and William King (CDC)

Intellectual Property: HHS Reference No. E–174–2013/0—U.S. Patent No. 8,573,199 issued 05 Nov 2013

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Physiologic Sampling Pump Capable of Rapidly Adapting to User Breathing Rate

Description of Technology: This CDC developed physiologic sampling pump (PSP) overcomes shortcomings of previous devices by the use of calibrated valves in conjunction with a constant speed pump. This novel approach obviates typical PSP inertia that inherently limits system response, functionality and accuracy. All prior PSP designs have attempted to follow a user's breathing pattern by changing pump speed, thereby altering sampling rate. In that approach, pump inertia will limit system response and function due to the time required to adjust speed. Additionally, variable pump speeds often produce size selective sampling errors at low flow rates.

Performance of this PSP is not degraded by pump inertia or low flow size selective sampling errors. This

design maintains a consistent pump speed, controlling PSP sampling rate with calibrated valves that redirect air flow almost instantaneously. In situ device testing demonstrated that when this air-flow valve is properly integrated into a sampling head, response time of the PSP is essentially mutually exclusive of the magnitude of changes in the effective flow, facilitating consistently small error in sampling performance regardless of user-exertion scenario.

Potential Commercial Applications:

- Air sampling device manufacturers
- Assessing airborne hazard exposures for workplace safety
- Industrial hygiene programs
- Respiration monitoring device for patients
- Aerobic training system for athletes

Competitive Advantages:

- Allows for air sampling to be modulated to follow breathing rate
- Design obviates the sluggishness inherent in prior art physiologic sampling pumps (PSPs) caused by variable pump speed effect on sampling rate
- Improved accuracy compared to earlier PSPs, irrelevant of user-exertion scenarios
- Follows inhalation on a breath-by-breath basis

Development Stage:

- In situ data available (on-site)
- Prototype

Inventors: Larry Lee and Michael Flemmer (CDC)

Publication: Lee L, *et al.* A novel physiologic sampling pump capable of rapid response to breathing. J Environ Monit. 2009 May;11(5):1020–7. [PMID 19436860]

Intellectual Property: HHS Reference No. E–169–2013/0—U.S. Patent No. 8,459,098 issued 11 Jun 2013

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Cylindrical Handle Dynamometer for Improved Grip-Strength Measurement

Description of Technology: CDC researchers have developed an improved dynamometer device and method for measuring maximum hand grip force or grip-strength. Human test subjects were used in conducting experiments to evaluate the handle and to assess the measurement method. In contrast to the currently used "Jamar handle" grip strength dynamometer devices, the cylindrical handle proved to be able to determine the overall grip strength for a subject, as well as show the grip force distribution around the circumference of the handle. The cylindrical dynamometer handle is accurate with less than 4% error, and it demonstrates that the measurement is independent of the loading position along the handle. For real-world applications, the device can be used to help diagnose the musculoskeletal disorders of the hand, monitor the recovery progress after hand surgery or injury, and collect grip strength data for tool and machine design.

Potential Commercial Applications:

- Useful for engineering functional design and ergonomic considerations for developing new tools and machinery
- Monitoring post-operative, post-stroke rehabilitation
- Diagnosis of carpel tunnel syndrome, musculoskeletal disorders and hand-arm vibration syndrome
- Training feedback for grip-strength focused athletes—climbing, gymnastics, rugby, martial arts, etc.

Competitive Advantages: Compared to currently used "Jamar" grip test devices:

- Cylindrical handle shape more comparable with real-world/workplace machinery
- Improved comfort
- Cylindrical meter assesses the total grip force, together with the friction force and torque
- Grip force distributed at the different parts of the hand can be measured with cylindrical meter—important information for the diagnosis of hand disorders

Development Stage:

- In situ data available (on-site)
- Prototype

Inventors: Bryan Wimer, Daniel E. Welcome, Christopher Warren, Thomas W. McDowell, Ren G. Dong (all of CDC)

Publication: Wimer B, *et al.* Development of a new dynamometer for measuring grip strength applied on a cylindrical handle. Med Eng Phys. 2009 Jul;31(6):695–704. [PMID 19250853]

Intellectual Property: HHS Reference No. E–143–2013/0—U.S. Patent No. 8,240,202 issued 14 Aug 2012

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Methods for the Simultaneous Detection of Multiple Analytes

Description of Technology: CDC researchers have developed a method of simultaneously detecting and distinguishing multiple antigens within a biological sample. Epidemiological and vaccine studies require species serotype identification. Current methods of serotyping are labor intensive and can easily give subjective, errant results. This technology utilizes serotype specific antibodies bound to fluorescent beads, allowing for simultaneous single tube capture and detection of multiple antigens in one rapid, high-throughput flow cytometry assay. Such technology has an extremely wide range of useful applications, including but not limited to complex serotyping investigations for vaccine development and formulation, as a tool for rapid clinical prognosis or diagnosis, and the assay can be formatted as a kit for any number of laboratory research uses.

Potential Commercial Applications:

- Complex serotyping and/or multi-antigen composition investigations
- Tool for clinical diagnosis or prognosis of a disease or infection
- Tool for basic research

Competitive Advantages:

- Rapid flow cytometry assay
- Simultaneous detection of multiple different antigens and antibodies
- Excellent for high-throughput usage
- Provides a reliable, reproducible measurements of serotype-specific antigens within a sample
- Technology particularly well-developed for addressing *S. pneumoniae* serotyping concerns

Development Stage: In vitro data available

Inventors: Joseph E. Martinez and George M. Carlone (CDC)

Intellectual Property: HHS Reference No. E–142–2013/0—U.S. Patent No. 7,659,085 issued 09 Feb 2010

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Extension-Ladder Safety: Multimodal-feedback Indicator for Improved Ladder Positioning Safety and Efficiency

Description of Technology: Improper positioning of an extension ladder frequently results in "ladder slide-outs," which are the most common cause of ladder-fall scenarios. This invention relates to an extension ladder positioning indicator which is easily installed in a ladder rung; provides multiple cues (visual, sound, and vibration) for rapidly identifying and positioning correct ladder inclination.

CDC–NIOSH researchers found that this technology improved accuracy and efficiency of ladder positioning for both "experienced" and "novice" ladder users, as compared to the "no instruction" method and the standard anthropometric method, and that it was also significantly faster than the bubble indicator method. When properly implemented, this effective and easy to use ladder positioning indicator will

reduce the risk of extension ladder slipping and tipping and, ultimately, will reduce the number of fall incidents and injuries—benefitting construction workers, employers, contractors and workplace insurers.

Potential Commercial Applications:

- Retrofitting existing ladders to provide automated, multisensory feedback for improved compliance with OSHA and ANSI ladder-angle safety guidelines
- Ladder manufacturing companies
- Construction contractors, retailers and insurers
- Training tool to aid worker safety education and adherence

Competitive Advantages:

- Direct, multimodal user feedback reduces the time for accurate, safe ladder positioning compared to bubble-level indicator, anthropometric and sight- based ladder-positioning methods
- Visual, auditory and tactile feedback provide increased efficient-setup and safety
- Technology can be incorporated as an attachable, device which may be affixed to a ladder or integrated as an app for a mobile/tablet device
- Automated feedback ensures ladders are angled to OSHA and ANSI safety specifications

Development Stage:

- In situ data available (on-site)
- Prototype

Inventors: Peter Simeonov, Hongwei Hsiao, John Powers (all of CDC)

Publication: Simeonov P, *et al.* Research to improve extension ladder angular positioning. Appl Ergon. 2013 May;44(3):496–502. [PMID 23177178]

Intellectual Property: HHS Reference No. E–141–2013/0—U.S. Patent No 8,167,087 issued 01 May 2012

Licensing Contact: Whitney Blair, J.D., M.P.H.; 301–435–4937; *whitney.blair@nih.gov.*

Dates: February 13, 2014.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–03411 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: March 12, 2014.

Time: 9:30 a.m. to 3:30 p.m.*Agenda:* The NIH Recombinant DNA Advisory Committee (RAC) will review and discuss selected human gene transfer protocols and related data management activities. Please check the meeting agenda at OBA Meetings Page (available at the following URL: *http://oba.od.nih.gov/rdna_rac/rac_meetings.html*) for more information.

Place: National Institutes of Health, Rockledge II, Conference Room 9100, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Chris Nice, Program Assistant, Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892, 301–496–9838, *nicelc@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://oba.od.nih.gov/rdna/rdna.html,* where an agenda and any additional information for the meeting will be posted when available.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: February 12, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03395 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies B Study Section.

Date: February 28, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Long Beach Hotel, 111 East Ocean Blvd., Long Beach, CA 90802.

Contact Person: Valerie Durrant, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 827–6390, *durrantv@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: AIDS and Related Research Integrated Review Group; HIV/AIDS Vaccines Study Section.

Date: March 7, 2014.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS

Immunology and Pathogenesis Study Section.

Date: March 10, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

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: AIDS and Related Research Integrated Review Group; Behavioral and Social Consequences of HIV/AIDS Study Section.

Date: March 11–12, 2014

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Mark P Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Translational Studies in Diabetes, Obesity and Endocrinology.

Date: March 11–12, 2014.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Nancy Sheard, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–E, MSC 7892, Bethesda, MD 20892, 301–408–9901, *sheardn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Medical Imaging Investigations.

Date: March 12, 2014.

Time: 11:45 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Mehrdad Mohseni, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7854, Bethesda, MD 20892, 301–435–0484, *mohsenim@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–13–007: Early-Stage Pharmacological Validation of Novel Targets and Accompanying Pre-Therapeutic Leads for Diseases of Interest to the NIDDK.

Date: March 12, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John Bleasdale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–4514, *bleasdaleje@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodevelopment, Neuropsychiatric and Neurodegenerative Disorders.

Date: March 12, 2014.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jay Joshi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 408–9135, *joshij@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurogenesis and Cell Fate Study Section.

Date: March 13, 2014.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Joanne T Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section; Behavioral and Social Science Approaches to Preventing HIV/AIDS.

Date: March 13–14, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Riverwalk Hotel, 420 West Market Street, San Antonio, TX 78205.

Contact Person: Jose H Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Tumor Progression and Metastasis Study Section.

Date: March 13–14, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Clinical Studies and Epidemiology Study Section.

Date: March 13, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Hilary D. Sigmon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 357–9236, *sigmonh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Biology.

Date: March 17, 2014.

Time: 3:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela Y, Ng, MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, 301–435–1715, *nga@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: February 11, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03406 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.) notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Initial Review Group; Genome Research Review Committee.

Date: March 6, 2014.

Time: 11:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, 3rd Floor Conference Room, 5635 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Rudy Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, (301) 402–0838, *pozzattr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03401 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center For Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; Rare Diseases Clinical Research Consortium.

Date: March 11–13, 2014.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Carol Lambert, Ph.D., Scientific Review Officer, Office of Grants Management and Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1076, Bethesda, MD 20892, 301–435–0814, *lambert@mail.nih.gov.*

Dated: February 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03402 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Gut-Microbiome-Brain Interactions and Mental Health.

Date: March 11, 2014.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd, Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH R34 HIV/AIDS Applications.

Date: March 17, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Rebecca Steiner Garcia, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9608, Bethesda, MD 20892–9608, 301–443–4525, *steinerr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS).

Dated: February 11, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03403 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, DNA Damage Repair and Aging I.

Date: March 7, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Ph.D., Chief, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C–212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Osteoarthritis in Aging.

Date: March 25, 2014.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elaine Lewis, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: February 12, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03396 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 17, 2014, 09:00 a.m. to March 17, 2014, 12:30 p.m., National Cancer Institute Shady Grove, 2W914, Rockville, MD which was published in the **Federal Register** on February 07, 2014, 79FR7466.

This meeting is being amended to change the start and end time to 12:00 p.m.–5:00 p.m. The meeting is closed to the public.

Dated: February 12, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03398 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Skin Disease Research Core Centers.

Date: March 10–11, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kan Ma, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–451–4838, *mak2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS).

Dated: February 11, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03404 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; "Implantation."

Date: March 6, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Dennis E. Leszczynski, Ph.D., Scientific Review Administrator, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5b01, Bethesda, MD 20892, (301) 435–2717, *leszczyd@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: March 11, 2014.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Michele C. Hindi-Alexander, Ph.D.,

Division of Scientific Review, National Institutes of Health, Eunice Kennedy Shriver National Institute, of Child Health and Human Development, 1600 Executive Boulevard, RM. 5B01, Bethesda, MD 20892, (301) 435–8382, *hindialm@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Uterine Fibroids.

Date: March 13, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Dennis E. Leszczynski, Ph.D., Scientific Review Administrator, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–2717, *leszczyd@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Remediating Academic and Non-Academic Skill Deficits Among Disadvantaged Youth.

Date: March 17, 2014.

Time: 3:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Carla T. Walls, Ph.D., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: February 11, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03408 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Environmental Health Sciences Council, February 19, 2014, 08:30 a.m. to February 20, 2014, 11:00 p.m., Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709, which was published in the **Federal Register** on January 15, 2014, 79 FR 2678.

This **Federal Register** Notice is amending the second day of this meeting. February 20, 2014 will now have an open session from 8:30 a.m. to 9:30 a.m. The closed session on February 20, 2014 will now run from 9:35 a.m. to 11:30 a.m. The meeting is partially Closed to the public.

Dated: February 11, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03405 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: March 21, 2014.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health Building 31, 3C02, 31 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Andrew J. Griffith, Ph.D., MD, Director, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, 35A Convent Drive, GF 103 Rockville, MD 20892, 301–496–1960, *griffita@nidcd.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.nidcd.nih.gov/about/groups/bsc/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS).

Dated: February 11, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03409 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

Date: March 11–13, 2014.

Time: 10:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3259B, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Nancy Vazquez-Maldonado, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–496–3253, *nvazquez@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Clinical Trial Planning Grant (R34) and Clinical Trial Implementation Cooperative Agreement (U01).

Date: March 19, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3121, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Paul A. Amstad, Ph.D.,Scientific Review Officer, Scientific Review Program, Division of Extramural Activities,NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–402–7098, *pamstad@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Resource-Related Research Projects (R24).

Date: March 21, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Louis A. Rosenthal, Ph.D., Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID/DEA, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–402–8399, *rosenthalla@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03400 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, February 26, 2014, 06:00 p.m. to February 27, 2014, 05:00 p.m., National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on February 3, 2014, 79 FR 6205.

The meeting notice is amended to change the start and end time of the Subcommittee meeting on Planning and Budget, and to change the start time of

the Board meeting. The Subcommittee meeting will now start at 06:30 p.m. on February 26, 2014, and end at 08:00 p.m., and the Board meeting will now start at 8:30 a.m. on February 27, 2014. The meeting is partially closed to the public.

Dated: February 11, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03407 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Training and Career Development Application Review.

Date: April 16, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W110, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Robert Bird, Ph.D., Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, Bethesda, MD 20892–8328, 240–276–6344 *birdr@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCORP Minority Community Sites Review.

Date: April 22–23, 2014.

Time: 5:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Courtyard Gaithersburg, Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Michael B. Small, Ph.D., Chief, Program and Review Extramural Staff Training Office, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W412, Bethesda, MD 20892–9750, 240–276–6438 *smallm@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCORP Research Base.

Date: April 29–30, 2014.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 2W910/912, Rockville, MD 20850.

Contact Person: Shamala K. Srinivas, Ph.D., Scientific Review Officer, Office of Referral, Review, and Program Coordination, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W530, Bethesda, MD 20892–9750, 240–276–6442, *shamala@mail.nih.gov.*

Information is also available on the Institute's Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where a roster and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: February 12, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03397 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 20, 2014, 07:00 p.m. to March 21, 2014, 04:00 p.m., Courtyard Marriott Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878 which was published in the **Federal Register** on February 07, 2014, 79FR7466.

The meeting notice is amended to change the location and time to 9609 Medical Center Drive, Room 5E30, Rockville, MD 20850, March 20, 2014, 10:00 a.m. to March 21, 2014, 3:30 p.m. Additionally the meeting is being held as a teleconference. The meeting is closed to the public.

Dated: February 12, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–03399 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Pre-Clinical Evaluation and Commercial Development of Human Therapeutics for Liver Cancer and Ovarian Cancer Within the Scope of the Licensed Patent Rights

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive evaluation option license to practice the inventions covered under the scope of the following patents and patent applications:

- United States Patent No. 8,207,142 issued Jun 26, 2012 entitled "Inhibitor of DNA Methylation" (HHS Ref. No. E–081–2001/2–US–06);
- EP Patent No. 1418949 issued June 19, 2013, entitled "Inhibitor of DNA Methylation" (HHS Ref. No. E–081–2001/2–EP–02) and validated in Great Britain, Germany and France;
- Australia Patent No. 2002322805 issued February 21, 2008 entitled "Inhibitor of DNA Methylation" (HHS Ref. No. E–081–2001/2–AU–03);
- Australia Patent No. 2008200601 issued November 25, 2010 entitled "Inhibitor of DNA Methylation" (HHS Ref. No. E–081–2001/2–AU–07);
- Canada Patent No. 2,454,147 issued May 21, 2013 entitled "Inhibitor of DNA Methylation" (HHS Ref. No. E–081–2001/2–CA–04);
- Japan Patent Application No. 2003–517229 filed July 30, 2002 entitled "Inhibitor of DNA Methylation" (HHS Ref. No. E–081–2001/2–JP–05); and
- Japan Patent No. 5416660 issued November 22, 2013 entitled "Inhibitor of DNA Methylation" (HHS Ref. No. E–081–2001/2–JP–08)

to Metheor Therapeutics, Corporation ("METHEOR") a U.S. based company located in Shoreline, WA, USA. The patent rights in this invention have been assigned to the government of the United States of America.

The prospective exclusive evaluation option license territory may be

worldwide and the field of use may be limited to the pre-clinical evaluation and commercial development of human therapeutics for liver cancer and ovarian cancer within the scope of the Licensed Patent Rights. Upon expiration or termination of the exclusive evaluation option license, METHEOR will have the right to execute a start-up exclusive patent commercialization license which will supersede and replace the exclusive evaluation option license with no broader field of use and territory than granted in the exclusive evaluation option license.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before March 5, 2014 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive evaluation option license should be directed to: Sabarni K. Chatterjee, Ph.D., M.B.A. Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5587; Facsimile: (301) 402–0220; Email: *chatterjeesa@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The present inventions relate to a potent inhibitor of DNA methylation (Zebularine) that can specifically reactivate silenced tumor suppressor genes. This agent can be used to inhibit methylation and thereby combat certain cancers that have been linked to hypermethylation. This agent has also been shown in initial animal testing to be active orally and is more stable than some other agents in this same area of therapy and is a suitable candidate for further pre-clinical and clinical development as an anti-cancer agent to be used as monotherapy and/or as an adjunct to existing anti-cancer therapeutics.

METHEOR has indicated its interest in developing Zebularine as novel epigenetic modifiers and drugs for oncologic indications. Pre-clinical research and clinical development will primarily focus on determining the safety and efficacy of the lead compound for liver and ovarian cancers.

The prospective exclusive evaluation option license is being considered under the small business initiative launched on October 1, 2011 and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive evaluation option license, and a subsequent exclusive patent commercialization license, may be granted unless within fifteen (15) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Any additional, properly filed, and complete applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive evaluation option license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: February 12, 2014.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–03410 Filed 2–14–14; 8:45 am]

BILLING CODE 4140–01–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Advisory Council on Historic Preservation Quarterly Business Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Advisory Council on Historic Preservation Quarterly Business Meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation (ACHP) will hold its next quarterly meeting on Friday, March 7, 2014. The meeting will be held in Room SR325 at the Russell Senate Office Building at Constitution and Delaware Avenues NE., Washington, DC, starting at 8:30 a.m.

DATES: The quarterly meeting will take place on Friday, March 7, 2014, starting at 8:30 a.m. EST.

ADDRESSES: The quarterly meeting will be held in Room SR325 at the Russell Senate Office Building at Constitution and Delaware Ave. NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cindy Bienvenue, 202–606–8521, *cbienvenue@achp.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Council on Historic Preservation (ACHP) is an independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's diverse historic resources, and advises the President and the Congress on national historic preservation policy. The goal of the National Historic Preservation Act (NHPA), which established the ACHP in 1966, is to have federal agencies act as responsible stewards of our nation's resources when their actions affect historic properties. The ACHP is the only entity with the legal responsibility to encourage federal agencies to factor historic preservation into federal project requirements. For more information on the ACHP, please visit our Web site at *www.achp.gov.*

The agenda for the upcoming quarterly meeting of the ACHP is the following:

Call to Order—8:30 a.m.
I. Chairman's Welcome
II. Swearing In Ceremony
III. Chairman's Award
IV. Chairman's Report
V. Historic Preservation Policy and Programs
  A. Building a More Inclusive Preservation Program: Proposed Executive Order
  B. Working With Indian Tribes: Proposed ACHP Policy for Tribal Historic Preservation Officers
  C. Preserve America Program
  D. 50th Anniversary of the National Historic Preservation Act
  E. Rightsizing Task Force Report and Implementation Plan
  F. Climate Change and Cultural Resources
  G. ACHP Legislative Agenda
  1. Amendments to the National Historic Preservation Act
  2. Recent Legislation Related to Historic Preservation
  3. Advocacy Week
VI. Section 106 Issues
  A. Report to Congress on Historic Post Offices Disposals
  B. 2015 Section 3 Report to the President
  C. Northern Plains Tribal Summit
  D. Federal Communications Commission Program Alternative for Positive Train Control
VII. ACHP Management Issues
  A. ACHP FY 2014 and 2015 Budget
  B. Alumni Foundation Report
  C. ACHP Office Relocation Update
VIII. New Business
IX. Adjourn

The meetings of the ACHP are open to the public. If you need special accommodations due to a disability, please contact Cindy Bienvenue, 202–606–8521 or *cbienvenue@achp.gov,* at least seven (7) days prior to the meeting.

Authority: 16 U.S.C. 470j.

Dated: February 11, 2014.

Javier E. Marques,

Associate General Counsel.

[FR Doc. 2014–03373 Filed 2–14–14; 8:45 am]

BILLING CODE 4310–K6–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2014–0004; OMB No. 1660–0013]

Agency Information Collection Activities: Proposed Collection; Comment Request; Exemption of State-Owned Properties Under Self-Insurance Plan

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the collection of information necessary to allow States to request an exemption from maintaining flood insurance on State-owned structures.

DATES: Comments must be submitted on or before April 21, 2014.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under Docket ID FEMA–2014–0004. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Mary Ann Chang, Insurance Examiner, Federal Insurance and Mitigation Administration, DHS/FEMA, at (202) 646–2714 for further information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Act), as amended, 42 U.S.C. 4001 *et seq.,* recognized that a reasonable method of sharing the nation's risk of flooding at the national level was required. The Act established a requirement to purchase flood insurance for properties at risk from a flood. It also further provided an exception to this requirement for State-owned properties that are covered under an adequate State policy of self-insurance. When States provide proof of this self-insurance, the designated property is not required to be covered by flood insurance. Title 44 CFR part 75 establishes the procedures by which a State may request exemption and also establishes standards with respect to the Administrator's determinations that a State's plan of self-insurance is adequate and satisfactory for the purpose of exempting the State from the requirement of purchasing flood insurance coverage, for State-owned structures and their contents. This applies to areas identified by the Administrator as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E zones, in which the sale of insurance has been made available.

Collection of Information

Title: Exemption of State-Owned Properties under Self-Insurance Plan.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0013.

Form Titles and Numbers: None.

Abstract: States can request an exemption to the requirement of purchasing flood insurance on State-owned properties through the submission of sufficient supporting documentation certifying that the plan of self-insurance upon which the application for exemption is based meets or exceed the standards of coverage required for flood and flood-related hazards.

Affected Public: State, local, or Tribal Government.

Number of Respondents: 20.

Number of Responses: 20.

Estimated Total Annual Burden Hours: 5 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Total number of responses	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate	Total annual respondent cost
State, local or Tribal Government.	Letter of Application/No Form.	20	1	20	5	100	$82.96	$8,296
Total		20		20		100		$8,296

• **Note:** The "Avg. Hourly Wage Rate" for each respondent includes a 1.4 multiplier to reflect a fully-loaded wage rate.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $8,296. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is $5,355.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including

whether the information shall have practical utility; (b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: January 30, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–03359 Filed 2–14–14; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2014–0006; OMB No. 1660–0011]

Agency Information Collection Activities: Proposed Collection; Comment Request; Debt Collection Financial Statement

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the collection of information related to disaster program accounts and debts receivable.

DATES: Comments must be submitted on or before April 21, 2014.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under Docket ID FEMA–2014–0006. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Mary Schneider, Chief, Debt Management Unit, FEMA Finance Center, Office of the Chief Financial Officer, FEMA, at (540) 504–1649 for further information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Debt Collection Improvement Act as amended (31 U.S.C. 3701, *et seq.*), the Federal Claims Collection Standards (31 CFR 901), and DHS regulations (6 CFR 11); the Administrator of FEMA is: (1) Required to attempt collection of all debts owed to the United States arising out of activities of FEMA; and (2) for debts not exceeding $100,000, authorized to compromise such debts or terminate collection action completely where it appears that no person is liable for such debt or has the present or prospective financial ability to pay a significant sum, or that the cost of collecting such debt is likely to exceed the amount of the recovery (31 U.S.C. 3711 (a)(2)).

Collection of Information

Title: Debt Collection Financial Statement.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0011.

FEMA Forms: FEMA Form127–0–1, Debt Collection Financial Statement.

Abstract: FEMA may request debtors to provide personal financial information on FEMA Form 127–0–1 concerning their current financial position. With this information, FEMA evaluates whether to allow its debtors to pay their FEMA debts under installment repayment agreements and if so, under what terms. FEMA also uses this data to determine whether to compromise, suspend, or completely terminate collection efforts on respondent's debts. This data is also used to locate the debtor's assets if the debts are sent for judicial enforcement.

Affected Public: Individuals or households.

Number of Respondents: 2,000.

Number of Responses: 2,000.

Estimated Total Annual Burden Hours: 1,500 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form Name/ form number	No. of respondents	No. of responses per respondent	Total No. of responses	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate	Total annual respondent cost
Individuals or Households.	Debt Collection Financial Statement/ FEMA Form 127–0–1.	2,000	1	2,000	45 minutes	1,500	$33.74	$50,610.00
Total	.....	2,000	.....	2,000	.....	1,500	.....	$50,610.00

• Note: The "Avg. Hourly Wage Rate" for each respondent includes a 1.4 multiplier to reflect a fully-loaded wage rate.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $50,610.00. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is $189,319.75.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: February 6, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–03504 Filed 2–14–14; 8:45 am]

BILLING CODE 9111–19–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2013–0045; OMB No. 1660–0047]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Request for Federal Assistance Form—How to Process Mission Assignments in Federal Disaster Operations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before March 20, 2014.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Request for Federal Assistance Form——How to Process Mission Assignments in Federal Disaster Operations.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0047.

FEMA Forms: FEMA Form 010–0–7, Resource Request Form; FEMA Form 010–0–8, Mission Assignment.

Abstract: If, during the course of a State's response to a disaster, the State determines that its capacity to respond exceeds its available resources, a request to FEMA for assistance can be made. This request documents how the response requirements exceed the capacity for the State to respond to the situation on its own and what type of assistance is required. FEMA reviews this information and can task other Federal Agencies with a mission assignment to assist the State in its response to the situation.

Affected Public: State, local or Tribal Government.

Estimated Number of Respondents: 10.

Estimated Total Annual Burden Hours: 2,453 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $139,060.57. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is $36,994.20.

Dated: February 7, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–03497 Filed 2–14–14; 8:45 am]

BILLING CODE 9110–24–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP)

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0044, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on September 3, 2013, 78 FR 54266. TSA has adjusted the number of respondents published in its September 3, 2013 notice from 21,670 to 15,000. The decrease in respondents is based on historical data collected over the past three years. The collection involves the submission of identifying and travel experience information by individuals requesting redress through the Department of Homeland Security (DHS) Traveler Redress Inquiry Program (DHS TRIP). The collection also involves a voluntary customer satisfaction survey to identify areas for program improvement.

DATES: Send your comments by March 20, 2014. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory

Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3398; email *TSAPRA@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov*. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP)

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0044.

Forms(s): Traveler Inquiry Form.

Affected Public: Traveling Public.

Abstract: DHS TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they have experienced during their travel screening. These difficulties could include being: (1) Denied or delayed boarding; (2) denied or delayed entry into or departure from the United States at a port of entry; or (3) identified for additional (secondary) screening at our Nation's transportation facilities, including airports, seaports, train stations and land borders. The TSA manages the DHS TRIP office on behalf of DHS. To request redress, individuals are asked to provide identifying information as well as details of their travel experience.

The DHS TRIP office serves as a centralized intake office for traveler requests for redress and uses the online Traveler Inquiry Form (TIF) to collect requests for redress. DHS TRIP then passes the information to the relevant DHS component to process the request, as appropriate (*e.g.*, DHS TRIP passes the form to the appropriate DHS office to initiate the Watch List Clearance Procedure). Participating DHS components include the TSA, U.S. Customs and Border Protection, U.S. Citizenship and Immigration Services, Office of Biometric Information Management, Office of Civil Rights and Civil Liberties, and the Privacy Office, along with the U.S. Department of State, Bureau of Consular Affairs, and the U.S. Department of Justice (Terrorist Screening Center). This collection serves to distinguish misidentified individuals from an individual actually on any watch list used by DHS. Where appropriate, this program helps streamline and expedite future check-in or border crossing experiences.

DHS estimates that completing the Traveler Inquiry Form, including gathering and submitting the information, will take approximately one hour. The annual respondent population was derived from data contained within the DHS case management database and reflects the projected number of respondents in the next fiscal year. Thus, the total estimated annual number of burden hours for passengers seeking redress, based on 15,000 annual respondents, is 15,000 hours (15,000 x 1).

Number of Respondents: 15,000.

Estimated Annual Burden Hours: An estimated 15,000 hours annually.

Estimated Cost Burden: TSA will spend $1 million per year over the next three years to maintain the Redress Management System (RMS), which will handle these requests.

Dated: February 11, 2014.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2014–03355 Filed 2–14–14; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0117]

Agency Information Collection Activities: myE-Verify, Revision of a Currently Approved Collection; Extension.

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on November 21, 2013, at 78 FR 69871, allowing for a 60-day public comment period. USCIS received two public comment submissions in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 20, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov*. The comments submitted to the OMB USCIS Desk Officer may also be submitted to DHS via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2010–0014 or via email at *uscisfrcomment@uscis.dhs.gov*. All submissions received must include the agency name and the OMB Control Number 1615–0117.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov*.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check "My Case Status" online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* myE-Verify (previously, E-Verify Self Check Program).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* USCIS (No form number).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. myE-Verify will allow workers in the United States to enter data into the E-Verify system to ensure that the information relating to their eligibility to work is correct and accurate. The additional features of myE-Verify will allow employees to proactively engage with E-Verify through a suite of web-based services. The features of myE-Verify are free and will provide individuals with a secure account that facilitates an ongoing relationship between the user and USCIS.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

- E-Verify Self Check—Identity Authentication 2,900,000 responses at 0.0833 hours (5 minutes) per response;
- E-Verify Self Check—Query 2,175,000 responses at 0.0833 hours (5 minutes) per response;
- E-Verify Self Check—Further Action Pursued 5,582 responses at 1.183 hours (1 hour and 11 minutes) per response; and
- myE-Verify Account Creation 14,846 responses at 0.25 hours (15 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 433,063 annual burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140; Telephone 202–272–8377.

Dated: February 11, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–03357 Filed 2–14–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–17]

30-Day Notice of Proposed Information Collection: Mortgagee's Application for Partial Settlement

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* March 20, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 20, 2013.

A. Overview of Information Collection

Title of Information Collection: Mortgagee's Application for Partial Settlement.

OMB Approval Number: 2502–0427.

Type of Request: Extension of a currently approved collection.

Form Number: HUD–2737.

Description of the need for the information and proposed use: Begin settlement process. This information collected on the subject form, HUD–2537 (Mortgagee's Application for Partial Settlement—Multifamily Mortgage), provides the required information to determine the partial amount. This amount is computed in accordance with the foregoing statutory provisions and regulations promulgated thereunder in 24 CFR 207(B), Contracts Rights and Obligations.

Respondents (i.e. affected public): Business and Other for profit.

Estimated Number of Respondents: 115.

Estimated Number of Responses: 115.

Frequency of Response: 1.

Average Hours per Response: 29.

Total Estimated Burdens: 25.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's

estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapters 35.

Dated: February 11, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–03466 Filed 2–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–16]

30-Day Notice of Proposed Information Collection: Multifamily Accelerated Processing (MAP)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* March 20, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 11, 2013.

A. Overview of Information Collection

Title of Information Collection: Multifamily Accelerated Processing (MAP).

OMB Approval Number: 2502–0541.

Type of Request: Extension of a currently approved collection.

Form Number: HUD–9614.

Description of the need for the information and proposed use: The Multifamily Accelerated Processing Guide, November 2011 is being renewed by the Department. The MAP Guide is a procedural guide that permits approved Federal Housing Administration (FHA) Lenders to prepare, process, and submit loan applications for FHA multifamily mortgage insurance.

Respondents (i.e. affected public): Business and other for profit.

Estimated Number of Respondents: 90.

Estimated Number of Responses: 1045.

Frequency of Response: On Occasion.

Average Hours per Response: 436.

Total Estimated Burdens: 419,775.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapters 35.

Dated: February 11, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–03471 Filed 2–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–18]

30-Day Notice of Proposed Information Collection: Mortgage Insurance for Cooperative and Condominium Housing

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: March 20, 2014.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 12, 2013.

A. Overview of Information Collection

Title of Information Collection: Application for Mortgage Insurance for Cooperative and Condominium Housing.

OMB Approval Number: 2502–0141.

Type of Request: Extension of a currently approved collection.

Form Number: 93201.

Description of the need for the information and proposed use: The information collected on the "Application for Mortgage Insurance for Cooperative and Condominium Housing" form is used to analyze data, cost data, drawings, and specifications to determine cooperative or condominium project eligibility for FHA mortgage insurance.

Respondents (i.e. affected public): Business and Other for profit.

Estimated Number of Respondents: 20.

Estimated Number of Responses: 20.

Frequency of Response: On Occasion.

Average Hours per Response: 4 hours.

Total Estimated Burdens: 80.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapters 35.

Dated: February 11, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–03463 Filed 2–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–03]

60-Day Notice of Proposed Information Collection: Mortgage Record Change

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

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* April 21, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov.* Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Mortgage Record Change.

OMB Approval Number: 2502–0422.

Type of Request: Extension of a currently approved collection.

Form Number: 92080 (FHA Connection).

Description of the need for the information and proposed use: Servicing of insured mortgages must be performed by a mortgagee that is approved by HUD to service insured mortgages. The Mortgage Record Change information is used by FHA-approved mortgagees to comply with HUD requirements for reporting the sale of a mortgage between investors and/or the transfer of the mortgage servicing responsibility, as appropriate.

Respondents: FHA-approved mortgagees .

Estimated Number of Respondents: 7,000.

Estimated Number of Responses: 4,000,000.

Frequency of Response: on occasion at sale or transfer.

Average Hours per Response: 0.1.

Total Estimated Burdens: 400,000.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: February 10, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–03346 Filed 2–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–04]

60-Day Notice of Proposed Information Collection: Rent Schedule—Low Rent Housing

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

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* April 21, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Harry Messner, Project Manager, Field Asset Management Division, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Harry Messner at *Harry.Messner@hud.gov* or telephone 202–402–2626. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Mr. Messner.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Rent Schedule—Low Rent Housing.

OMB Approval Number: 2502–0012.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92458.

Description of the need for the information and proposed use: This information is necessary for HUD to ensure that tenant rents are approved in accordance with HUD administrative procedures.

Respondents (i.e. affected public): Owners and managers of subsidized low income housing projects.

Estimated Number of Respondents: 3,881.

Estimated Number of Responses: 3,881.

Frequency of Response: Annually, on occasion.

Average Hours per Response: 5.33.

Total Estimated Burdens: 20,686.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: *February 10, 2014.*

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–03344 Filed 2–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–15]

30-Day Notice of Proposed Information Collection: HUD Multifamily Energy Assessment

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: March 20, 2014.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 11, 2013.

A. Overview of Information Collection

Title of Information Collection: HUD Multifamily Energy Assessment.

OMB Approval Number: 2502–0568.

Type of Request: Extension of a currently approved collection.

Form Number: HUD–9614.

Description of the need for the information and proposed use: The purpose of this information collection is to assist owners of multifamily housing projects with assessing energy needs in

an effort to reduce energy costs and improve energy conservation.

Respondents (i.e. affected public): Business and Other for profit.

Estimated Number of Respondents: 12,290.

Estimated Number of Responses: 18,435.

Frequency of Response: Monthly.

Average Hours per Response: 8 hours.

Total Estimated Burdens: 99,856.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapters 35.

Dated: February 11, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–03478 Filed 2–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5759–N–04]

60-Day Notice of Proposed Information Collection: Public Housing Annual Contributions Contractor and Inventory Removal Application

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

ACTION: Notice of revised proposed information collection.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

The public housing program funds low-rent projects owned and operated by public housing agencies (PHAs), subject to the terms and conditions contained in an Annual Contributions Contract (ACC) with certain requirements applicable to all projects and other requirements applicable in only certain conditions or types of projects. These program requirements govern how properties are funded and operated by PHAs including how properties are added or removed from their inventories. Information collections from PHAs assure compliance with all Federal program requirements.

DATES: *Comments Due Date:* April 21, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5564 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Public Housing Annual Contributions Contract and Inventory Removal Application.

OMB Approval Number: 2577–0270.

Type of Request: Reinstatement, with change, of previously approved collection for which approval has expired.

Form Number: HUD–51999; HUD–52190A; HUD–52190B; HUD–52840–A; HUD–53012A, HUD–53012B, HUD 52860–A, HUD 52860–B, HUD 52860–C; HUD 52860–D; HUD 52860–E, and HUD 52860–F.

Description of the need for the information and proposed use: This information collection consolidates all ACC-related information collections involving the use of funding and inventory changes. Section 5 of the United States Housing Act of 1937 (Pub. L. 75–412, 50 Stat. 888) permits the Secretary of HUD to make annual contributions to public housing agencies (PHAs) to achieve and maintain the lower income character of public housing projects. The Secretary is required to embody the provisions for such annual contributions in a contract guaranteeing payment. Applicable regulations are 24 CFR 941 for public housing development and 24 CFR 969 for continued operation of low-income housing after completion of debt service. This collection also covers Public Housing Authority (PHA) submissions under Sections 18, 22, 33 and 32 that involve the authority of the HUD Secretary to approve PHA requests to remove certain public housing property from their inventories through demolition, disposition, voluntary conversion, required conversion or homeownership conveyance.

Respondents: Business or other for-profit, State, Local Government and public housing authorities.

	ACC Provision	Number of respondents	Frequency	Total responses	Hours per 23 response	Total hours	Cost per hour	Total cost
1	Execute new ACC via HUD form 53012–A and B.	42	1	42	5	205	30	6150
2	Terminate or amend ACC.	78	1	78	5	390	30	11700

	ACC Provision	Number of respondents	Frequency	Total responses	Hours per 23 response	Total hours	Cost per hour	Total cost
3	Request HUD approval of non-dwelling leases or agreements.	114	1	114	6	735	30	22050
4	HUD approval for easement uses.	48	1	48	7	3524	30	10560
5	Submit General Depository Agreement (GDA) via form HUD 51999.	265	1	265	2	651	30	19530
6	Request to terminate GDA.	107	1	107	2	202	30	6780
7	ACC revisions to change year end dates.	23	1	23	11	257	30	7710
8	ACC to consolidate PHAS.	18	1	18	12	217	30	6510
9	ACC revision to transfer programs.	43	1	43	9	391	30	11730
10	Request review of Conflict of interest.	102	1	102	9	951	30	27520
11	Request pooling of insurance.	5	1	5	19	97	30	2910
12	Request for new Declaration of Trust (DOT) via form HUD 52190–A and B.	142	1	142	19	1249	30	2910
13	Request DOT amendment or termination.	221	1	221	9	2031	30	41370
14	Amend ACC for Capital Fund Finance via form HUD 52840–A.	73	1	73	9	788	30	60930
15	Amend ACC for Mixed Finance Supplementary Legal Document.	94	1	94	21	1981	$50	$96,090
16	Amend ACC for Capital Grant.	2820	1	2820	4	11,070	30	$391,860
17	Amend ACC for Emergency Capital Fund Grant.	48	1	38	3	100	30	3990
18	Amend ACC Capital Fund for Safety and Security.	75	1	50	2	96	30	$3008
19	Amend ACC to Recapture Capital Fund Grant.	123	1	123	8	643	30	$17790
20	Amend ACC for Energy Performance Contract.	38	1	38	5	192	30	5760
21	Amend ACC for Community Facilities Grants.	15	1	13	90 days	28	30	$840
22	Demo Disposition Approvals and Removing Units form ACC–HUD Form 52860.	162	1	162	10	1696	30	$50,880

	ACC Provision	Number of respondents	Frequency	Total responses	Hours per 23 response	Total hours	Cost per hour	Total cost
23	Supplementary Document: Unique Legal Document used by HQ Staff Mixed-Finance Amendment to the Annual Contributions Contract.	60	1	60	24	1440	$50	$72,000
Totals	.....	3,280	1	4,679	8.8	28,812	$30	$880,578

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: February 11, 2014.

Merrie Nichols-Dixon,

Deputy Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2014–03480 Filed 2–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5749–N–01]

Section 8 Housing Assistance Payments Program—Annual Adjustment Factors, Fiscal Year 2014

AGENCY: Office of Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Fiscal Year (FY) 2014 Annual Adjustment Factors (AAFs).

SUMMARY: The United States Housing Act of 1937 requires that assistance contracts signed by owners participating in the Department's Section 8 housing assistance payment programs provide annual adjustments to monthly rentals for units covered by the contracts. This notice announces FY 2014 AAFs for adjustment of contract rents on assistance contract anniversaries. The factors are based on a formula using residential rent and utility cost changes from the most recent annual Bureau of Labor Statistics Consumer Price Index (CPI) survey. Beginning with the FY 2014 Fair Market Rents and continuing with the FY 2014 AAFs, the Puerto Rico CPI is used in place of the South Region CPI for all areas in Puerto Rico. These factors are applied at Housing Assistance Payment (HAP) contract anniversaries for those calendar months commencing after the effective date of this notice. A separate **Federal Register** Notice will be published at a later date that will identify the inflation factors that will be used to adjust tenant-based rental assistance funding for FY 2014.

DATES: *Effective Date:* February 18, 2014.

FOR FURTHER INFORMATION CONTACT: Contact Michael S. Dennis, Director, Housing Voucher Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, 202–708–1380, for questions relating to the Project-Based Certificate and Moderate Rehabilitation programs (non-Single Room Occupancy); Ann Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, 202–708–4300, for questions regarding the Single Room Occupancy (SRO) Moderate Rehabilitation program; Catherine Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, 202–708–3000, for questions relating to all other Section 8 programs; and Marie Lihn, Economist, Economic and Market Analysis Division, Office of Policy Development and Research, 202–402–5866, for technical information regarding the development of the schedules for specific areas or the methods used for calculating the AAFs. The mailing address for these individuals is: Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410. Hearing- or speech-impaired persons may contact the Federal Information Relay Service at 800–877–8339 (TTY). (Other than the "800" TTY number, the above-listed telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: Tables showing AAFs will be available electronically from the HUD data information page at *http://www.huduser.org/portal/datasets/aaf.html/FY2014_tables.pdf.*

I. Applying AAFs to Various Section 8 Programs

AAFs established by this Notice are used to adjust contract rents for units assisted in certain Section 8 housing assistance payment programs during the initial (i.e., pre-renewal) term of the HAP contract and for all units in the Project-Based Certificate program. There are three categories of Section 8 programs that use the AAFs:

Category 1: The Section 8 New Construction, Substantial Rehabilitation, and Moderate Rehabilitation programs;

Category 2: The Section 8 Loan Management (LM) and Property Disposition (PD) programs; and

Category 3: The Section 8 Project-Based Certificate (PBC) program.

Each Section 8 program category uses the AAFs differently. The specific application of the AAFs is determined by the law, the HAP contract, and appropriate program regulations or requirements.

AAFs are not used in the following cases:

Renewal Rents. With the exception of the Project-Based Certificate program, AAFs are not used to determine renewal rents after expiration of the original

Section 8 HAP contract (either for projects where the Section 8 HAP contract is renewed under a restructuring plan adopted under 24 CFR part 401; or renewed without restructuring under 24 CFR part 402). In general, renewal rents are based on the applicable state-by-state operating cost adjustment factor (OCAF) published by HUD; the OCAF is applied to the previous year's contract rent minus debt service.

Budget-based Rents. AAFs are not used for budget-based rent adjustments. For projects receiving Section 8 subsidies under the LM program (24 CFR part 886, subpart A) and for projects receiving Section 8 subsidies under the PD program (24 CFR part 886, subpart C), contract rents are adjusted, at HUD's option, either by applying the AAFs or by budget-based adjustments in accordance with 24 CFR 886.112(b) and 24 CFR 886.312(b). Budget-based adjustments are used for most Section 8/202 projects.

Tenant-based Certificate Program. In the past, AAFs were used to adjust the contract rent (including manufactured home space rentals) in both the tenant-based and project-based certificate programs. The tenant-based certificate program has been terminated and all tenancies in the tenant-based certificate program have been converted to the Housing Choice Voucher Program, which does not use AAFs to adjust rents. All tenancies remaining in the project-based certificate program continue to use AAFs to adjust contract rent for outstanding HAP contracts.

Voucher Program. AAFs are not used to adjust rents in the Tenant-Based or the Project-Based Voucher programs.

II. Adjustment Procedures

This section of the notice provides a broad description of procedures for adjusting the contract rent. Technical details and requirements are described in HUD notices H 2002–10 (Section 8 New Construction and Substantial Rehabilitation, Loan Management, and Property Disposition) and PIH 97–57 (Moderate Rehabilitation and Project-Based Certificates).

Because of statutory and structural distinctions among the various Section 8 programs, there are separate rent adjustment procedures for the three program categories:

Category 1: Section 8 New Construction, Substantial Rehabilitation, and Moderate Rehabilitation Programs

In the Section 8 New Construction and Substantial Rehabilitation programs, the published AAF factor is applied to the pre-adjustment contract rent. In the Section 8 Moderate Rehabilitation program (both the regular program and the single room occupancy program), the published AAF is applied to the pre-adjustment base rent.

For Category 1 programs, the Table 1 AAF factor is applied before determining comparability (rent reasonableness). Comparability applies if the pre-adjustment gross rent (pre-adjustment contract rent plus any allowance for tenant-paid utilities) is above the published Fair Market Rent (FMR).

If the comparable rent level (plus any initial difference) is lower than the contract rent as adjusted by application of the Table 1 AAF, the comparable rent level (plus any initial difference) will be the new contract rent. However, the pre-adjustment contract rent will not be decreased by application of comparability.

In all other cases (i.e., unless the contract rent is reduced by comparability):

- The Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- The Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

Category 2: Section 8 Loan Management Program (24 CFR Part 886, Subpart A) and Property Disposition Program (24 CFR Part 886, Subpart C)

At this time Category 2 programs are not subject to comparability. (Comparability will again apply if HUD establishes regulations for conducting comparability studies under 42 U.S.C. 1437f(c)(2)(C).)

The applicable AAF is determined as follows:

- The Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- The Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

Category 3: Section 8 Project-Based Certificate Program

The following procedures are used to adjust contract rent for outstanding HAP contracts in the Section 8 PBC program:

- The Table 2 AAF is always used. The Table 1 AAF is not used.
- The Table 2 AAF is always applied before determining comparability (rent reasonableness).
- Comparability always applies. If the comparable rent level is lower than the rent to owner (contract rent) as adjusted by application of the Table 2 AAF, the comparable rent level will be the new rent to owner.
- The new rent to owner will not be reduced below the contract rent on the effective date of the HAP contract.

III. When To Use Reduced AAFs (From AAF Table 2)

In accordance with Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), the AAF is reduced by 0.01:

- For all tenancies assisted in the Section 8 Project-Based Certificate program.
- In other Section 8 programs, for a unit occupied by the same family at the time of the last annual rent adjustment (and where the rent is not reduced by application of comparability (rent reasonableness)).

The law provides that:

> Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type and age in the market area. 42 U.S.C. 1437f(c)(2)(A).

Legislative history for this statutory provision states that "the rationale [for lower AAFs for non-turnover units is] that operating costs are less if tenant turnover is less . . ." (see Department of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations for 1995, Hearings Before a Subcommittee of the Committee on Appropriations 103d Cong., 2d Sess. 591 (1994)). The Congressional Record also states the following:

> Because the cost to owners of turnover-related vacancies, maintenance, and marketing are lower for long-term stable tenants, these tenants are typically charged less than recent movers in the unassisted market. Since HUD pays the full amount of any rent increases for assisted tenants in section 8 projects and under the Certificate program, HUD should expect to benefit from this 'tenure discount.' Turnover is lower in assisted properties than in the unassisted market, so the effect of the current inconsistency with market-based rent increases is exacerbated. (140 Cong. Rec. 8659, 8693 (1994)).

To implement the law, HUD publishes two separate AAF Tables, Tables 1 and 2. The difference between

Table 1 and Table 2 is that each AAF in Table 2 is 0.01 less than the corresponding AAF in Table 1. Where an AAF in Table 1 would otherwise be less than 1.0, it is set at 1.0, as required by statute; the corresponding AAF in Table 2 will also be set at 1.0, as required by statute.

IV. How To Find the AAF

AAF Tables 1 and 2 are posted on the HUD User Web site at *http://www.huduser.org/portal/datasets/aaf.html/FY2014_tables.pdf.* There are two columns in each AAF table. The first column is used to adjust contract rent for rental units where the highest cost utility is included in the contract rent, i.e., where the owner pays for the highest cost utility. The second column is used where the highest cost utility is not included in the contract rent, i.e., where the tenant pays for the highest cost utility.

The applicable AAF is selected as follows:

- Determine whether Table 1 or Table 2 is applicable. In Table 1 or Table 2, locate the AAF for the geographic area where the contract unit is located.
- Determine whether the highest cost utility is or is not included in contract rent for the contract unit.
- If highest cost utility is included, select the AAF from the column for "Highest Cost Utility Included." If highest cost utility is not included, select the AAF from the column for "Highest Cost Utility Excluded."

V. Methodology

AAFs are rent inflation factors. Two types of rent inflation factors are calculated for AAFs: Gross rent factors and shelter rent factors. The gross rent factor accounts for inflation in the cost of both the rent of the residence and the utilities used by the unit; the shelter rent factor accounts for the inflation in the rent of the residence, but does not reflect any change in the cost of utilities. The gross rent inflation factor is designated as "Highest Cost Utility Included" and the shelter rent inflation factor is designated as "Highest Cost Utility Excluded."

AAFs are calculated using CPI data on "rent of primary residence" and "fuels and utilities." [1] Beginning with these FY 2014 AAFs, the Puerto Rico CPI is used in place of the South Region CPI for all areas in Puerto Rico. The CPI inflation index for rent of primary residence measures the inflation of all surveyed units regardless of whether utilities are included in the rent of the unit or not. In other words, it measures the inflation of the "contract rent" which includes units with all utilities included in the rent, units with some utilities included in the rent, and units with no utilities included in the rent. In producing a gross rent inflation factor and a shelter rent inflation factor, HUD decomposes the contract rent CPI inflation factor into parts to represent the gross rent change and the shelter rent change. This is done by applying data from the Consumer Expenditure Survey (CEX) on the percentage of renters who pay for heat (a proxy for the percentage of renters who pay shelter rent) and also American Community Survey (ACS) data on the ratio of utilities to rents. As done with the FY 2014 Fair Market Rents, HUD is incorporating the Puerto Rico Community Survey into the calculation of the FY 2014 AAFs. The Puerto Rico Community Survey (PRCS) is used to determine the ratio of utilities to rents, resulting in area-specific AAFs for the first time for some metropolitan areas in Puerto Rico.[2]

Survey Data Used To Produce AAFs

The rent and fuel and utilities inflation factors for large metropolitan areas and Census regions are based on changes in the rent of primary residence and fuels and utilities CPI indices from 2011 to 2012. The CEX data used to decompose the contract rent inflation factor into gross rent and shelter rent inflation factors come from a special tabulation of 2011 CEX survey data produced for HUD for the purpose of computing AAFs. The utility-to-rent ratio used to produce AAFs comes from 2011 ACS median rent and utility costs.

Geographic Areas

AAFs are produced for all Class A CPI cities (CPI cities with a population of 1.5 million or more), the four Census Regions, and Puerto Rico. The Class A CPIs are applied to core-based statistical areas (CBSAs), as defined by the Office of Management and Budget (OMB), according to how much of the CBSA is covered by the CPI city-survey. If more than 75 percent of the CBSA is covered by the CPI city-survey, the AAF that is based on that CPI survey is applied to the whole CBSA and to any HUD-defined metropolitan area, called the "HUD Metro FMR Area" (HMFA), within that CBSA. If the CBSA is not covered by a CPI city-survey, the CBSA uses the relevant regional CPI factor. The Puerto Rico CPI covers the entire island rather than a defined city area. An ACS-adjusted CPI is developed for all the CBSAs in Puerto Rico. Almost all U.S. non-metropolitan counties use regional CPI factors.[3] For areas assigned the Census Region CPI factor, both metropolitan and non-metropolitan areas receive the same factor.

Each metropolitan area that uses a local CPI update factor is listed alphabetically in the tables and each HMFA is listed alphabetically within its respective CBSA. Each AAF applies to a specific geographic area and to units of all bedroom sizes. AAFs are provided:

- For separate metropolitan areas, including HMFAs and counties that are currently designated as non-metropolitan, but are part of the metropolitan area defined in the local CPI survey.
- For the four Census Regions (to be used for those metropolitan and non-metropolitan areas that are not covered by a CPI city-survey).

AAFs use the same OMB metropolitan area definitions, as revised by HUD, that are used for the FY 2014 FMRs.

Area Definitions

To make certain that they are using the correct AAFs, users should refer to the Area Definitions Table section at *http://www.huduser.org/portal/datasets/aaf.html/FY2014_AreaDef.pdf.* The Area Definitions Table lists CPI areas in alphabetical order by state, and the associated Census region is shown next to each state name. Areas whose AAFs are determined by local CPI surveys are listed first. All metropolitan areas with local CPI surveys have separate AAF schedules and are shown with their corresponding county definitions or as metropolitan counties. In the six New England states, the listings are for counties or parts of counties as defined by towns or cities. The remaining counties use the CPI for the Census Region and are not specifically listed in the Area Definitions Table at *http://www.huduser.org/portal/datasets/aaf.html/FY2014_AreaDef.pdf.*

Puerto Rico uses its own AAFs calculated from the Puerto Rico CPI as adjusted by the PRCS and the Virgin Islands uses the South Region AAFs. All

[1] CPI indexes CUUSA103SEHA and CUSR0000SAH2 respectively.

[2] The formulas used to produce these factors can be found in the Annual Adjustment Factors overview and in the FMR documentation at *www.HUDUSER.org.*

[3] There are four non-metropolitan counties that continue to use CPI city updates: Ashtabula County, OH, Henderson County, TX, Island County, WA, and Lenawee County, MI. BLS has not updated the geography underlying its survey for new OMB metropolitan area definitions and these counties, are no longer in metropolitan areas, but they are included as parts of CPI surveys because they meet the 75 percent standard HUD imposes on survey coverage. These four counties are treated the same as metropolitan areas using CPI city data.

areas in Hawaii use the AAFs listed next to "Hawaii" in the Tables which are based on the CPI survey for the Honolulu metropolitan area. The Pacific Islands use the West Region AAFs.

Dated: February 11, 2014.

Jean Lin Pao,

General Deputy Assistant Secretary, for Policy Development and Research.

[FR Doc. 2014–03461 Filed 2–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2013–N296; FXES11130100000C4–123–FF01E00000]

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews of Five Species in Oregon, Palau, Guam, and the Northern Mariana Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are initiating 5-year status reviews for five species in Oregon, Palau, Guam, and the Northern Mariana Islands, under the Endangered Species Act of 1973, as amended (Act). A 5-year status review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any new information on these species that has become available since the last review.

DATES: To ensure consideration in our reviews, we are requesting submission of new information no later than April 21, 2014. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For the four species in Palau, Guam, and the Northern Mariana Islands (see table below), submit information to: Deputy Field Supervisor-Programmatic, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Blvd., Room 3–122, Box 50088, Honolulu, HI 96850.

For the Foskett speckled dace (Oregon), submit information to: Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266. Information on the Oregon species can also be submitted by email to: *fw1or5yearreview@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Kristi Young, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office (see **ADDRESSES**), 808–792–9400 (for species in Palau, Guam, and the Northern Mariana Islands); or Jeff Dillon, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 503–231–6179 (for Foskett speckled dace, Oregon). Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Why do we conduct 5-year reviews?

Under the Act (16 U.S.C. 1531 et seq.), we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species under active review.

What information do we consider in the review?

A 5-year review considers all new information available at the time of the review. In conducting these reviews, we consider the best scientific and commercial data that has become available since the listing determination or most recent status review, such as:

(A) Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

(B) Habitat conditions, including but not limited to amount, distribution, and suitability;

(C) Conservation measures that have been implemented that benefit the species;

(D) Threat status and trends in relation to the five listing factors (as defined in section 4(a)(1) of the Act); and

(E) Other new information, data, or corrections, including but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information will be considered during the 5-year review and will also be useful in evaluating the ongoing recovery programs for these species.

What species are under review?

This notice announces our active review of the five species listed in the table below.

SPECIES FOR WHICH WE ARE INITIATING A 5-YEAR STATUS REVIEW

Common name	Scientific name	Status	Where listed	Final listing rule
ANIMALS				
Megapode, Micronesian	*Megapodius laperouse*	Endangered	West Pacific Ocean—Palau Islands, U.S.A. (Mariana Islands).	35 FR 8495; 06/02/1970
Dace, Foskett speckled	*Rhinichthys osculus* ssp.	Threatened	U.S.A. (OR)	50 FR 12302; 03/28/1985
PLANTS				
No common name	*Nesogenes rotensis*	Endangered	Western Pacific Ocean, U.S.A. (Commonwealth of the Northern Mariana Islands).	69 FR 18499; 04/08/2004
No common name	*Osmoxylon mariannense*	Endangered	Western Pacific Ocean, U.S.A. (Commonwealth of the Northern Mariana Islands).	69 FR 18499; 04/08/2004
Hayun lagu	*Serianthes nelsonii*	Endangered	Western Pacific Ocean, U.S.A. (Guam, Rota)	52 FR 4907; 02/18/1987

Request for New Information

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from all sources. See "What Information Do We Consider in Our Review?" for specific criteria. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

If you wish to provide information for any species listed above, please submit your comments and materials to the appropriate contact in either the Oregon Fish and Wildlife Office or the Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where the comments are submitted.

Completed and Active Reviews

A list of all completed and currently active 5-year reviews addressing species for which the Pacific Region of the Service has lead responsibility is available at *http://www.fws.gov/pacific/ecoservices/endangered/recovery/5year.html.*

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: January 16, 2014.

Richard Hannan,

Acting Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2014–03451 Filed 2–14–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–EC–2013–N297; FVHC98120300940–XXX–FF03E16000]

Notice of Intent To Prepare a Programmatic Environmental Impact Statement for the Riverwide Restoration Plan; Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) are providing this notice of intent to prepare an Environmental Impact Statement for Kalamazoo River restoration pursuant to National Environmental Policy Act (NEPA) regulations. USFWS, NOAA, and the State of Michigan (collectively referred to as the "Trustees") are also providing notice of their efforts to plan restoration projects authorized by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site). The Trustees will prepare a programmatic environmental impact statement (PEIS) to identify and evaluate the environmental impacts associated with restoration actions that may be implemented to compensate for injuries to natural resources and associated services. The public is invited to provide comments to assist the Trustees in the development of a restoration plan (RP). This notice explains the scoping process the Trustees will use to gather input from the public.

DATES: Written comments must be received by March 20, 2014.

ADDRESSES: Written comments for the Trustees to consider should be sent to Lisa Williams, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road East Lansing, MI 48823. Comments may also be submitted electronically to *kzoorivernrda@fws.gov,* with "Kalamazoo River RP/PEIS Scoping Comment" in the subject line.

FOR FURTHER INFORMATION CONTACT: Lisa Williams, USFWS, by email at *lisa_williams@fws.gov* or by phone at (517) 351–8324, or Terry Heatlie, NOAA Restoration Center, by email at *Terry.Heatlie@noaa.gov* or by phone at (734) 741–2211.

SUPPLEMENTARY INFORMATION: Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 et seq., parties responsible for releasing hazardous substances into the environment are liable both for the costs of responding to the release (by cleaning up, containing, or otherwise remediating the release) and for damages arising from injuries to publicly owned or managed natural resources resulting from the release. CERCLA's Natural Resource Damage Assessment (NRDA) regulations (43 CFR11) prescribe the process of assessing the nature and extent of the resulting injury, destruction, or loss of natural resources and the services they provide. Carrying out of the NRDA process also includes determining the compensation required to make the public whole for such injuries, destruction, or loss. CERCLA authorizes certain Federal and State agencies and Indian tribes to act on behalf of the public as Trustees for affected natural resources. Under CERCLA, these agencies and tribes are authorized to assess natural resource injuries and to seek compensation, referred to as damages, from responsible parties, including the costs of performing the damage assessment. The Trustees are required to use recovered damages for the following purposes only: to restore, replace, or acquire the equivalent of the injured or lost resources and services.

The U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) are providing this notice of intent to prepare an Environmental Impact Statement for Kalamazoo River restoration pursuant to National Environmental Policy Act (NEPA) regulations. The NEPA process consists of a set of fundamental objectives that include interagency coordination and cooperation, and public participation in the planning and development of projects. NEPA requires Federal agencies to conduct environmental reviews of proposed actions to consider the potential impacts on the environment. NOAA, USFWS, and the State of Michigan (collectively referred to as the "Trustees") are also providing notice of their efforts to plan restoration projects to compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site). The Trustees seek

damages from potentially responsible parties (PRPs) to restore, rehabilitate, replace, or acquire the equivalent of natural resources and services injured by the release of hazardous substances. The Trustees will prepare a programmatic environmental impact statement (PEIS) to identify and evaluate the environmental impacts associated with restoration actions that may be implemented to compensate for injuries to natural resources and associated services. The public is invited to provide comments to assist the Trustees in the development of a restoration plan (RP). This notice explains the scoping process the Trustees will use to gather input from the public.

The Trustees have engaged the public directly in several ways since initiating the Kalamazoo River Natural Resource Damage Assessment (NRDA) with the release of a Preassessment Screen and a Stage I Assessment Plan in 2000, and have also gathered scoping information from other planning processes in which the public has been engaged. Based on these previous interactions, the Trustees do not plan to hold additional scoping meetings during development of the draft RP/PEIS. As part of the Stage I NRDA process, the Trustees met with the public, solicited restoration project ideas, spoke directly with individuals and organizations like the Kalamazoo River Protection Association and the Kalamazoo River Watershed Council, provided findings at a public meeting, and made the report available for public review and comment (MDEQ et al. 2005; *see* Stage I Assessment Report for the Kalamazoo River Environment, Volume 2, Chapter 4, available at *http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver*). The Stage I Assessment Report provides an overview of restoration planning, criteria for evaluating potential restoration alternatives, and examples of potential restoration actions for the Kalamazoo River Environment. The Draft RP/PEIS will incorporate and build upon existing restoration planning information developed in the Stage I Assessment Report. In addition, the Trustees have participated in numerous public meetings hosted by the Michigan Department of Environmental Quality and the U.S. Environmental Protection Agency related to the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site. Most recently, the Trustees released a Restoration Plan and Environmental Assessment (RP/EA) for Portage Creek and Operable Unit 1 (OU1), which is available on the USFWS Web site at: *http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver*. and on the NOAA Web site at: *http://www.darrp.noaa.gov/greatlakes/kalamazoo/pdf/2013.08.OU1.RPEA_fnl_sm.pdf*.

The Trustees solicited public comment on the Draft OU1 RP/EA during the spring of 2012 and met with the public on May 1, 2012. In doing so, the Trustees received updated input from individuals, the Kalamazoo River Watershed Council, Calhoun Conservation District, Kalamazoo Nature Center, and the Kalamazoo River Cleanup Coalition. These interactions have informed the scope of restoration planning and have helped identify significant issues to be evaluated in the RP/PEIS.

Industrial activities in the Kalamazoo area have released PCBs into the environment. Recycling of carbonless copy paper at several area paper mills was the primary source of PCB release. Waste from the recycling of such paper conducted at Kalamazoo-area paper mills also contained PCBs, and the waste was disposed of by several methods that resulted in releases of PCBs into the environment. These PCBs have contaminated sediments, the water column, and biota in and adjacent to downstream sections of Portage Creek, the Kalamazoo River, and Lake Michigan.

Based on the risks that PCBs pose to the environment and to human health, the U.S. Environmental Protection Agency (EPA) listed the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site on the National Priorities List on August 30, 1990. PCBs are listed as hazardous substances under CERCLA. EPA and the Michigan Department of Environmental Quality currently describe the Site being addressed by the Superfund remedial investigation as including: (1) five disposal areas and six paper mill properties; (2) a 3-mile stretch of Portage Creek from Cork Street in the City of Kalamazoo to where the creek meets the Kalamazoo River; and (3) an approximately 80-mile stretch of the Kalamazoo River, from Morrow Dam to Lake Michigan, with adjacent floodplains, wetlands, and in-stream sediments.

As defined in the Stage 1 Assessment Report (MDEQ et al. 2005; available at *http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver*), the Trustees are using the term Kalamazoo River Environment (KRE) to represent the entire natural resource damage assessment area. The KRE encompasses the area being addressed by the Superfund remedial investigations for the site's operable units, along with any area where hazardous substances released at or from the Superfund site have come to be located, and areas where natural resources or the services they provide may have been affected by the Site-related hazardous substances releases (MDEQ et al. 2005).

As restoration planning proceeds, the Trustees expect to have opportunities to settle natural resource damage claims with willing parties. The RP/PEIS will provide an ecological framework, with public input, to maximize the benefits of specific restoration projects to the affected resources in the KRE that might be included in or funded by settlements. The RP/PEIS will provide criteria and guidance for Trustees to use in selecting feasible restoration projects. In developing the document, the Trustees will also incorporate public input in the development and evaluation of restoration alternatives, including general categories of potential restoration actions as well as a few specific potential projects.

NEPA, 42 U.S.C. 4321 et seq., and the Council on Environmental Quality regulations implementing NEPA under 40 CFR 1500 et seq., apply to restoration actions by Federal trustees. The purpose of the scoping process is to identify the concerns of the affected public, Federal agencies, States, and Indian tribes; involve the public early in the decision making process; facilitate an efficient EA/EIS preparation process; define the issues and alternatives that will be examined in detail; and save time by ensuring that draft documents adequately address relevant issues. The scoping process reduces paperwork and delay by ensuring that important issues are addressed early.

In compliance with 40 CFR 1505 et seq., the Trustees will include in the NRDA Administrative Record (Record) documents that the Trustees rely upon during the development of the RP and PEIS. The hard copy Record is on file at MDEQ (contact Judith Alfano at (517) 373–7402 or *alfanoj@michigan.gov*), and selected documents from the Record are also accessible at the following Web site: *http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver*. A draft RP/PEIS document is anticipated to be released for public comment by Fall 2014. Specific dates and times for events will be publicized when scheduled.

Public Comments

Please send comments in reference to: (a) developing the draft RP/PEIS; (b) suggestions for additional restoration actions beyond those described in the 2005 Stage I Assessment Report and the Portage Creek/OU1 RP/EA; and (c) considerations for potential impacts of

those actions to the human environment. Please see the **ADDRESSES** section for additional submission information.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Thomas O. Melius,

Regional Director, Midwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2014–03332 Filed 2–14–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUTY01000–L12320000.EB0000]

Notice of Intent to Collect Fees on Public Land in Grand County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: Pursuant to applicable provisions of the Federal Lands Recreation Enhancement Act (REA), the Moab Field Office of the Bureau of Land Management (BLM) is proposing to begin collecting fees for overnight camping within six developed campgrounds.

DATES: Effective 6 months after the publication of this notice, the BLM-Utah Moab Field Office would initiate fee collection at the camping areas unless BLM publishes a **Federal Register** notice to the contrary.

FOR FURTHER INFORMATION CONTACT: J. Rockford Smith, Recreation Division Chief, Moab Field Office, Bureau of Land Management, 82 East Dogwood, Moab, UT 84532, (435) 259–2100. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, seven days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The Utah Resource Advisory Council (RAC), functioning as a Recreation Resource Advisory Committee (RRAC), will review the proposal to charge fees at the sites mentioned below. Future adjustments in the fee amount will be made in accordance with the Moab Field Office's Business Plan for BLM Moab Campgrounds (Amended 2014) covering the sites. Future fee adjustments will only be made after consideration of comments received on a publicly reviewed business plan amendment and after consultation with the Utah Recreation Resource Advisory Committee and other appropriate advance public notice.

The BLM is proposing to begin collecting fees for overnight camping within the following six developed campgrounds:

Salt Lake Meridian

Swasey's Rapid

T. 20 S., R. 16 E.,
Sec. 3, lots 2 and 3.

Fish Ford

T. 22 S., R. 24 E.,
Sec. 3, lot 2.

Cowskin

T. 23 S., R. 24 E.,
Sec. 21, SE1/4SE1/4.

Bitter Creek

T. 19 S., R. 25 E.,
Sec. 14, SE1/4NE1/4.

Westwater

T. 20S., R. 25 E.,
Sec. 12, tract 37.

Hideout

T. 24 S., R. 25 E.,
Sec. 29, SE1/4NW1/4.

These proposed fee sites are located in Grand County, Utah. Under Section 6802(g)(2) of the REA, the campgrounds listed above qualify as a site wherein visitors can be charged an "Expanded Amenity Recreation Fee."

Visitors wishing to use the expanded amenities the BLM has developed at Westwater, Bitter Creek, Fish Ford, Cowskin, Hideout and Swasey's Rapid campgrounds would purchase a Recreation Use Permit as described at 43 CFR Part 2930. Specific visitor fees will be identified and posted at the developed campgrounds. Fees must be paid at the self-service pay station located at the developed campgrounds upon occupying the site. Dependent upon need, reservable group camp sites may be developed, and at that time advanced reservation may be made through the reservations office of the Moab Field Office. People holding the America The Beautiful—The National Parks and Federal Recreational Lands—Interagency Senior Pass, or an Interagency Access Pass would be entitled to a 50 percent discount on all expanded amenity fees except those associated with group reservations. Fees charged for use of the group sites would include a non-refundable site reservation fee and a per person use fee.

The Westwater and Fish Ford developed campgrounds were constructed in the middle 1980s and have been in use for more than two decades. Over time, the use has increased and the BLM has added amenities for resource protection and visitor enjoyment. Westwater and Fish Ford are located within the Two Rivers Special Recreation Management Area (SRMA). Westwater campground offers a public water system, four toilets, two changing rooms, seven individual sites (with 15 more under construction), an access road, regular patrols, fire rings, tent spaces, and picnic tables. Fish Ford campground offers one toilet, ten individual sites, an access road, regular patrols, fire rings, tent spaces, and picnic tables.

Bitter Creek campground is located along the Kokopelli's Trail within the Utah Rims SRMA and offers one toilet, 10 individual sites, an access road, regular patrols, fire rings, tent spaces, and picnic tables.

Cowskin campground is located within the Colorado Riverway SRMA and offers one toilet, 10 individual sites, an access road, regular patrols, fire rings, tent spaces, and picnic tables.

Hideout campground is located along the Kokopelli's Trail within the Extensive Recreation Management Area. It offers five individual sites, an access road, regular patrols, fire rings, tent spaces, and picnic tables.

Swasey's Rapid campground is located along the Green River just upstream of the boat ramp and parking area. It is located within the Lower Gray Canyon SRMA. It offers one toilet, 15 individual sites, an access road, regular patrols, fire rings, tent spaces, and picnic tables.

The BLM is committed to provide, and receive fair value for, the use of developed recreation facilities and services in a manner that meets public use demands, provides quality experiences and protects important resources. The BLM's policy is to collect fees at all specialized recreation sites, or where the BLM provides facilities, equipment or services at Federal expense, in connection with outdoor use as authorized by the REA. In an effort to meet increasing demands for services and maintenance of developed facilities, the BLM would implement a fee program for the campgrounds. The BLM's mission for the campgrounds is to ensure that funding is available to maintain facilities and recreational

opportunities, to provide for law enforcement presence, to develop additional services, and to protect resources. This mission entails communication with those who will be most directly affected by the campgrounds, for example, recreationists, other recreation providers, partners, neighbors, and those who will have a stake in solving concerns that may arise throughout the life of the camping areas, including elected officials, and other agencies.

Development, improvement, and fee collection at these six sites are consistent with the 2008 Moab Resource Management Plan and were analyzed in the Environmental Impact Statement accompanying the plan (EIS UT–060–2007–04). Camping and group use fees would be consistent with other established fee sites in the area including other BLM-administered sites in the area and those managed by the United States Forest Service, United States National Park Service, and Utah State Parks and Recreation. Future adjustments in the fee amount will be made following the Moab Field Office's recreation fee business plan covering the sites, in consultation with the Utah RRAC and other public notice prior to a fee adjustment.

In December 2004, the REA was signed into law. The REA provides authority, for 10 years, for the Secretaries of the Interior and Agriculture to establish, modify, charge, and collect recreation fees for use of some Federal recreation lands and waters, and contains specific provisions addressing public involvement in the establishment of recreation fees, including a requirement that RRACs or Councils have the opportunity to make recommendations regarding establishment of such fees. REA also directed the Secretaries of the Interior and Agriculture to publish advance notice in the **Federal Register** whenever new recreation fee areas are established under their respective jurisdictions. In accordance with the BLM recreation fee program policy, the Moab Field Office's draft Amended Business Plan for the BLM Moab Campgrounds (2014) explains the proposal to collect fees at the six campgrounds, the fee collection process and how the fees will be used at the six sites. The BLM provided the public with an opportunity to comment on the draft Amended Business Plan from November 18 through December 20, 2013. BLM will notify and involve the public at each stage of the planning process, including the proposal to collect fees. The Utah RRAC will review the fee proposals at its next meeting, following REA guidelines. Fee amounts will be posted on-site, on the Moab BLM Web site and at the Moab Field Office. Copies of the business plan will be available at the Moab Field Office and the BLM Utah State Office.

Authority: 16 U.S.C. 6803(b).

Jenna Whitlock,

Associate State Director.

[FR Doc. 2014–03392 Filed 2–14–14; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVW01000 L12200000.EA0000 241A; MO#4500051676; 13–08807; TAS: 14X1106]

Final Supplementary Rules for Public Land in Water Canyon, Humboldt County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Final supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) Winnemucca District, Humboldt River Field Office is establishing supplementary rules relating to camping, the discharge of firearms, and the use of motor vehicles on public land within Zone 1 of the Water Canyon Recreation Area. The supplementary rules are necessary to protect natural resources and the health and safety of public land users within the Zone 1 area. These supplementary rules allow BLM law enforcement personnel to limit the number of successive days of camping and to regulate vehicle use in the Zone 1 area. These supplementary rules allow BLM law enforcement personnel to support state and local law enforcement agencies with enforcement of law in prohibiting the discharge of firearms and in restricting motor vehicles to the posted speed limit.

DATES: These rules are effective April 21, 2014.

ADDRESSES: You may direct inquiries to Joey Carmosino, Outdoor Recreation Planner, BLM, Humboldt River Field Office, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445.

FOR FURTHER INFORMATION CONTACT: Joey Carmosino, Winnemucca District Humboldt River Field Office, (775) 623–1771, email: *vcarmosi@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal hours.

SUPPLEMENTARY INFORMATION:

I. Background

These supplementary rules affect public lands identified as Zone 1 of the Water Canyon Recreational Area. Water Canyon is 4 miles southeast of Winnemucca, Nevada. Zone 1 is the portion of the Canyon that receives the most recreational use. Traffic and trail counters confirm annual visitation to the area is in the range of 50,000 people and 25,000 vehicles. Zone 1 is a fenced corridor of public land within Township 35 North, Range 38 East, Mount Diablo Meridian, through portions of sections 2, 11, and 12, in Humboldt County, Nevada. The Zone 1 fenced corridor is of variable width perpendicular to the centerline of Water Canyon Road with an overall width average of approximately 600 feet and running approximately 1.8 miles in length along Water Canyon Road.

The width of the Zone 1 fenced corridor (600 feet wide) is an average of the hereinafter described centerline of Water Canyon Road, its legal land description is as follows:

Beginning at approximately Latitude 40°55′53.7811″ North and Longitude 117°40′39.6508″ West at intersection of Water Canyon Road and the Zone 1 fence; thence, systematically traversing southeasterly along said centerline of Water Canyon Road to approximately Latitude 40°55′13.6513″ North and Longitude 117°38′58.9198″ West at intersection of Water Canyon Road and the Zone 1 fence and being the Point of Termination.

The area described contains 131 acres, more or less, calculated based on Zone 1 being 600 feet wide and 1.8 miles long in Humboldt County.

The referenced latitudes and longitudes in this description are 1983 National Geodetic Reference System values as digitized from United States Geologic Survey 1:24,000 7.5 minute quadrangle map Winnemucca East, Nev., Provisional Edition 1983.

The final supplementary rules are necessary to help the BLM achieve management objectives and to implement the decisions of the Water Canyon Recreation Area Management Plan and Environmental Assessment, Decision Record, and Cooperative Management Agreement approved August 15, 1997, and the Water Canyon Implementation Plan Amendment Environmental Assessment of August

2005. These supplementary rules include limitations or restrictions included within these planning and analysis documents.

The Water Canyon Cooperative Management Plan is a collaborative effort and was undertaken among the BLM, the Nevada Department of Wildlife, Humboldt County, the City of Winnemucca, and the public to elicit concerns, define issues, and develop a set of desired future conditions for the planning area. The outcome of this process was the development of a set of objectives intended to guide subsequent management actions within Water Canyon. These objectives include: Protecting surface and subsurface water quality within the watershed; providing recreational opportunities; preserving broad-leafed trees, high quality riparian areas, and grassy meadows; and providing for a diversity of wildlife habitats.

To achieve these objectives, a series of alternative proposals were evaluated which prescribed different allowable uses of the planning area and defined other management actions to reach these desired outcomes. The evaluation process led to a series of management decisions that emphasized a combination of moderate and low development actions organized around the division of the planning area into lowland (Zone 1) and upland (Zone 2) areas.

The BLM published proposed supplementary rules in the **Federal Register** on November 9, 2012 (77 FR 67391). The public comment period ended on January 8, 2013. No comments were received.

II. Discussion of the Final Supplementary Rules

In the preparation of the two EAs, the BLM sought public review of three alternatives in the Management Plan and two alternatives in the Implementation Plan. These EAs discuss specific management actions that restrict certain activities and define allowable uses. The final supplementary rules implement these management actions within Zone 1 of the Water Canyon Recreation Area.

20 Miles-per-hour (mph) Speed Limit: Zone 1 is a high traffic area that includes walkers, hikers and vehicles. A speed restriction is needed to protect users from accidents. The road passes by each campsite, and while maintained, it is a gravel road which makes emergency or panic stops difficult. A 20 mph speed limit allows for timely driving through Zone 1 while supporting public safety for all users.

Motor vehicle restriction: All motor vehicles are restricted to travel only on the main access/canyon road in Zone 1. This restriction is proposed to further protect the wetland and riparian areas that are in close proximity to the main access/canyon road in Zone 1.

The final rules clarify that "motor vehicles" include motorcycles, all-terrain vehicles, and off-highway vehicles. This is a logical extension of the proposed rules to provide the public notice which vehicles are affected by these rules.

No Discharging of Firearms: Zone 1 is 1.8 miles long and narrow. The number of visitors that are in close proximity make the safe discharge of firearms impractical. The discharge of firearms is only prohibited in Zone 1 and continues to be allowed in the surrounding area. The final rules include a common definition of "firearms." This is a logical extension of the proposed rules to clarify for visitors what is prohibited.

Three Day Camping Limitation: Limiting camping to no more than three consecutive nights in a 30-day period is needed because there are a small number of campsites available in Zone 1. By limiting the number of days a camper may use a campsite, there will be more opportunities for visitors to obtain a campsite. By limiting camping to three consecutive nights, the BLM will be able to dissuade long-term habitation or squatting in the Zone 1 campsites. There have been several instances of long-term camping in this area in the past. This rule will allow law enforcement officers to address this issue.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These supplementary rules do not constitute a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These supplementary rules will not have an annual effect of $100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health, or safety, or state, local, or tribal governments or communities. These supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. These supplementary rules are merely rules of conduct for public use of a limited area of public lands.

National Environmental Policy Act

During the National Environmental Policy Act process, many alternatives were analyzed, including these final supplementary rules. The pertinent analysis and rationale can be found in Management Plan, inclusive of the EA, Decision Record and Cooperative Management Agreement approved August 15, 1997, and the Implementation Plan EA signed August 2005. These final supplementary rules provide for enforcement of decisions made in the Management Plan and Implementation Plan. The EAs mentioned above are available for review in the BLM administrative record at the address specified in the **ADDRESSES** section and online at *http://www.blm.gov/nv/st/en/fo/wfo/blm_information/nepa0.html/.*

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended (5 U.S.C. 601–612) to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule will have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These supplementary rules merely establish rules of conduct for public use of a limited area of public lands. Therefore, the BLM has determined under the RFA that these supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These supplementary rules are not considered a major rule as defined under 5 U.S.C. 804(2). These supplementary rules merely establish rules of conduct for public use of a limited area of public lands and do not affect commercial or business activities of any kind.

Unfunded Mandates Reform Act

These supplementary rules do not impose an unfunded mandate on state, local, or tribal governments in the aggregate, or on the private sector of more than $100 million per year; nor do they have a significant or unique effect on small governments. The supplementary rules have no effect on governmental or tribal entities and would impose no requirements on any of these entities. These supplementary

rules merely establish rules of conduct for public use of a limited selection of public lands and do not affect tribal, commercial, or business activities of any kind. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

These supplementary rules do not have significant takings implications, nor are they capable of interfering with Constitutionally-protected property rights. These supplementary rules merely establish rules of conduct for public use of a limited area of public lands and do not affect anyone's property rights. Therefore, the BLM has determined that these supplementary rules will not cause a taking of private property or require preparation of a takings assessment under this Executive Order.

Executive Order 13132, Federalism

These supplementary rules will not have a substantial direct effect on the states, the relationship between the Federal government and the states, or the distribution of power and responsibilities among the various levels of government. These supplementary rules do not come into conflict with any state law or regulation. Therefore, under Executive Order 13132, the BLM has determined that these supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, these supplementary rules will not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, these supplementary rules do not include policies that have tribal implications. These supplementary rules do not affect land held for the benefit, nor impede the rights of, Indians or Alaska Natives. These supplementary rules have no associated ground disturbance and are directly associated with general public health and safety.

Information Quality Act

The Information Quality Act (Section 515 of Pub. L. 106–554) requires Federal agencies to maintain adequate quality, objectivity, utility, and integrity of the information they disseminate. In developing these supplementary rules, the BLM did not conduct or use a study, experiment, or survey or disseminate any information to the public.

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

These supplementary rules do not constitute a significant energy action. These supplementary rules will not have an adverse effect on energy supplies, production, or consumption, and have no connection with energy policy.

Paperwork Reduction Act

These supplementary rules do not provide for any information collection that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Any information collection that may result from Federal criminal investigations or prosecution conducted under these supplementary rules is exempt from the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3518(c)(1).

Author

The principal author of these supplementary rules is Joey Carmosino, Outdoor Recreation Planner, BLM Winnemucca District.

For the reasons stated in the preamble and under the authorities for supplementary rules found at 43 U.S.C. 1740 and 43 CFR 8365.1–6, the BLM Nevada State Director issues supplementary rules for public lands managed by the BLM in Nevada, to read as follows:

Supplementary Rules for Zone 1 of the Water Canyon Recreation Area

1. These supplementary rules apply, except as specifically exempted, to activities within the Zone 1 of the Water Canyon Recreation Area, which is comprised of public lands administered by the BLM near Winnemucca, Nevada.

2. These supplementary rules are in effect on a year-round basis.

3. Camping in Zone I is limited to no more than 3 consecutive nights in a 30-day period.

4. The discharge of any firearm in Zone I is prohibited.

(a) A firearm means any weapon; for example, a compressed gas or spring powered pistol or rifle, bow and arrow, cross bow, blowgun, spear gun, spear, sling shot, irritant gas device or any implement designed to or may be converted to expel a projectile by the action of an explosive.

5. All motor vehicles, including motorcycles, all-terrain vehicles, and off-highway vehicles, must not exceed the posted speed limit of 20 miles per hour on the main access/canyon road in Zone I.

6. All motor vehicles, including motorcycles, all-terrain vehicles, and off-highway vehicles, are restricted to travel only on the main access/canyon road in Zone I.

Exemptions: The following persons are exempt from these supplementary rules: Any Federal, state, local or military persons acting within the scope of their duties; and members of an organized rescue or firefighting force in performance of an official duty.

Penalties: Any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571. In accordance with 43 CFR 8365.1–7, state or local officials may also impose penalties for violations of Nevada law.

Amy Lueders,

State Director, Nevada.

[FR Doc. 2014–03386 Filed 2–14–14; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS00560.L58530000.ES0000.241A; N–87303; 14–08807; MO# 4500060181; TAS: 14X5232]

Notice of Realty Action: Classification for Lease and/or Subsequent Conveyance for Recreation and Public Purposes of Public Land for a Park in Moapa, Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification for lease and/or subsequent conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended, approximately 15 acres of public land in the unincorporated town of Moapa, Clark County, Nevada. Clark County proposes to use the land for a park.

DATES: Interested parties may submit written comments regarding the proposed classification of the land for lease and/or subsequent conveyance of the land, and the environmental assessment, until April 4, 2014.

ADDRESSES: Send written comments to the BLM Las Vegas Field Manager, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130, or email: *ddickey@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Dorothy Jean Dickey, 702–515–5119, or *ddickey@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Clark County has filed an application to develop the following described land as a park with related facilities near Henrie Road and Patriots Way in the unincorporated town of Moapa, Clark County, Nevada:

Mount Diablo Meridian

T. 14 S., R. 66 E.,
Sec. 34, N½NW¼NW¼SE¼, NE¼NW¼SE¼.
The area described contains 15 acres, more or less, in Clark County.

The park will consist of two soccer fields and a general park area with related facilities. Related facilities include parking lots, landscaping, lighting, walkways, drainage, irrigation, restrooms, concessions, utilities and ancillary improvements. Additional detailed information pertaining to this application, plan of development, and site plan is in case file N–87303, which is located at the BLM, Las Vegas Field Office at the address in the **ADDRESSES** section. The BLM's environmental assessment DOI–BLM–NV–S010–2010–0105–EA for this proposed action can be viewed at the Las Vegas Field Office, as well as on the web at: *https://www.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do.*

The land is not required for any Federal purpose. The lease and/or subsequent conveyance is consistent with the BLM Las Vegas Resource Management Plan dated October 5, 1998, and would be in the public interest. Clark County, a qualified applicant under the R&PP Act, has not applied for more than the 6,400-acre limitation consistent with the regulations at 43 CFR 2741.7(a)(1), and has submitted a statement in compliance with the regulations at 43 CFR 2741.4(b).

The lease and/or subsequent conveyance of the public land would be subject to valid existing rights. Subject to limitations prescribed by law and regulations, prior to patent issuance, a holder of any right-of-way within the lease area may be given the opportunity to amend the right-of-way for conversion to a new term, including perpetuity, if applicable.

The lease and/or subsequent conveyance, if issued, would be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, and would contain the following terms, conditions, and reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

3. Valid existing rights;

4. Right-of-way N–06038 for a kV power distribution line, granted to Overton Power District, its successors or assigns, pursuant to the Act of October 21, 1976, (43 U.S.C. 1761);

5. Right-of-way N–11028 for an underground water pipeline, granted to Moapa Valley Water District, its successors or assigns, pursuant to the Act of October 21, 1976, (43 U.S.C. 1761);

6. Right-of-way N–52748 for a rain gage and road access, granted to Clark County Regional Flood Control, its successors or assigns, pursuant to the Act of October 21, 1976, (43 U.S.C. 1761);

7. Right-of-way N–92187 for drainage, fence, and wall improvements, granted to the Clark County School District, its successors or assigns, pursuant to the Act of October 21, 1976, (43 U.S.C. 1761);

8. An appropriate indemnification clause protecting the United States from claims arising out of the lessee's/patentee's use, occupancy, or occupations on the leased/patented lands.

Upon publication of this notice in the **Federal Register**, the described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease and/or subsequent conveyance under the R&PP Act, leasing under the mineral leasing laws, and disposals under the mineral material disposal laws.

Interested parties may submit written comments on the suitability of the land for a park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Interested parties may also submit written comments regarding the specific use proposed in the application and plan of development, and whether the BLM followed proper administrative procedures in reaching the decision to lease and/or convey under the R&PP Act.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Any adverse comments will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the decision will become effective on April 21, 2014. The lands will not be available for lease and/or subsequent conveyance until after the decision becomes effective.

Authority: 43 CFR 2741.5(h).

Catrina Williams,

Assistant Field Manager, Las Vegas Field Office.

[FR Doc. 2014–03387 Filed 2–14–14; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–ABSV–14349; PPWOBSADC0, PPMVSCS1Y.Y00000]

Notice of Extension of Concession Contracts

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: The National Park Service hereby gives public notice that it proposes to extend the following expiring concession contracts for a period of up to 1 (one) year, or until the effective date of a new contract, whichever occurs sooner.

DATES: Effective January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Ben Erichsen, Chief, Commercial Services Program, National Park Service, 1201 Eye Street NW., 11th Floor, Washington, DC 20005, Telephone (202) 513–7156.

SUPPLEMENTARY INFORMATION: All of the listed concession authorizations will expire by their terms on or before December 31, 2013. Pursuant to 36 CFR 51.23, the National Park Service has determined that the proposed short-term extensions are necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption.

CONCID	Concessioner	Park unit
DENA005–04	Rainier Mountaineering, Inc	Denali National Park and Preserve.
DENA006–04	Mountain Trip International, LLC	Denali National Park and Preserve.
DENA008–04	Alaska Mountaineering School, LLC	Denali National Park and Preserve.
DENA009–04	Alpine Ascents International, Inc	Denali National Park and Preserve.
DENA010–04	American Alpine Institute, Ltd	Denali National Park and Preserve.
DENA011–04	National Outdoor Leadership School	Denali National Park and Preserve.
GLBA035–04	Glacier Bay Sea Kayaks, Inc	Glacier Bay National Park and Preserve.
ACAD001–03	The Acadia Corporation	Acadia National Park.
ACAD010–04	National Park Tours and Transport, Inc	Acadia National Park.
ACAD011–04	Oli's Trolley	Acadia National Park.
CACO003–02	The Town of Truro	Cape Cod National Seashore.
COLO006–03	Debi A. Helseth	Colonial National Historical Park.
DEWA001–04	Teresa A. Toomer and Walter D. Toomer	Delaware Water Gap National Recreation Area.
GATE001–02	Jamaica Bay Riding Academy, Inc	Gateway National Recreation Area.
GATE017–03	JEN Marine Development, LLC	Gateway National Recreation Area.
GATE020–04	Global Golf Services, Inc	Gateway National Recreation Area.
HOSP001–04	Hot Springs Advertising and Promotion Commission	Hot Springs National Park.
ISRO006–04	Jon S. Safstrom	Isle Royale National Park.
NACE003–06	Buzzard Point Corporation	National Capital Parks—East.
OZAR015–04	Kim Smith	Ozark National Scenic Riverways.
BICA007–09	LuCon Corporation	Bighorn Canyon National Recreation Area.
CANY022–04	OARS Canyonlands, Inc	Canyonlands National Park.
CANY024–04	Niskanen and Jones, Inc	Canyonlands National Park.
CANY025–04	NAVTEC Expeditions, Inc	Canyonlands National Park.
CANY026–04	Niskanen and Jones, Inc	Canyonlands National Park.
CANY027–04	3-D River Visions, Inc	Canyonlands National Park.
DINO001–04	Adventure Bound, Inc	Dinosaur National Monument.
DINO002–04	American River Touring Association, Inc	Dinosaur National Monument.
DINO003–04	Outward Bound West	Dinosaur National Monument.
DINO005–04	Holiday River Expeditions, Inc	Dinosaur National Monument.
DINO006–04	Don Hatch River Expeditions, Inc	Dinosaur National Monument.
DINO008–04	Tyler Callantine	Dinosaur National Monument.
DINO009–04	OARS Canyonlands, Inc	Dinosaur National Monument.
DINO0011–04	National Outdoor Leadership School	Dinosaur National Monument.
DINO0012–04	Sheri Griffith Expeditions, Inc	Dinosaur National Monument.
DINO0014–04	Eagle Outdoor Sports, Inc	Dinosaur National Monument.
DINO0016–04	AA, LLC	Dinosaur National Monument.
GRCA001–02	Xanterra Parks and Resorts, LLC	Grand Canyon National Park.
GRTE024–03	Jackson Hole Mountain Resort Corporation	Grand Teton National Park.
GRTE046–03	Gros Ventre River Ranch	Grand Teton National Park.
ROMO003–04	Andrews, Bicknell, and Crothers, LLC	Rocky Mountain National Park.
WHSA001–05	White Sands Trading, LLC	White Sands National Monument.
YELL102–04	Adventures Outfitting, LLC	Yellowstone National Park.
YELL103–04	Triangle X Ranch	Yellowstone National Park.
YELL104–04	Stillwater Outfitters, LLC	Yellowstone National Park.
YELL105–04	Bear Paw Outfitters	Yellowstone National Park.
YELL106–04	Jackson Hole Llamas	Yellowstone National Park.
YELL107–04	Wyoming Backcountry Adventures, Inc	Yellowstone National Park.
YELL108–04	Sunrise Pack Station, LLC	Yellowstone National Park.
YELL110–04	Mountain Sky Guest Ranch, LLC	Yellowstone National Park.
YELL113–04	7D Ranch, LLC	Yellowstone National Park.
YELL115–04	Gary Fales Outfitting, Inc	Yellowstone National Park.
YELL117–04	Scott Sallee	Yellowstone National Park.
YELL118–04	Yellowstone Mountain Guides, Inc	Yellowstone National Park.
YELL120–04	Slough Creek Outfitters, Inc	Yellowstone National Park.
YELL121–04	Yellowstone Llamas	Yellowstone National Park.
YELL122–04	Sheep Mesa Outfitters	Yellowstone National Park.
YELL123–04	Castle Creek Outfitters and Guide Service	Yellowstone National Park.
YELL124–04	Jake's Horses, Inc	Yellowstone National Park.
YELL125–04	Big Bear Outfitters	Yellowstone National Park.
YELL126–04	Yellowstone Wilderness Outfitters	Yellowstone National Park.
YELL127–04	Medicine Lake Outfitters	Yellowstone National Park.
YELL130–04	Skyline Guest Ranch and Guide Service, Inc	Yellowstone National Park.
YELL131–04	Hell's A-Roarin' Outfitters, Inc	Yellowstone National Park.
YELL132–04	Nine Quarter Circle Ranch, Inc	Yellowstone National Park.
YELL134–04	Dave Hettinger Outfitting	Yellowstone National Park.

CONCID	Concessioner	Park unit
YELL137–04	R.K. Miller's Wilderness Pack Trips, Inc	Yellowstone National Park.
YELL138–04	Yellowstone Roughriders, LLC	Yellowstone National Park.
YELL139–04	Hoof Beat Recreational Services	Yellowstone National Park.
YELL140–04	Black Otter, Inc	Yellowstone National Park.
YELL141–04	Lost Fork Ranch	Yellowstone National Park.
YELL144–04	Lone Mountain Ranch, Inc	Yellowstone National Park.
YELL145–04	Dollar, Inc	Yellowstone National Park.
YELL146–04	K Bar Z Guest Ranch and Outfitters, LLC	Yellowstone National Park.
YELL147–04	Yellowstone Outfitters	Yellowstone National Park.
YELL148–04	Kevin V. & Deborah A. Little	Yellowstone National Park.
YELL156–04	Two Ocean Pass Outfitting	Yellowstone National Park.
YELL157–04	Beartooth Plateau Outfitters, Inc	Yellowstone National Park.
YELL158–04	Wilderness Trails, Inc	Yellowstone National Park.
YELL159–04	Colby Gines' Wilderness Adventures, LLC	Yellowstone National Park.
YELL162–04	Grizzly Ranch	Yellowstone National Park.
YELL164–04	TNT Ranch, LLC	Yellowstone National Park.
YELL165–04	Gunsel Horse Adventures	Yellowstone National Park.
YELL166–04	ER Ranch Corporation	Yellowstone National Park.
YELL168–04	Llama Trips in Yellowstone	Yellowstone National Park.
YELL170–04	Rockin' HK Outfitters, Inc	Yellowstone National Park.
ZION001–03	Bryce-Zion Trail Rides, Inc	Zion National Park.
MORA002–88	Guest Services, Inc	Mount Rainier National Park.
YOSE003–08	Kirstie Dunbar-Kari	Yosemite National Park.

Under the provisions of current concession contracts and pending the completion of the public solicitation of a prospectus for a new concession contract, the National Park Service authorizes extension of visitor services for the contracts below until the dates shown under the terms and conditions of the current contract as amended. The extension of operations does not affect any rights with respect to selection for award of a new concession contract.

CONCID	Concessioner	Extend until:
GLBA001–04	Glacier Bay National Park and Preserve Concessions, LLC	September 30, 2015.
STLI001–07	Statue Cruises, LLC	September 30, 2019.
BLRI003–04	Parkway Inn, Inc.	December 31, 2014.
AMIS002–12	Southwest Lake Resorts, LLC	December 31, 2014.
JODR003–04	ARAMARK Togwotee, LLC	March 31, 2015.
JODR013–04	Rocky Mountain Snowmobile Tours	March 31, 2015.
JODR015–04	Jackson Hole Adventure Center, LLC	March 31, 2015.
YELL300–04	Yellowstone Expeditions	March 31, 2015.
YELL301–04	Loomis Recreational, Inc.	March 31, 2015.
YELL302–04	See Yellowstone Tours, Inc.	March 31, 2015.
YELL303–04	Yellowstone Winter Guides, Inc.	March 31, 2015.
YELL304–04	Triangle C Ranch, LLC	March 31, 2015.
YELL305–04	Loomis Recreational, Inc.	March 31, 2015.
YELL306–04	Buffalo Bus Touring Company	March 31, 2015.
YELL307–04	Buffalo Bus Touring Company	March 31, 2015.
YELL308–04	Buffalo Bus Touring Company	March 31, 2015.
YELL402–04	Backcountry Adventure, Inc.	March 31, 2015.

Dated: February 10, 2014.

Lena McDowall,

Associate Director, Business Services.

[FR Doc. 2014–03349 Filed 2–14–14; 8:45 am]

BILLING CODE 4312–53–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–VRP–13335; PXXVPAD0517.00.1]

Privacy Act of 1974, as amended; Notice to Amend an Existing System of Records

AGENCY: National Park Service, Interior.

ACTION: Notice of amendment to an existing system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior is issuing a public notice of its intent to amend the National Park Service Privacy Act system of records, "Special Use Permits—Interior, NPS–1," to update the system location, categories of individuals covered by the system, categories of records in the system, authority, routine uses, storage, safeguards, retention and disposal, system manager and address, notification procedures, records access and contesting procedures, and record source categories. The purpose of the system is to provide a park superintendent with information to approve or deny requests for activities that provide a benefit to an individual, group or organization, rather than the public at large. The system also assists park staff to manage the activity to ensure that the permitted activity does not interfere with the enjoyment of the park by visitors and that the natural and cultural resources of the park are protected.

DATES: Comments must be received by March 31, 2014.

ADDRESSES: Any person interested in commenting on this notice may do so by: submitting comments in writing to Felix Uribe, National Park Service

Privacy Act Officer, 1849 C Street NW., Mail Stop 2550, Washington, DC 20240; hand-delivering comments to Felix Uribe, National Park Service Privacy Act Officer, 1201 Eye Street NW., Washington, DC 20005; or emailing comments to *Felix_Uribe@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Special Park Uses Program Manager, 1849 C Street NW., Mail Stop 2460, Washington, DC 20240; or by telephone at 202–513–7092.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Interior (DOI), National Park Service (NPS) maintains the "Special Use Permits—Interior, NPS–1" system of records. The purpose of the system is to provide a park superintendent with information to approve or deny requests for activities that provide a benefit to an individual, group or organization, rather than the public at large. The system also assists park staff to manage the activity to ensure that the permitted activity does not interfere with the enjoyment of the park by visitors and that the natural and cultural resources of the park are protected. The system was last published in the **Federal Register** on November 15, 1999 (Volume 64, Number 219).

The amendments to the system will be effective as proposed at the end of the comment period (the comment period will end 40 days after the publication of this notice in the **Federal Register**), unless comments are received which would require a contrary determination. DOI will publish a revised notice if changes are made based upon a review of the comments received.

II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal Agencies collect, maintain, use, and disseminate individuals' personal information. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. As a matter of policy, DOI extends administrative Privacy Act protections to all individuals. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DOI by complying with DOI Privacy Act regulations, 43 CFR Part 2.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such records within the agency. Below is the description of the National Park Service, "Special Use Permits—Interior, NPS–1" system of records.

In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

III. Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 11, 2014.

Felix Uribe,

Privacy Act Officer, National Park Service.

SYSTEM NAME:

Special Use Permits—Interior, NPS–1

SYSTEM LOCATION:

Records in this system are maintained by the Special Park Uses Program, 1849 C Street NW., Mail Stop 2460, Washington, DC 20240. Records may also be located at the parks responsible for issuing special use permits.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include NPS employees and contractors responsible for processing applications for special use permits, applicants of special use permits, and holders of special use permits. This system contains records concerning corporations and other business entities, which are not subject to the Privacy Act. However, records pertaining to individuals acting on behalf of corporations and other business entities may reflect personal information.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains: (1) Applications for special use permits and may include name, organization, social security number, tax identification number, address, telephone number, fax number, email address, person's position title; information of proposed activity including park alpha code, permit number, date, location, number of participants and vehicles, type of use, equipment, support personnel for the activity, company, project name and type, fees, liability insurance information; information on special activities including number of minors, livestock, aircraft type, special effects, special effect technician's license and permit number, stunts, unusual or hazardous activities; information on driver's license including number, state, and expiration date; vehicle information including year, make, color, weight, plate number, and insurance; and (2) supporting documentation for permitted activities containing site plans, diagrams, story boards or scripts, crowd control and emergency medical plans and proposed site plan(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1, National Park Service Organic Act; 16 U.S.C. 3, Rules and regulations of national parks, reservations, and monuments; timber; leases, 16 U.S.C. 3a, Recovery of costs associated with special use permits; and 16 U.S.C. 460*l*–6d, Commercial Filming.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purposes of the system are (1) to provide a park superintendent with information to approve or deny requests for activities that provide a benefit to an individual, group or organization, rather than the public at large; and (2) to assist park staff to manage the activity to ensure that the permitted activity does not interfere with the enjoyment of the park by visitors and that the natural and cultural resources of the park are protected.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, disclosures outside DOI may be made as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1)(a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(2) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(3) To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(4) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(5) To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(6) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(7) To state and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(8) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(9) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(10) To the Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(11) To the Department of the Treasury to recover debts owed to the United States.

(12) To the news media when the disclosure is compatible with the purpose for which the records were compiled.

(13) To a consumer reporting agency if the disclosure requirements of the Debt Collection Act, as outlined at 31 U.S.C. § 3711(e)(1), have been met.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are contained in file folders stored within filing cabinets. Electronic records are maintained in computers, computer databases, email, and electronic media such as removable hard drives, magnetic disks, compact discs, and computer tapes.

RETRIEVABILITY:

Records in the system are retrieved by permittee's name, permit number or date of activity.

SAFEGUARDS:

The records contained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security rules and policies. Paper records are maintained in file cabinets located in secured DOI facilities under the control of authorized personnel.

Access to DOI networks and records in this system requires a valid username and password, and is limited to DOI personnel who have a need to know the information for the performance of their official duties. Computers and storage media are encrypted in accordance with DOI security policy. Computers containing files are password protected to restrict unauthorized access. The computer servers in which electronic records are stored are located in secured Department of the Interior facilities. Personnel authorized to access systems must complete all Security, Privacy, and Records Management training and sign the DOI Rules of Behavior.

RETENTION AND DISPOSAL:

Records in this system are retained in accordance with the National Park Service Records Schedule Resource Management and Lands, which has been approved by the National Archives and Records Administration (Job No. N1–79–08–1). The disposition is temporary. Retention of records with short-term operational value and not considered essential for the ongoing management of land and cultural and natural resources are destroyed 15 years after closure.

Paper records are disposed of by shredding or pulping, and records contained on electronic media are degaussed or erased in accordance with 384 Departmental Manual 1.

SYSTEM MANAGER AND ADDRESS:

Special Park Uses Program Manager, 1849 C Street NW., Mail Stop 2460, Washington, DC 20240.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request envelope and letter should both be clearly marked "PRIVACY ACT INQUIRY." A request for notification must meet the requirements of 43 CFR 2.235.

RECORDS ACCESS PROCEDURES:

An individual requesting records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request should describe the records sought as specifically as possible. The request envelope and letter should both be

clearly marked "PRIVACY ACT REQUEST FOR ACCESS." A request for access must meet the requirements of 43 CFR 2.238.

CONTESTING RECORDS PROCEDURES:

An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the System Manager identified above. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

RECORD SOURCE CATEGORIES:

Records in the system are obtained from applicants of special use permits and holders of special use permits.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PRIVACY ACT OF 1974

NARRATIVE STATEMENT FOR AN AMENDED PRIVACY ACT SYSTEM OF RECORDS FOR THE DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE—SPECIAL USE PERMITS

Special Use Permits—Interior, NPS–1

1. Describe the purposes of the system of records.

The National Park Service (NPS) maintains the Special Use Permits system of records. The purpose of the system is to provide a park superintendent with information to approve or deny requests for activities that provide a benefit to an individual, group or organization, rather than the public at large. The system also assists park staff to manage the activity to ensure that the permitted activity does not interfere with the enjoyment of the park by visitors and that the natural and cultural resources of the park are protected.

The NPS only collects information that is necessary to execute the responsibilities of the Special Park Uses (SPU) Program. The SPU Program provides information and policy guidance to park superintendents, and regional and park special park uses personnel on permits such as right-of-way permits, special event and First Amendment permits, and commercial film permits.

The NPS estimates that the Special Use Permits system will contain a large amount of individual records for those individuals that have applied for special use permits from the National Park Service, and currently hold special use permits. The system contains records concerning corporations and other business entities, which are not subject to the Privacy Act. However, records pertaining to individuals acting on behalf of corporations and other business entities may reflect personal information. The National Park Service receives in excess of 18,000 applications per year for special park use permits, of which approximately 13,000 applications are received from individuals.

Steps were taken to minimize the amount of personal information maintained in the Special Use Permits system. Only information that is required to provide a superintendent with sufficient information to make an informed decision on the request for a permit is collected. Social security or tax identification numbers are collected in accordance with the Debt Reduction Act.

2. Identify the specific statute or Executive Order which authorizes the maintenance of the system of records.

16 U.S.C. 1, National Park Service Organic Act; 16 U.S.C. 3, Rules and regulations of national parks, reservations, and monuments; timber; leases, 16 U.S.C. 3a, Recovery of costs associated with special use permits; and 16 U.S.C. 460*l*-6d, Commercial Filming.

3. Provide an evaluation of the probable or potential effect of the proposal on the privacy of individuals.

The Special Use Permits System collects and stores information from individuals, businesses or government entities (including personally identifiable information from individuals representing businesses) that apply or are granted permits for special uses at the National Park Service.

The Special Park Uses Program has taken measures to protect the information in the system and as a result, there is a minimal risk to the privacy of most individuals.

4. Describe the relationship of the proposal, if any, to the other branches of the Federal government and to State and local governments.

DOI may share information contained within the NPS Special Use Permits system with other Federal, state and local governments to provide information needed to recover debts owed to the United States, to respond to a violation or potential violation of law, in response to court order and/or discovery purposes related to litigation, or other authorized routine use when the disclosure is compatible with the purpose for which the records were compiled.

5. Provide a brief description of steps taken by the agency to minimize the risk of unauthorized access to the system of records.

The records contained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security rules and policies. Paper records are maintained in file cabinets located in secured DOI facilities under the control of authorized personnel.

Access to DOI networks and records in this system requires a valid username and password, and is limited to DOI personnel who have a need to know the information for the performance of their official duties. Computers and storage media are encrypted in accordance with DOI security policy. Computers containing files are password protected to restrict unauthorized access. The computer servers in which electronic records are stored are located in secured Department of the Interior facilities. Personnel authorized to access systems must complete all Security, Privacy, and Records Management training and sign the DOI Rules of Behavior.

6. Explain how each proposed routine use is compatible with the purpose for which the records are collected and maintained.

Each proposed routine use is compatible with the purpose of this system because it either: promotes the integrity of the records in the system or servicing and maintenance of the system; improves access by individuals who are the subjects of the information in the system, pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a; or carries out a statutory responsibility of the Department, or requires that a specific determination be made prior to disclosure that a concrete relationship or similarity exists between the disclosure and the purpose for which the information in the system was gathered.

7. Provide the OMB clearance numbers, expiration dates, and titles of any OMB-approved information collection requirements contained in the system of records.

The Special Use Permits—Interior, NPS—1 is comprised of information taken from NPS forms (OMB Control Number: 1024–0026). The forms are: Application for Special Use Permit, #10–930, expires 06/2013; Application for Commercial Filming/Still Photography Permit (short form), #10–931, expires 06/2013; Application for Commercial Filming/Still Photography Permit (long form), #10–932, expires 06/2013; and two new forms, Application for Vehicle Use Permit, #10–933 and

Application for Special Use Permit (short form) #10–930S. An Information Collection Request for both forms was submitted to OMB for approval on December 31, 2012.

8. Does the proposal require new or revised agency rules to be published in the *Federal Register*?

No. This system of records does not require new or revised agency rules to be published in the **Federal Register**.

[FR Doc. 2014–03433 Filed 2–14–14; 8:45 am]

BILLING CODE 4312–EJ–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of Proposed Information Collection; Request for comments for 1029–0024.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for the Procedures and Criteria for Approval or Disapproval of State Program Submissions, has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by March 20, 2014, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, by telefax at (202) 395–5806 or via email to *OIRA_submission@omb.eop.gov*. Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 203—SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov*. Please refer to OMB control number 1029–0024 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John Trelease at (202) 208–2783, or electronically to *jtrelease@osmre.gov*. You may also review this collection by going to *http://www.reginfo.gov* (Information Collection Review, Currently Under Review, Agency is Department of the Interior, DOI–OSMRE).

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require 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)]. OSM has submitted a request to OMB to renew its approval of the collection of information contained in 30 CFR Part 732 for approving or disapproving state program submissions. OSM is requesting a 3-year term of approval for the information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1029–0024 and is referenced in § 732.10.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on November 29, 2013 (78 FR 71642). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR Part 732—Procedures and Criteria for Approval or Disapproval of State Program Submissions.

OMB Control Number: 1029–0024.

Summary: Part 732 establishes the procedures and criteria for approval and disapproval of State program submissions. The information submitted is used to evaluate whether State regulatory authorities are meeting the provisions of their approved programs.

Bureau Form Number: None.

Frequency of Collection: Once and annually.

Description of Respondents: 24 State and 4 Tribal regulatory authorities.

Total Annual Responses: 40.

Total Annual Burden Hours: 6,775.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the addresses listed under **ADDRESSES.** Please refer to the appropriate OMB control number in all correspondence.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 7, 2014.

Stephen M. Sheffield,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2014–03486 Filed 2–14–14; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1131, 1132, and 1134 (Review)]

Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, China, and the United Arab Emirates; Notice of Commission Determinations to Conduct Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on polyethylene terephthalate film, sheet, and strip from Brazil, China, and the United Arab Emirates would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* January 23, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of

Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On January 23, 2014, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response and the respondent interested party group responses with respect to the orders on subject imports from Brazil and the United Arab Emirates to its notice of institution (78 FR 60311, October 1, 2013) were adequate. The Commission found that the respondent interested party group response with respect to the orders on subject imports from China was inadequate but determined to conduct a full review of the order concerning China to promote administrative efficiency in light of the Commission's determination to conduct full reviews of the orders concerning Brazil and the United Arab Emirates. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: February 12, 2014.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–03481 Filed 2–14–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–613]

Certain 3g Mobile Handsets and Components Thereof; Commission Determination To Remand Investigation to the Chief Administrative Law Judge Pursuant To Remand From the U.S. Court of Appeals for the Federal Circuit

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to remand the above-captioned investigation to the Chief Administrative Law Judge for assignment to an administrative law judge ("ALJ") for an initial determination on remand ("RID") concerning certain infringement, affirmative defense, and public interest issues following remand from the U.S. Court of Appeals for the Federal Circuit ("Federal Circuit").

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Inv. No. 337–TA–613 on September 11, 2007, based on a complaint filed by InterDigital Communications Corp. of King of Prussia, Pennsylvania and InterDigital Technology Corp. of Wilmington, Delaware (collectively, "InterDigital") on August 7, 2007. 72 *FR* 51838 (Sept. 11, 2007). The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain 3G mobile handsets and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,117,004 ("the '004 patent"); 7,190,966 ("the '966 patent"); and 7,286,847 ("the '847 patent"); and 6,693,579 ("the '579 patent"). The notice of investigation named Nokia Corporation of Espoo, Finland and Nokia Inc. of Irving, Texas (collectively, "Nokia") as respondents.

On February 13, 2009, InterDigital moved for summary determination that a domestic industry exists because its licensing activities in the United States satisfy the domestic industry requirement under 19 U.S.C. 1337(a)(3)(C). On March 10, 2009, the presiding Administrative Law Judge ("ALJ") issued an initial determination ("ID") (Order No. 42) granting the motion. On April 9, 2009, the Commission determined not to review the ID. Notice (Apr. 9, 2009).

On August 14, 2009, the ALJ issued his final ID, finding no violation of section 337. In particular, he found that the asserted claims of the patents-in-suit are not infringed and that they are not invalid. The ALJ further found that there is no prosecution laches relating to the '004, '966, and '847 patents and that the '579 patent is not unenforceable.

On October 16, 2009, the Commission determined to review the Final ID in part. 74 *FR* 55068–69 (Oct. 26, 2009) ("Notice of Review"). In particular, although the Commission affirmed the ID's determination of no violation of section 337, the Commission reviewed and modified the ID's claim construction of the term "access signal" found in the asserted claims of the '847 patent. The Commission also reviewed, but took no position on, the ID's construction of the term "synchronize" found in the asserted claims of the '847 patent. The Commission further reviewed, but took no position on, validity with respect to any of the asserted patents. The Commission did not review the ID's construction of the claim limitations "code" and "increased power level" in the asserted claims of the '966 and '847 patents, and terminated the investigation.

InterDigital timely appealed the Commission's final determination of no violation of section 337 as to the '966 and '847 patents to Federal Circuit. Specifically, InterDigital appealed the final ID's unreviewed constructions of the claim limitations "code" and "increased power level" in the '966 and '847 patents. Respondent Nokia, the intervenor on appeal, raised as an alternate ground of affirmance the issue of whether the Commission correctly

determined that InterDigital has a license-based domestic industry.

On August 1, 2012, the Federal Circuit reversed the Commission's construction of the claim limitations "code" and "increased power level" in the '966 and '847 patents, reversed the Commission's determination of non-infringement as to the asserted claims of those patents, and remanded to the Commission for further proceedings. *InterDigital Commc'ns, LLC* v. *Int'l Trade Comm'n,* 690 F.3d 1318 (Fed. Cir. 2012). In particular, the Court rejected the final ID's construction of the "code" limitation as being limited to "a spreading code or a portion of a spreading code" and, instead, constructed "code" as "a sequence of chips" and as "broad enough to cover both a spreading code and a non-spreading code." *Id.* at 1323–27. The Court also rejected the final ID's construction of the limitation "increased power level" as requiring that the power level of a transmission "increases during transmission," holding instead that the limitation "include[s] both intermittent and continuous increases in power." *Id.* at 1323, 1327–28. The Court affirmed the Commission's determination that InterDigital has a domestic industry. *Id.* Nokia subsequently filed a combined petition for panel rehearing and rehearing en banc on the issue of domestic industry. On January 10, 2013, the Court denied the petition and issued an additional opinion addressing several issues raised in Nokia's petition for rehearing. *InterDigital Commc'ns, LLC* v. *Int'l Trade Comm'n,* 707 F.3d 1295 (Fed. Cir. 2013) (Fed. Cir. Jan. 10, 2013). The mandate issued on January 17, 2013, returning jurisdiction to the Commission.

On February 4, 2013, the Commission issued an Order directing the parties to submit comments regarding what further proceedings must be conducted to comply with the Federal Circuit's remand. Commission Order (Feb. 4, 2013). On February 14, 2013, InterDigital, Nokia, and the Commission investigative attorney ("IA") submitted initial comments. On February 19, 2013, Nokia submitted response comments. On February 22, 2013, InterDigital and the IA submitted response comments.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, the responses thereto, and the parties' comments on remand, the Commission has decided certain issues and has determined to remand the investigation to the Chief ALJ for assignment to a presiding ALJ to determine certain outstanding issues concerning violation of section 337 set forth below.

With respect to claim construction, the Commission construes the claim limitation "synchronize" in the asserted claims of the '847 patent to mean "establishing a timing reference with the pilot signal transmitted by a base station."

With respect to validity, the Commission affirms the final ID's finding that the Lucas reference does not anticipate the asserted claims of the '966 and '847 patents because it fails to disclose the claim limitations requiring the subscriber unit to transmit a code selected from a "plurality of different codes," the limitation requiring the subscriber unit to transmit a "message" in order to indicate that the subscriber units wants to establish communications with a base station, or the limitation in those claims requiring an "access signal" to facilitate communication between the subscriber unit and the base station. The Commission also affirms the final ID's finding that the Lucas reference does not render obvious the asserted claims of the '966 and '847 patent. The Commission further affirms the final ID's finding that the asserted claims of the '966 and '847 patents are not rendered obvious by the IS–95 references combined with the CODIT reference.

With respect to infringement, the Commission finds that the PRACH preamble used in the accused Nokia handsets satisfies the "code"/"signal" limitation of the asserted claims of the '966 and '847 patents under the Federal Circuit's revised claim construction. The Commission also finds that the transmission of the PRACH preambles meets the claim limitation "increased power level" in the asserted claims of the '966 and '847 patents based on the Federal Circuit's revised claim construction. The Commission further finds waived Nokia's argument that the PRACH preamble and PRACH message signals in the accused Nokia handsets are never transmitted. The Commission also finds that the accused handsets do not satisfy the "synchronized to a pilot signal" limitation under the doctrine of equivalents.

With respect to the issue of domestic industry, the Commission acknowledges the Federal Circuit's finding that Nokia has waived any argument regarding the nexus between its licensing investments and the asserted patents. The Commission also declines to reconsider the issue of whether the "economic prong" of the domestic industry requirement has been satisfied under *Certain Multimedia Display and Navigation Devices and Systems, Components Thereof, and Products Containing Same,* Inv. No. 337–TA–694, Commission Opinion, Public Version (August 8, 2011).

The Commission remands the following issues to the Chief ALJ for assignment to a presiding ALJ. Specifically, the Commission remands the issue of whether the accused Nokia handsets meet the "generated using a same code" limitation or "the message being transmitted only subsequent to the subscriber unit receiving the indication" limitation in the asserted claims of the '966 patent. The Commission also remands the issue of whether the accused Nokia handsets meet the "generated using a same code" limitation or the "function of a same code" limitation in the asserted claims of the '847 patent. The Commission further remands the issue of whether the 3GPP standard supports a finding that the pilot signal (P–CPICH) satisfies the claim limitation "synchronized to a pilot signal" as recited in the asserted claims of the '847 patent by synchronizing to either the P–SCH or S–SCH signals under the Commission's construction of that claim limitation. The Commission further remands the issue, concerning the claim limitations "the message being transmitted only subsequent to the subscriber unit receiving the indication" and "transmitting, in response to receipt of said acknowledgement, an access signal" in the asserted claims of the '847 patent and as is required by the final ID's construction of the limitation "access signal," whether the PRACH Message is transmitted during the power ramp up process.

The Commission also remands the investigation for the assigned ALJ to reopen the evidentiary record and take evidence concerning Nokia's currently imported products, including: (1) Whether they contain chips other than those that were previously adjudicated, (2) whether those chips infringe the asserted claims of the patents-in-suit, and (3) whether the chips are licensed. The Commission further remands the investigation in order for the assigned ALJ to: (1) Take evidence concerning the public interest factors as enumerated in sections 337(d) and (f); (2) take briefing on whether the issue of the standard-essential patent nature of the patents-in-suit is contested; (3) take evidence concerning and/or briefing on whether there is patent hold-up or reverse hold-up in this case; and (4) include an analysis of this evidence in his remand ID.

The authority for the Commission's determination is contained in section

337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337).

By order of the Commission.

Issued: February 12, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–03412 Filed 2–14–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–862]

Certain Electronic Devices, Including Wireless Communication Devices, Tablet Computers, Media Players, and Components Thereof; Commission Determinations Not To Review an Initial Determination Extending the Date for Issuance of the Final Initial Determination and Not To Review an Initial Determination Terminating the Investigation Based on a Settlement Agreement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (Order No. 69) issued by the presiding administrative law judge ("ALJ") on January 23, 2014, extending the time for issuance of the final initial determination. Notice is also hereby given that the Commission has determined not to review an initial determination (Order No. 70) issued by the ALJ on January 29, 2014, terminating the investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 8, 2013, based on a complaint filed by Ericsson Inc., of Plano, Texas, and Telefonaktiebolaget LM Ericsson of Sweden. 78 FR 1247 (January 8, 2013). The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930 as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices, including wireless communication devices, tablet computers, media players, and televisions, and components thereof, by reason of infringement of certain claims of eleven U.S. patents. The notice of investigation named as respondents Samsung Electronics America, Inc., of Ridgefield Park, New Jersey; Samsung Telecommunications America LLC, of Richardson, Texas; and Samsung Electronics Co., Ltd., of the Republic of Korea. *Id.* The Office of Unfair Import Investigations was also named a party. *Id.*

On January 22, 2014, all complainants and respondents ("the private parties") jointly moved to extend the date for issuance of the final initial determination from January 24, 2014, to January 31, 2014. The motion stated that the private parties had reached a settlement agreement, and that the extension would permit the parties time to file termination papers. The motion further stated the Investigative Attorney ("IA") did not oppose the motion. On January 23, 2014, the ALJ found that good cause existed for the extension, and granted the motion in an initial determination ("Order No. 69"). No party filed a petition for review of Order No. 69.

On January 27, 2014, the private parties moved to terminate the investigation based on a settlement agreement. The parties stated that there were no other agreements, written or oral, express or implied, between the private parties concerning the subject matter of this investigation. The IA filed a response supporting the motion. On January 29, 2014, the ALJ issued an initial determination ("Order No. 70") granting the motion and terminating the investigation. The ALJ found that the motion complied with the Commission rules and that the settlement is in the public interest. No party filed a petition for review of Order No. 70.

The Commission has determined not to review Order No. 69 and Order No. 70.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

Dated: February 12, 2014.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–03438 Filed 2–14–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0036]

Agency Information Collection Activities: Proposed Collection; Comments Requested: FFL Out-of-Business Records Request

ACTION: 30-Day Notice.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 78, Number 242, page 76322 on December 17, 2013, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until March 20, 2014. This process is conducted in accordance with 5 CFR 1320.10

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *Oira_submission@omb.eop.gov.* All comments should reference the eight digit OMB number for the collection or the title of the collection.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your

comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—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.

Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* FFL Out-of-Business Records Request.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5300.3A. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None.

Need for Collection

Firearms licensees are required to keep records of acquisition and disposition. These records remain with the licensee as long as they are in business. The ATF F 5300.3A, FFL Out-of-Business Records Request is used by ATF to notify licensees who go out of business. When discontinuance of the business is absolute, such records shall be delivered within thirty days following the business discontinuance to the ATF Out-of-Business Records Center.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1,924 respondents will take approximately 5 minutes to complete the form and 3 hours to package and ship the records.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 5,932 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: February 12, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–03414 Filed 2–14–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0024]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Reports of Suspicious Orders or Theft/Loss of Listed Chemicals/Machines

ACTION: 30-Day Notice.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 78, Number 243, page 76656, on December 18, 2013, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until March 20, 2014. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Ruth A. Carter, Chief, Policy Evaluation and Analysis Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152; (202) 598–6812.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to (202) 395–7285. All comments should reference the eight-digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please contact Ruth A. Carter, Chief, Policy Evaluation and Analysis Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, (202) 307–7297, or the DOJ Desk Officer at (202) 395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of Information Collection 1117–0024

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Reports of Suspicious Orders or Theft/Loss of Listed Chemicals/Machines.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: Notification of suspicious orders and thefts is provided in writing on an as needed basis and does not occur using a form.

Component: Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Persons handling listed chemicals and tableting and encapsulating machines are required to report thefts, losses and suspicious orders pertaining to these items. These

reports provide DEA with information regarding possible diversion to illicit drug manufacture.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* DEA estimates that there are 300 responses to this collection and that responses occur on an as needed basis. Responses take 15 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* DEA estimates that this collection takes 75 annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Suite 3W–1407B, Washington, DC 20530.

Dated: February 12, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–03415 Filed 2–14–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c) (2)(A)]. This program helps to ensure that 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 on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the "Consumer Price Index Commodities and Services Survey." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before April 21, 2014.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments also may be transmitted by fax to, 202–691–5111. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

Under the direction of the Secretary of Labor, the Bureau of Labor Statistics (BLS) is directed by law to collect, collate, and report full and complete statistics on the conditions of labor and the products and distribution of the products of the same; the Consumer Price Index (CPI) is one of these statistics. The collection of data from a wide spectrum of retail establishments and government agencies is essential for the timely and accurate calculation of the Commodities and Services (C&S) component of the CPI.

The CPI is the only index compiled by the U.S. Government that is designed to measure changes in the purchasing power of the urban consumer's dollar. The CPI is a measure of the average change in prices over time paid by urban consumers for a market basket of goods and services. The CPI is used most widely as a measure of inflation, and serves as an indicator of the effectiveness of government economic policy. It is also used as a deflator of other economic series, that is, to adjust other series for price changes and to translate these series into inflation-free dollars. Examples include retail sales, hourly and weekly earnings, and components of the Gross Domestic Product.

A third major use of the CPI is to adjust income payments. Almost 2 million workers are covered by collective bargaining contracts, which provide for increases in wage rates based on increases in the CPI. At least nine states have laws that link the adjustment in state minimum wage to the changes in the CPI. In addition, as a result of statutory action, the CPI affects the income of millions of Americans. Over 57 million Social Security beneficiaries, and millions of military and Federal Civil Service retirees, have cost-of-living adjustments tied to the CPI. Also, eligibility criteria for millions of food stamps recipients and millions of children who eat lunch at school are affected by changes in the CPI. Under the National School Lunch Act and Child Nutrition Act, national average payments for those lunches and breakfasts are adjusted annually by the Secretary of Agriculture on the basis of the change in the CPI series, "Food away from Home." Since 1985, the CPI has been used to adjust the Federal income tax structure to prevent inflation-induced tax rate increases.

II. Current Action

Office of Management and Budget clearance is being sought for the Consumer Price Index Commodities and Services Survey. The continuation of the collection of prices for the CPI is essential since the CPI is the nation's chief source of information on retail price changes. If the information on C&S prices were not collected, Federal fiscal and monetary policies would be hampered due to the lack of information on price changes in a major sector of the U.S. economy, and estimates of the real value of the Gross National Product could not be made. The consequences to both the Federal and private sectors would be far reaching and would have serious repercussions on Federal government policy and institutions.

III. Desired Focus of Comments

The Bureau of Labor Statistics 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.
- 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.

Type of Review: Extension without change of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Consumer Price Index Commodities and Services Survey.

OMB Number: 1220–0039.

Affected Public: Business or other for-profit; not for profit institutions; and State, Local or Tribal Government.

	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden
PRICING	35,921	8.7773	315,289	0.33	104,045
OUTLET ROTATION:	12,932	1	12,932	1.0	12,932
TOTAL	48,853	n/a	328,221	n/a	116,977

Total Burden Cost (capital/startup): $0.0.

Total Burden Cost (operating/maintenance): $0.0.

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

Signed at Washington, DC, this 12th day of February 2014.

Kimberley Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2014–03488 Filed 2–14–14; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0048]

Standard on Powered Platforms for Building Maintenance; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in its Standard on Powered Platforms for Building Maintenance (29 CFR 1910.66).

DATES: Comments must be submitted (postmarked, sent, or received) by April 21, 2014.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2010–0048, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., E.T.

Instructions: All submissions must include the Agency name and the OSHA docket number for the Information Collection Request (ICR) (OSHA–2010–0048). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Paragraph (e)(9) of the Powered Platform for Building Maintenance Standard requires that employers develop and implement a written emergency action plan for each type of powered platform operation. The plan must explain the emergency procedures that workers are to follow if they encounter a disruption of the power supply, equipment failure, or other emergency. Prior to operating a powered platform, employers must notify workers how they can learn about alarm systems and emergency escape routes, and emergency procedures that pertain to the building at which they will be working. Employers are to review with each worker those parts of the emergency action plan that the worker must know to ensure their protection during an emergency; these reviews must occur when the worker receives an initial assignment involving a powered

platform operation and after the employer revises the emergency action plan.

According to paragraph (f)(5)(i)(C), employers must affix a load rating plate to a conspicuous location on each suspended unit that states the unit's weight and its rated load capacity. Paragraph (f)(5)(ii)(N) requires employers to mount each emergency electric operating device in a secured compartment and label the device with instructions for its use. After installing a suspension wire rope, paragraphs (f)(7)(vi) and (f)(7)(vii) mandate that employers attach a corrosion-resistant tag with specified information to one of the wire rope fastenings if the rope is to remain at one location. In addition, paragraph (f)(7)(viii) requires employers who resocket a wire rope to either stamp specified information on the original tag or put that information on a supplemental tag and attach it to the fastening.

Paragraphs (g)(2)(i) and (g)(2)(ii) require that building owners, at least annually, have a competent person: Inspect the supporting structures of their buildings; inspect and, if necessary, test the components of the powered platforms, including control systems; inspect/test components subject to wear (e.g., wire ropes, bearings, gears, and governors); and certify these inspections and tests. Under paragraph (g)(2)(iii), building owners must maintain and, on request, disclose to OSHA a written certification record of these inspections/tests. This record must include the date of the inspection/test, the signature of the competent person who performed it, and the number/identifier of the building support structure and equipment inspected/tested.

Paragraph (g)(3)(i) mandates that building owners have a competent person inspect and, if necessary, test each powered platform facility according to the manufacturer's recommendations every 30 days, or prior to use if the work cycle is less than 30 days. Under paragraph (g)(3)(ii), building owners must maintain and, on request, disclose to the Agency a written certification record of these inspections/tests. This record is to include the date of the inspection/test, the signature of the competent person who performed it, and the number/identifier of the powered platform facility inspected/tested.

According to paragraph (g)(5)(iii), building owners must have a competent person thoroughly inspect suspension wire ropes for a number of specified conditions once a month, or before placing the wire ropes into service if the ropes are inactive for 30 days or longer. Paragraph (g)(5)(v) requires building owners to maintain and, on request, disclose to OSHA a written certification record of these monthly inspections; this record must consist of the date of the inspection, the signature of the competent person who performed it, and the number/identifier of the wire rope inspected.

Paragraph (i)(1)(ii) requires that all workers who operate working platforms be trained in the following: (A) Recognition of, and preventive measures for, the safety hazards associated with their individual work tasks; (B) general recognition and prevention of safety hazards associated with the use of working platforms; (C) emergency action plan procedures required in paragraph (e)(9) of this section; (D) work procedures required in paragraph (i)(1)((iv) of this section; (E) personal fall arrest system inspection, care, use and system performance. Paragraph (1)(1)(iii) requires that training of workers in the operation and inspection of working platforms be performed by a competent person. Paragraph (i)(1)(iv) requires that written work procedures for the operation, safe use and inspection of working platforms be provided for worker training.

Upon completion of this training, paragraph (i)(1)(v) specifies that employers must prepare a written certification that includes the identity of the worker trained, the signature of the employer or the trainer, and the date the worker completed the training. In addition, the employer must maintain a worker's training certificate for the duration of their employment and, on request, make it available to OSHA.

Emergency action plans allow employers and workers to anticipate, and effectively respond to, emergencies that may arise during powered platform operations. Affixing load rating plates to suspended units, instructions to emergency electric operating devices, and tags to wire rope fasteners prevent workplace injuries by providing information to employers and workers regarding the conditions under which they can safely operate these system components. Requiring building owners to establish and maintain written certification of inspections and testing conducted on the supporting structures of buildings, powered platform systems, and suspension wire ropes provides employers and workers with assurance that they can operate safely from the buildings using equipment that is in safe operating condition.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Powered Platforms for Building Maintenance (29 CFR 1910.66). The Agency is requesting an adjustment decrease in the number of burden hours from 135,656 to 130,764, a total decrease of 4,892 burden hours. The decrease is due to the removal of burden hours related to training. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Standard on Powered Platforms for Building Maintenance (29 CFR 1910.66).

OMB Control Number: 1218–0121.

Affected Public: Business or other for-profits.

Number of Respondents: 900.

Frequency: On occasion.

Average Time per Response: Varies from 2 minutes (.03 hour) to disclose certification records to 4 hours to inspect/test both a powered platform facility and its suspension wire ropes, and to prepare the certification record.

Estimated Total Burden Hours: 130,764.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other

material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0048). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on February 12, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–03462 Filed 2–14–14; 8:45 am]

BILLING CODE 4510–26–P

OFFICE OF MANAGEMENT AND BUDGET

Discount Rates for Cost-Effectiveness Analysis of Federal Programs

AGENCY: Office of Management and Budget.

ACTION: Revisions to Appendix C of OMB Circular A–94.

SUMMARY: The Office of Management and Budget revised Circular A–94 in 1992. The revised Circular specified certain discount rates to be updated annually when the interest rate and inflation assumptions used to prepare the Budget of the United States Government were changed. These discount rates are found in Appendix C of the revised Circular. The updated discount rates are shown below. The discount rates in Appendix C are to be used for cost-effectiveness analysis, including lease-purchase analysis, as specified in the revised Circular. They do not apply to regulatory analysis.

DATES: The revised discount rates will be in effect through December 2014.

FOR FURTHER INFORMATION CONTACT: Gideon F. Lukens, Office of Economic Policy, Office of Management and Budget, (202) 395–3316.

Dates: February 4, 2014.

Aviva R. Aron-Dine,

Associate Director for Economic Policy, Office of Management and Budget.

Attachment

OMB Circular No. A–94

Appendix C

(Revised December 2013)

Discount Rates for Cost-Effectiveness, Lease Purchase, and Related Analyses

Effective Dates. This appendix is updated annually. This version of the appendix is valid for calendar year 2014. A copy of the updated appendix can be obtained in electronic form through the OMB home page at *http://www.whitehouse.gov/omb/circulars_a094/a94_appx-c/*. The text of the Circular is found at *http://www.whitehouse.gov/omb/circulars_a094/*, and a table of past years' rates is located at *http://www.whitehouse.gov/sites/default/files/omb/assets/a94/dischist.pdf*. Updates of the appendix are also available upon request from OMB's Office of Economic Policy (202–395–3316).

Nominal Discount Rates. A forecast of nominal or market interest rates for calendar year 2014 based on the economic assumptions for the 2015 Budget is presented below. These nominal rates are to be used for discounting nominal flows, which are often encountered in lease-purchase analysis.

NOMINAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES

[in percent]

3-Year	5-Year	7-Year	10-Year	20-Year	30-Year
1.0 1.9 2.5 3.0 3.6 3.9					

Real Discount Rates. A forecast of real interest rates from which the inflation premium has been removed and based on the economic assumptions from the 2015 Budget is presented below. These real rates are to be used for discounting constant-dollar flows, as is often required in cost-effectiveness analysis.

REAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES

[in percent]

3-Year	5-Year	7-Year	10-Year	20-Year	30-Year
−0.7 0.0					

REAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES—Continued

[in percent]

3-Year	5-Year	7-Year	10-Year	20-Year	30-Year
0.5					
1.0					
1.6					
1.9					

Analyses of programs with terms different from those presented above may use a linear interpolation. For example, a four-year project can be evaluated with a rate equal to the average of the three-year and five-year rates. Programs with durations longer than 30 years may use the 30-year interest rate.

[FR Doc. 2014–03161 Filed 2–14–14; 8:45 am]

BILLING CODE P

MILITARY COMPENSATION AND RETIREMENT MODERNIZATION COMMISSION

Meeting of the Military Compensation and Retirement Modernization Commission

AGENCY: Military Compensation and Retirement Modernization Commission.

ACTION: Notice of Public Meetings and Town Hall Meeting.

SUMMARY: The Military Compensation and Retirement Modernization Commission (Commission) was established by National Defense Authorization Act, FY 2013. Pursuant to the Act, the Commission is holding public hearings and a town hall in order to solicit comments from the general public and select experts on the modernization of the military compensation and retirement systems.

DATES: The hearings and town hall will be held Tuesday, February 25, 2014.

ADDRESSES: The hearings and town hall will be held at the Embassy Suites Fayetteville Fort Bragg, 4760 Lake Valley Drive, Fayetteville, North Carolina 28303.

FOR FURTHER INFORMATION CONTACT: Christopher Nuneviller, Associate Director, Military Compensation and Retirement Modernization Commission, PO Box 13170, Arlington VA 22209, telephone 703–692–2080, fax 703–697–8330, email *christopher.nuneviller@mcrmc.gov.*

SUPPLEMENTARY INFORMATION: The Military Compensation and Retirement Modernization Commission (Commission) was established by the National Defense Authorization Act FY 2013, Public Law 112–239, § 671, (amended by National Defense Authorization Act FY 2014, Pub. L. 113–66, § 1095). The Commission will conduct public hearings and town halls across the United States and on select military installations internationally in order to solicit comments on the modernization of the military compensation and retirement systems. The Commission seeks the views of service members, retirees, their beneficiaries and other interested parties regarding pay, retirement, health benefits and quality of life programs of the Uniformed Services. The Commission will hear from senior commanders of local military commands and their senior enlisted advisors, unit commanders and their family support groups, local medical and education community representatives, and other quality of life organizations. These meetings sites will be accessible to members of the general public including individuals with disabilities.

On February 25, 2014, the Commission will hold public hearings from 10:00 a.m. until 5:00 p.m., and a public town hall meeting from 7:00 p.m. until 9:00 p.m.

February 25, 2014 Agenda

10:00 a.m. to 12:00 p.m. Senior Local Military Commanders and Senior Enlisted Advisors

1:30 p.m. to 3:00 p.m. Local Military/Veteran Transition Service Organizations

3:15 p.m. to 5:00 p.m. Department of Defense and Local Schools

7:00 p.m. to 9:00 p.m. Town Hall

The Panel Testimony heard on Tuesday, February 25, 2014, will consist of:

a. Brief opening remarks by the Chairman and one or more of the Commissioners,

b. brief opening remarks by each panelist, and

c. questions posed by the Chairman and Commissioners to the panelists.

On the evening of Tuesday, February 25, 2014, the Chairman and Commissioners will hear from the public. Attendees will be given an opportunity to address the Chairman and Commissioners and relay to them their experience and comments.

Due to the deliberative, nascent and formative nature of the Commission's work, the Commissioners are unable to discuss their thoughts, plans or intentions for specific recommendations that will ultimately be made to the President and Congress.

The public hearings will be transcribed and placed on the Commission's Web site. In addition to public hearings, and due to the essential need for input from the beneficiaries, the Commission is accepting and strongly encourages comments and other submissions on its Web site (*www.mcrmc.gov*).

Christopher Nuneviller,

Associate Director, Administration and Operations.

[FR Doc. 2014–03369 Filed 2–14–14; 8:45 am]

BILLING CODE P

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. NTSB–GC–2013–0001]

Plan for Generic Information Collection Activity: Submission for OMB Review; Comment Request

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this notice announces the NTSB is submitting an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for generic approval of witness and passenger questionnaires. This ICR is the second notice, as required by OMB regulations concerning approvals of information collections. This notice again describes the nature of the information collection and its expected burden and advises the public it may submit comments on this proposed generic information collection to the OMB desk officer for the NTSB.

DATES: Submit written comments regarding this proposed plan for the collection of information by March 20, 2014.

ADDRESSES: Interested members of the public may submit written comments on the collection of information to the OMB Desk Officer for the NTSB at Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, or via fax: 202–395–5806, (this is not a toll-free number), or email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the National Transportation Safety Board, ATTN: Office of General Counsel, 490 L'Enfant Plaza East, SW., Washington, DC 20594.

FOR FURTHER INFORMATION CONTACT: David Tochen, NTSB General Counsel, at (202) 314–6080.

SUPPLEMENTARY INFORMATION: In accordance with OMB regulations that require this Notice for proposed ICRs, as well as OMB guidance concerning generic approval of plans for information collections, the NTSB herein notifies the public that it may submit comments on this proposed ICR to the Office of Management and Budget. 5 CFR 1320.10.

A. NTSB Witness and Passenger Questionnaires are Appropriate for Generic Approval

On May 28, 2010, Administrator, Office of Information and Regulatory Affairs (OIRA), OMB, issued a memorandum to the Heads of Executive Departments and Agencies, and Independent Regulatory Agencies, providing instructions concerning how agencies can obtain generic OMB clearances for information collections in certain circumstances. *Paperwork Reduction Act—Generic Clearances, available at http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/PRA_Gen_ICRs_5-28-2010.pdf.* The memorandum states as follows concerning the appropriateness of obtaining such clearances:

> A generic ICR is a request for OMB approval of a plan for conducting more than one information collection using very similar methods when (1) the need for and the overall practical utility of the data collection can be evaluated in advance, as part of the review of the proposed plan, but (2) the agency cannot determine the details of the specific individual collections until a later time.

The NTSB's need to obtain information immediately following a transportation event it is investigating under 49 U.S.C. 1131 is critical. When numerous witnesses observe a transportation event, the most effective and timely manner in which the NTSB can obtain first-hand observations is via distributing questionnaires to all witnesses the NTSB can locate.

This type of information collection is appropriate for generic approval under the applicable OMB guidance. Based on its investigation of previous transportation events, the NTSB can attest to the utility and value of collecting information via witness questionnaires. By distributing such questionnaires, the NTSB will gather information concerning where the witness was located at the time of the event, whether the witness needed medical attention, and what type of assistance the witness may have received during and immediately following the event. Responses to such questions may help the NTSB in determining the probable cause of the transportation event, and will likely also assist the NTSB in issuing safety recommendations to mitigate the effects of future transportation occurrences. In addition, collection of such questionnaires may help ensure the effectiveness of its family assistance activities.

The NTSB customizes each questionnaire to ensure it requests information specific to the particular event the NTSB is investigating. Consistent with the OMB guidance concerning generic approvals, the NTSB will not be able to finalize draft questionnaires specific to each event until the event has occurred. Often, questionnaires include a diagram of the aircraft, rail car, bus, vessel, or other vehicle involved in the event, and requests the respondent pinpoint his or her location by drawing on the diagram. In addition, the questionnaire may include questions concerning life preservers or other safety devices and equipment or other evacuation aspects specific to over-water events, if the occurrence involved such a circumstance. These types of questions are obviously unique to the specific investigation, and impossible to know prior to the occurrence of the event. Overall, the types of information the NTSB will solicit in its witness questionnaires is appropriate for a generic approval for the information collection.

B. Supporting Statement

The applicable OMB memorandum instructs agencies to provide specific information in the supporting statements describing the information collections. In particular, the supporting statements should include the following:

- The method of collection and, if statistical methods will be used, a discussion of the statistical methodology;
- The category (or categories) of respondents;
- The estimated "burden cap," i.e., the maximum number of burden hours (per year) for the specific information collections, and against which burden will be charged for each collection actually used;
- The agency's plans for how it will use the information collected;
- The agency' plans to obtain public input regarding the specific information collections (i.e., consultation); ad
- The agency's internal procedures to ensure that the specific collections comply with the PRA, applicable regulations, and the terms of the generic clearance.

Id. at 2.

1. Method of Collection

The NTSB will collect the information by transmitting the questionnaire to witnesses of the event, including surviving passengers. Depending on the circumstances, such transmission may occur via hand delivery, electronic mail, facsimile transmission, postal mail, or express mail, or a combination of methods. Respondents will be provided instructions concerning how to return questionnaires to the NTSB investigator who distributed them. The NTSB may create an electronic system on its Web page that provides the agency with the ability to verify whether the respondent was a passenger or a witness to the event. If the NTSB is able to create such a system, the agency may elect to request respondents log in and complete an electronic, web-based questionnaire. While such a system is not available at present, the NTSB nevertheless notes this idea, in case it creates and utilizes such a system in the future.

The NTSB will not use statistical methodology in reaching any conclusions based on the questionnaires. Instead, the NTSB merely will note the total number of respondents in any factual reports for which it uses the questionnaires. Respondents'completion of the questionnaire is voluntary, and the NTSB generally will not contact them more than once to request completion of the questionnaire.

2. Category of Respondents

In its questionnaires, the NTSB will generally seek information from two categories of respondents: eyewitnesses who were not passengers of the conveyance involved in the transportation event; and witnesses who were onboard as passengers of the conveyance involved. In most cases, the NTSB will distribute the questionnaires to passengers, as NTSB investigators often interview eyewitnesses verbally at the site of an event, rather than soliciting information from them on a written instrument. However, in some cases, the NTSB may become aware of

the existence of many people who observed the transportation event, and therefore choose to solicit information from them on a questionnaire, rather than attempting to interview each eyewitness personally. Therefore, the majority of people to whom the NTSB will distribute the questionnaires will be passengers who survived the transportation event.

3. Maximum Burden Hours

In its 2012 Annual Report to Congress, the NTSB stated it launched on eight major accidents and 252 regional or "field" accidents.[1] The NTSB will most likely distribute the questionnaires to passengers involved in, and/or witnesses who observe, major accidents. Some NTSB regional investigations may require use of the questionnaires, but often, fewer passengers and/or witnesses will observe regional events and therefore be able to offer feedback on a questionnaire. As a result, in general, the NTSB estimates it may use a questionnaire for approximately half of its regional transportation event launches, which would total 130 investigations. Of these investigations, the NTSB may request information on the questionnaire from approximately 10 passengers and/or witnesses, to reach a total of 1,300 individuals who may receive a questionnaire.

The NTSB seeks to emphasize these estimations are approximate, as they are depend on the number of transportation events that occur, and how many passengers and/or witnesses may be available to complete the questionnaire. As the NTSB stated in its first **Federal Register** notice regarding this proposed generic information collection, the number of transportation events for which the NTSB launches and investigates vary widely from year to year.

4. Use of the Information Collected

Witnesses' and passengers' input concerning their recollections of the events preceding, during, and immediately following the transportation event are extremely important to the NTSB. The NTSB creates discipline-specific "groups" for each investigation, and such groups are tasked with investigating a specific aspect of the occurrence. Often, the NTSB creates a survival factors group, which investigates how the circumstances of an event affected the likelihood of passengers and crewmembers surviving the event. This group also examines what, if any, changes could occur to improve the likelihood of survival and/or mitigate the effects of the occurrence.

In practical terms, the NTSB uses the information it collects in completed questionnaires by identifying trends in responses to the questions on the questionnaires. For example, if a majority of respondents indicate they experienced hardship in evacuating an aircraft, rail car, bus, vessel, or other vehicle following an event due to problems with the evacuation route or emergency door, the NTSB would note this data in its factual report summarizing the questionnaires. The NTSB may then utilize this identification of the trend to make a safety recommendation to improve evacuation methods and thereby improve transportation safety and likelihood of survival. Similarly, if a majority of respondents who are eyewitnesses to a transportation event report observing a specific unusual aspect immediately prior to the event, this information may assist the NTSB with determining the probable cause of the occurrence. For example, eyewitnesses who complete a questionnaire and state they observed smoke from a train's engine or from a specific part of an aircraft before a crash can provide information to help the NTSB focus its investigation and determine the probable cause.

Overall, the information the NTSB will receive from completed questionnaires is important to the NTSB. The NTSB will use the information to improve transportation safety by determining the probable cause of the event, mitigating the effects of the event, issuing safety recommendations, fulfilling its family assistance responsibilities, or all of these activities.

5. Public Input Regarding the Information Collected

The NTSB does not generally obtain public input concerning the scope of, or specific questions on, the witness or passenger questionnaires it uses. However, the NTSB utilizes a party process for each investigation.[2] Through this process, NTSB investigators who seek to use a witness and/or passenger questionnaire to obtain information from witnesses and/or passengers may consult with party participants who are assisting with the investigation, and gather input to improve the questionnaire. If an NTSB investigator believes a party participant's feedback would improve the questionnaire concerning a particular question, the investigator may change the questionnaire and recommend this change be retained for future investigations. Overall, the NTSB engages in consultation with party participants, in the interest of improving the questionnaire.

6. Internal Procedures

Lastly, the OMB memorandum describing generic clearances recommends agencies describe the procedures it will undertake to ensure information collections to which the generic clearance applies will comply with the Paperwork Reduction Act, applicable regulations, and the terms provided in the generic clearance. The NTSB Office of General Counsel plans to provide internal guidance to agency personnel, consisting of this publication, as well as the OMB memorandum discussing generic clearances, upon OMB approval of the clearance. The internal guidance will include specific instructions concerning use of witness and passenger questionnaires, and explain the applicable provisions of the Paperwork Reduction Act and its implementing regulations. The NTSB will also ensure its modal office directors are aware of the generic clearance, and its terms, and direct investigators to contact the NTSB Office of General Counsel to coordinate the dissemination of witness and/or passenger questionnaires. Given the small size of the NTSB, the agency believes it will be able to communicate the terms of compliance with the Paperwork Reduction Act to all investigators who may need to solicit feedback from witnesses and/or passengers via questionnaires.

C. Description of Burden

The NTSB has carefully reviewed questionnaires it has used previously to obtain information from witnesses and passengers. The NTSB assures the public that these questionnaires have used plain, coherent, and unambiguous terminology in its requests for information. In addition, the questionnaires are not duplicative of other agencies' collections of information, because in most instances, the NTSB, by statute, maintains priority over other agencies during a transportation accident investigation; therefore, any information collection that another agency might undertake must be approved in advance by the NTSB investigator-in-charge (IIC). The

[1] National Transportation Safety Board 2012 Annual Report to Congress, available at *http://www.ntsb.gov/doclib/agency_reports/2012Annual%20Report.pdf.*

[2] *See* 49 CFR 831.11; *see also* NTSB Aviation Investigation Manual, Major Team Investigations (Nov. 2002), *available at http://www.ntsb.gov/doclib/manuals/MajorInvestigationsManual.pdf.*

IIC would not approve an information collection that is duplicative of the witness/passenger questionnaire when the NTSB has already sought feedback on the questionnaire.

In general, the NTSB believes the questionnaires will impose a minimal burden on respondents: the NTSB estimates that each respondent will spend approximately 30 to 45 minutes in completing each questionnaire. The NTSB estimates that a maximum of 650 respondents per year would complete a questionnaire. Although the NTSB may distribute questionnaires to perhaps as many as 1,300 people, historic response rates indicate only 50 percent of the questionnaires will be returned completed. However, the NTSB again notes this number will vary, given the unpredictable nature of the frequency of transportation events.

D. Request for Comments

In accordance with 44 U.S.C. 3506(c)(2)(A), the NTSB seeks feedback from the public concerning this proposed plan for information collection. In particular, the NTSB asks the public to evaluate whether the proposed collection of information is necessary; to assess the accuracy of the NTSB's burden estimate; to comment on how to enhance the quality, utility, and clarity of the information to be collected; and to comment on how the NTSB might minimize the burden of the collection of information.

The NTSB will carefully consider all feedback it receives in response to this notice. As described above, obtaining the information the NTSB seeks on these questionnaires in a timely manner is important to NTSB investigations; therefore, obtaining approval from OIRA for these collections of information on a generic basis is a priority for the NTSB.

Dated: February 12, 2014.

Deborah A.P. Hersman,

Chairman.

[FR Doc. 2014–03479 Filed 2–14–14; 8:45 am]

BILLING CODE 7533–01–P

PEACE CORPS

Information Collection Request: Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment on the new information collection. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Comments regarding this collection must be received on or before March 20, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number and should be sent via email to: *oira_submission@omb.eop.gov* or fax to: 202–395–3086. Attention: Desk Officer for Peace Corps.

FOR FURTHER INFORMATION CONTACT: Denora Miller, FOIA/Privacy Act Officer, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692–1236, or email at *pcfr@peacecorps.gov.*

SUPPLEMENTARY INFORMATION: The information collected by the Volunteer Application is used by the Peace Corps to collect essential information from individuals, including technical and language skills, and availability for Peace Corps service. The Peace Corps will be changing its application process to better match applicants to programs based on their skills and interests. Due to this change in the way applicants are processed and an overall agency effort to reduce the burden on applicants by only asking the most essential questions, the agency is developing a new application.

Title: Peace Corps Volunteer Application.

OMB Control Number: 0420-pending.

Type of Review: New.

Affected Public: General public.

Respondents' Obligation To Reply: Voluntary.

Burden to the Public:

a. Estimated number of respondents.	20,000.
b. Estimated average burden per response.	1 hour.
c. Frequency of response	one time.
d. Annual reporting burden	20,000.
e. Number of applications received electronically (99%).	19,800.
f. Number of application received in hard copy (1%).	200.

General Description of Collection: The Volunteer Application is used by Peace Corps in its assessment of an individual's qualifications to serve as a Peace Corps Volunteer. It is the document of record for an individual's decision to apply for Peace Corps service.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity 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 automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on February 11, 2013.

Denora Miller,

FOIA/Privacy Act Officer, Office of Management.

[FR Doc. 2014–03440 Filed 2–14–14; 8:45 am]

BILLING CODE 6051–01–P

RAILROAD RETIREMENT BOARD

Sunshine Act; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on February 26, 2014, 10:00 a.m. at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. The agenda for this meeting follows:

Portion open to the public:

(1) Executive Committee Reports

The person to contact for more information is Martha P. Rico, Secretary to the Board, Phone No. 312–751–4920.

Dated: February 10, 2014.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2014–03554 Filed 2–13–14; 11:15 am]

BILLING CODE 7905–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Spectrum Policy

ACTION: Notice of Request for Information.

SUMMARY: On June 14, 2013, the President issued a Memorandum to the heads of executive departments and agencies on the subject of spectrum policy (*http://www.whitehouse.gov/the-press-office/2013/06/14/presidential-memorandum-expanding-americas-leadership-wireless-innovatio*). The Memorandum directs the White House Spectrum Policy Team to make recommendations regarding market-based or other approaches that could give departments and agencies greater incentive to share or relinquish

spectrum, while protecting the mission capabilities of existing and future systems that rely on spectrum use. This notice solicits public input to inform the development of those recommendations.

DATES: Responses must be received by March 20, 2014 to be considered.

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

- *Email: publicaccess@ostp.gov,* include [*Agency Incentives—Spectrum*] in the subject line of the message.
- *Fax:* (202) 456–6040, Attn: Tom Power.
- *Mail:* Attn: Tom Power, Office of Science and Technology Policy, Eisenhower Executive Office Building, 1650 Pennsylvania Ave. NW., Washington, DC 20504.

Instructions: Response to this RFI is voluntary. Respondents need not reply to all questions listed; however, they should clearly indicate the question(s) to which they are responding. Responses to this RFI, including the names of the authors and their institutional affiliations, if provided, may be posted online. OSTP therefore requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: Tom Power, (202) 456–4444, *Thomas_C_Power@ostp.eop.gov,* OSTP.

SUPPLEMENTARY INFORMATION: In his June 14, 2013, Memorandum on spectrum policy, "*Expanding America's Leadership in Wireless Innovation,*" the President stated that in order to continue the cycle of wireless innovation, productivity, and job creation, "[w]e must continue to make additional spectrum available as promptly as possible for the benefit of consumers and businesses." The President also said that, "[a]t the same time, we must ensure that Federal, State, local, tribal, and territorial governments are able to maintain mission critical capabilities that depend on spectrum today, as well as effectively and efficiently meet future requirements."

To help implement these goals, the Memorandum established a Spectrum Policy Team. Among its responsibilities, the Spectrum Policy Team shall make recommendations to the President "regarding market-based or other approaches that could give agencies greater incentive to share or relinquish spectrum, while protecting the mission capabilities of existing and future systems that rely on spectrum use." The Memorandum directed the Spectrum Policy Team to consider certain proposals made by the President's Council of Advisors on Science and Technology in its July 2012 report, "*Realizing the Full Potential of Government-Held Spectrum to Spur Economic Growth*" (*http://www.whitehouse.gov/sites/default/files/microsites/ostp/pcast_spectrum_report_final_july_20_2012.pdf*). The Memorandum further directed the Spectrum Policy Team to analyze the impact of the Commercial Spectrum Enhancement Act of 2004 (Title II of Pub. L. 108–494), as modified by the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96).

The Spectrum Policy Team tasked a federally funded research and development center, the Science and Technology Policy Institute (STPI), to review publicly available analyses and proposals regarding incentives for agencies to share or relinquish spectrum. STPI has prepared a report, available at *https://www.ida.org/upload/stpi/pdfs/p5102final.pdf,* that identifies and characterizes various approaches to providing incentives to Federal agencies to increase spectrum efficiency through relocation, improved technologies, and spectrum sharing. This notice invites comment on that report and on other approaches to providing agency incentives.

The STPI report identifies nine major approaches to providing incentives to Federal agencies to share or relinquish spectrum, representing a variety of paths to satisfying the increasing demands for spectrum capacity from both government and commercial users. These approaches are grouped into four types of mechanisms that could be considered, separately or in some combination:

(1) Spectrum user fees, payable by agencies based on some valuation of their spectrum assignments.

(2) A spectrum fund that agencies could draw from to plan and execute spectrum relocation and sharing strategies.

(3) Spectrum property rights, where spectrum assignments to agencies could include the authority to further assign or share those rights with wireless carriers and other third parties in return for compensation paid directly to the agency.

(4) Command-and-control, where a central authority such as the National Telecommunications and Information Administration (NTIA) or the Office of Management and Budget (OMB) would be given greater authority over relocation and sharing decisions.

In addition to addressing these mechanisms, commenters are requested to identify other incentive-based measures that could promote spectrum sharing or relinquishment. Commenters should address the merits of each mechanism, including implementation challenges and the relative advantages and disadvantages, assuming any implementation challenges were overcome.

Questions To Inform Development of Spectrum Policy

Without limiting the foregoing, commenters should consider the following:

(A) With respect to spectrum user fees, what are the lessons learned from the United Kingdom's experience as well as any comparable efforts in other countries? To the extent that Federal agencies seek spectrum assignments based on mission-based needs, how would the imposition of user fees affect agency demand for spectrum? How would a system of spectrum user fees operate in the context of the traditional Federal appropriations process?

(B) With respect to a spectrum fund, what are alternative means to fund agency planning, research, and development? If the funding is to come from subsequent auctions of the spectrum band in question, how would agencies assess the potential risk of not being reimbursed for planning costs given that the plans may not be approved or implemented as expected? Likewise, how would such a fund be financially supported and used to promote relinquishment or sharing of bands that could be put to innovative and productive commercial uses without auctioning (e.g. unlicensed uses)? What are ways that a spectrum fund can provide a true incentive to agencies, and not simply reimburse them for costs incurred? Likewise, what is the best way to ensure that disbursements to an agency from a spectrum fund are not simply offset by a corresponding deduction from the agency's budget for the following fiscal year, thus negating the incentive?

(C) With respect to spectrum property rights, how would the introduction of such an approach affect mission capabilities? To the extent that a property right approach provides an incentive to share or relinquish spectrum already acquired, what corresponding conditions, if any, should be imposed on the acquisition of spectrum rights by one or more agencies? What are the practical or legal limitations that would affect the likely benefits of this approach related to spectrum efficiency, operational

flexibility, or financial incentives? What are the potential unintended consequences (*e.g.*, hoarding) of granting such rights and how could they be curtailed without impeding an agency's flexibility?

(D) With respect to a command-and-control approach, how would efficiency gains be measured and what additional resources, if any, would be required? What kind of additional authority and resources would NTIA or OMB need to effectively implement this approach?

(E) With respect to any approach, what are the means to ensure effective coordination among agencies, such that their collective efforts are brought to bear most productively, especially in the specific bands valued by the private sector? What approaches are most conducive to or dependent on spectrum sharing? What technological and logistical challenges need to be overcome and how significant are those challenges?

(F) H.R. 3674, legislation currently pending in the House of Representatives (*http://beta.congress.gov/bill/113th/house-bill/3674*), would expand the allowable usage of auction proceeds shared with agencies who voluntarily relinquish spectrum to include appropriations accounts reduced by sequestration, up to the level of reduction induced by sequestration. OSTP welcomes comments on the approach proposed in this legislation and any modifications that could improve its efficacy.

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2014–03413 Filed 2–14–14; 8:45 am]

BILLING CODE 3270–F4–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30915; 812–14237]

Acacia Asset Management LLC and Acacia Trust; Notice of Application

February 11, 2014.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Acacia Asset Management LLC ("Acacia") and Acacia Trust (the "Trust").

SUMMARY OF APPLICATION: Applicants request an order that permits: (a) Actively-managed series of certain open-end management investment companies to issue shares ("Shares") redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

DATES: Filing Dates: The application was filed on November 15, 2013, and amended on February 10, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 10, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, 825 Third Avenue, 35th Floor, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879 or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a statutory trust organized under the laws of Delaware and will register with the Commission as an open-end management investment company. Applicants currently intend that the initial series of the Trust will be the Acacia Ultra Short ETF (the "Initial Fund"), which will seek current income, consistent with the preservation of capital and daily liquidity. Applicants state that the Initial Fund will invest primarily in fixed income securities with ultra-short maturities, including U.S. dollar-denominated investment grade debt securities, government securities and/or repurchase agreements.

2. Acacia, a Delaware limited liability company that will be registered with the Commission as an investment adviser under the Investment Adviser Act of 1940 ("Advisers Act"), will be the investment adviser to the Initial Fund. The Advisor (as defined below) may enter into sub-advisory agreements with investment advisers to act as sub-advisors with respect to the Funds (as defined below) (each a "Sub-Advisor"). Applicants state that any Sub-Advisor will be registered, or not subject to registration, under the Advisers Act. A registered broker-dealer ("Broker") under the Securities Exchange Act of 1934 (the "Exchange Act"), will be selected and approved by the Board (as defined below) to act as the distributor and principal underwriter of the Funds (the "Distributor").

3. Applicants request that the order apply to the Initial Fund and any future series of the Trust or of any other open-end management investment companies that may utilize active management investment strategies (collectively, "Future Funds"). Any Future Fund will (a) be advised by Acacia or an entity controlling, controlled by, or under common control with Acacia (Acacia and each such other entity and any successor thereto included in the term "Advisor"), [1] and (b) comply with the terms and conditions of the application.[2] The Initial Fund and

[1] For the purposes of the requested order, a "successor" is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Advisor to a Future Fund will be registered as an investment adviser under the Advisers Act. All entities that currently intend to rely on the order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

Future Funds together are the "Funds."[3] Each Fund will consist of a portfolio of securities (including fixed income securities and/or equity securities) and/or currencies traded in the U.S. and/or non-U.S. markets and derivatives, other assets, and other investment positions ("Portfolio Instruments").[4] Funds may invest in "Depositary Receipts."[5] Each Fund will operate as an actively managed exchange-traded fund ("ETF").

4. Applicants request that any exemption under section 12(d)(1)(J) apply to: (1) With respect to section 12(d)(1)(B), any Fund that is currently or subsequently part of the same "group of investment companies" as the Initial Fund within the meaning of section 12(d)(1)(G)(ii) of the Act as well as any principal underwriter for the Fund and any Brokers selling Shares of a Fund to an Investing Fund (as defined below); and (2) with respect to section 12(d)(1)(A), each management investment company or unit investment trust registered under the Act that is not part of the same "group of investment companies" as the Funds, and that enters into a FOF Participation Agreement (as defined below) to acquire Shares of a Fund (such management investment companies, "Investing Management Companies," such unit investment trusts, "Investing Trusts," and Investing Management Companies and Investing Trusts together, "Investing Funds"). Investing Funds do not include the Funds.[6]

5. Applicants anticipate that a Creation Unit will consist of at least 25,000 Shares. Applicants anticipate that the trading price of a Share may range from $10 to $1,000. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into a participant agreement with the Distributor and the transfer agent of the Fund ("Authorized Participant") with respect to the creation and redemption of Creation Units. An Authorized Participant is either: (a) A Broker or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation ("NSCC"), a clearing agency registered with the Commission and affiliated with the Depository Trust Company ("DTC"), or (b) a participant in the DTC ("DTC Participant").

6. In order to keep costs low and permit each Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments ("Deposit Instruments"), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments ("Redemption Instruments").[7] On any given Business Day[8], the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or redemption, as the "Creation Basket." In addition, the Creation Basket will correspond pro rata to the positions in a Fund's portfolio (including cash positions),[9] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[10] or (c) TBA Transactions,[11] short positions and other positions that cannot be transferred in kind[12] will be excluded from the Creation Basket.[13] If there is a difference between NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the "Cash Amount").

7. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC; or (ii) in the case of Funds holding non-U.S. investment ("Global Funds"), such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the

[3] Applicants further request that the order apply to any future Distributor of the Funds, which would be a Broker and would comply with the terms and conditions of the application. The Distributor of any Fund may be an affiliated person of the Advisor and/or Sub-Advisors.

[4] If a Fund invests in derivatives, then (a) the board of trustees ("Board") of the Fund will periodically review and approve the Fund's use of derivatives and how the Advisor assesses and manages risk with respect to the Fund's use of derivatives and (b) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

[5] Depositary Receipts are typically issued by a financial institution, a "depositary", and evidence ownership in a security or pool of securities that have been deposited with the depositary. A Fund will not invest in any Depositary Receipts that the Advisor or Sub-Advisor deems to be illiquid or for which pricing information is not readily available. No affiliated persons of applicants, any Future Fund, any Advisor or any Sub-Advisor will serve as the depositary bank for any Depositary Receipts held by a Fund.

[6] An Investing Fund may rely on the order only to invest in Funds and not in any other registered investment company.

[7] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 ("Securities Act"). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to Rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

[8] Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each, a "Business Day").

[9] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's net asset value ("NAV") for that Business Day.

[10] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[11] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price.

[12] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[13] Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Cash Amount (defined below).

investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Global Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[14]

8. Each Business Day, before the open of trading on a national securities exchange, as defined in section 2(a)(26) of the Act ("Stock Exchange"), on which Shares are listed, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The Stock Exchange will disseminate every 15 seconds throughout the trading day an amount representing, on a per Share basis, the sum of the current value of the Portfolio Instruments that were publicly disclosed prior to the commencement of trading in Shares on the Stock Exchange.

9. A Fund may recoup the settlement costs charged by NSCC and DTC by imposing a transaction fee on investors purchasing or redeeming Creation Units (the "Transaction Fee"). The Transaction Fee will be borne only by purchasers and redeemers of Creation Units and will be limited to amounts that have been determined appropriate by the Advisor to defray the transaction expenses that will be incurred by a Fund when an investor purchases or redeems Creation Units.[15] All orders to purchase Creation Units will be placed with the Distributor by or through an Authorized Participant and the Distributor will transmit all purchase orders to the relevant Fund. The Distributor will be responsible for delivering a prospectus ("Prospectus") to those persons purchasing Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it.

10. Shares will be listed and traded at negotiated prices on a Stock Exchange and traded in the secondary market. Applicants expect that Stock Exchange specialists or market makers ("Market Makers") will be assigned to Shares. The price of Shares trading on the Stock Exchange will be based on a current bid/offer in the secondary market. Transactions involving the purchases and sales of Shares on the Stock Exchange will be subject to customary brokerage commissions and charges.

11. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Specialists or Market Makers, acting in their unique role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.[16] Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[17] Applicants expect that arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV per Share should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

12. Shares will not be individually redeemable and owners of Shares may acquire those Shares from a Fund, or tender such shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant.

13. Neither the Trust nor any Fund will be marketed or otherwise held out as a "mutual fund." Instead, each Fund will be marketed as an "actively managed exchange-traded fund". In any advertising material where features of obtaining, buying or selling Shares traded on the Stock Exchange are described, there will be an appropriate statement to the effect that Shares are not individually redeemable.

14. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include a Prospectus and additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or mid-point of the bid/ask spread at the time of the calculation of such NAV ("Bid/Ask Price"), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund (including any short positions held in securities ("Short Positions")) that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[18]

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act

[14] A "custom order" is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[15] Where a Fund permits an in-kind purchaser to deposit cash in lieu of depositing one or more Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the cost to the Fund of buying those particular Deposit Instruments. In all cases, the Transaction Fee will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

[16] If Shares are listed on The NASDAQ Stock Market LLC ("Nasdaq") or a similar electronic Stock Exchange (including NYSE Arca), one or more member firms of that Stock Exchange will act as Market Maker and maintain a market for Shares trading on that Stock Exchange. On Nasdaq, no particular Market Maker would be contractually obligated to make a market in Shares. However, the listing requirements on Nasdaq, for example, stipulate that at least two Market Makers must be registered in Shares to maintain a listing. In addition, on Nasdaq and NYSE Arca, registered Market Makers are required to make a continuous two-sided market or subject themselves to regulatory sanctions. No Market Maker will be an affiliated person or an affiliated person of an affiliated person, of the Funds, except within the meaning of section 2(a)(3)(A) or (C) of the Act due solely to ownership of Shares as discussed below.

[17] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

[18] Applicants note that under accounting procedures followed by the Funds, trades made on the prior Business Day will be booked and reflected in NAV on the current Business Day. Accordingly, each Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for its NAV calculation at the end of such Business Day.

provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 2(a)(32) and 5(a)(1) of the Act

3. Section 5(a)(1) of the Act defines an "open-end company" as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit each Fund to redeem Shares in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units from each Fund. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution system of investment company shares by eliminating price competition from brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity should ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that settlement of redemptions of Creation Units of Global Funds is contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles present in foreign markets in which those Funds invest. Applicants have been advised that, under certain circumstances, the delivery cycles for transferring Portfolio Instruments to redeeming investors, coupled with local market holiday schedules, will require a delivery process of up to 14 calendar days. Applicants therefore request relief from section 22(e) in order to provide payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local markets where transactions in the Portfolio Instruments of each Global Fund customarily clear and settle, but in all cases no later than 14 calendar days following the tender of a Creation Unit.[19]

8. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within a maximum of 14 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants state each Global Fund's statement of additional information ("SAI") will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each affected Global Fund. Applicants are not seeking relief from section 22(e) with respect to Global Funds that do not affect redemptions in-kind.

Section 12(d)(1) of the Act

9. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

10. Applicants request relief to permit Investing Funds to acquire Shares in excess of the limits in section 12(d)(1)(A) of the Act and to permit the Funds, their principal underwriters and any Broker to sell Shares to Investing Funds in excess of the limits in section 12(d)(l)(B) of the Act. Applicants submit

[19] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations that it may otherwise have under rule 15c6–1 under the Exchange Act. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

11. Applicants submit that their proposed conditions address any concerns regarding the potential for undue influence. To limit the control that an Investing Fund may have over a Fund, applicants propose a condition prohibiting the adviser of an Investing Management Company ("Investing Fund Advisor"), sponsor of an Investing Trust ("Sponsor"), any person controlling, controlled by, or under common control with the Investing Fund Advisor or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Advisor, the Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Advisor or Sponsor ("Investing Fund's Advisory Group") from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any sub-adviser to an Investing Management Company ("Investing Fund Sub-Advisor"), any person controlling, controlled by or under common control with the Investing Fund Sub-Advisor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Sub-Advisor or any person controlling, controlled by or under common control with the Investing Fund Sub-Advisor ("Investing Fund's Sub-Advisory Group").

12. Applicants propose a condition to ensure that no Investing Fund or Investing Fund Affiliate [20] (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate ("Affiliated Underwriting"). An "Underwriting Affiliate" is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Investing Fund Advisor, Investing Fund Sub-Advisor, employee or Sponsor of the Investing Fund, or a person of which any such officer, director, member of an advisory board, Investing Fund Advisor, Investing Fund Sub-Advisor, employee or Sponsor is an affiliated person (except any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

13. Applicants propose several conditions to address the potential for layering of fees. Applicants note that the board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("independent directors or trustees"), will be required to find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. Applicants also state that any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[21]

14. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

15. To ensure that an Investing Fund is aware of the terms and conditions of the requested order, the Investing Funds must enter into an agreement with the respective Funds ("FOF Participation Agreement"). The FOF Participation Agreement will include an acknowledgement from the Investing Fund that it may rely on the order only to invest in a Fund and not in any other investment company.

Sections 17(a)(1) and (2) of the Act

16. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person ("second tier affiliate"), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines "affiliated person" to include any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. Each Fund may be deemed to be controlled by an Advisor and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Advisor (an "Affiliated Fund").

17. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act to permit in-kind purchases and redemptions of Creation Units by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25% of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25% of the Shares of one or more Affiliated Funds.[22] Applicants also request an exemption in order to permit a Fund to sell its Shares to and redeem its Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, certain Investing Funds of which the Funds are affiliated persons or second-tier affiliates.[23]

[20] An "Investing Fund Affiliate" is any Investing Fund Advisor, Investing Fund Sub-Advisor, Sponsor, promoter and principal underwriter of an Investing Fund, and any person controlling, controlled by or under common control with any of these entities. "Fund Affiliate" is an investment adviser, promoter, or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

[21] Any reference to NASD Conduct Rule 2830 includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority.

[22] Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of an Investing Fund because an investment adviser to the Funds is also an investment adviser to an Investing Fund.

[23] Applicants expect most Investing Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between an Investing Fund and a Fund, relief from section 17(a) would not be necessary. However, the requested relief

18. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Absent the unusual circumstances discussed in the application, the Deposit Instruments and Redemption Instruments available for a Fund will be the same for all purchasers and redeemers, respectively, and will correspond *pro rata* to the Fund's Portfolio Instruments. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Instruments currently held by the relevant Funds, and the valuation of the Deposit Instruments and Redemption Instruments will be made in the same manner and on the same terms for all, regardless of the identity of the purchaser or redeemer. Applicants do not believe that in-kind purchases and redemptions will result in abusive self-dealing or overreaching of the Fund.

19. Applicants also submit that the sale of Shares to and redemption of Shares from an Investing Fund meets the standards for relief under sections 17(b) and 6(c) of the Act. Applicants note that any consideration paid for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund's registration statement.[24] The FOF Participation Agreement will require any Investing Fund that purchases Creation Units directly from a Fund to represent that the purchase of Creation Units from a Fund by an Investing Fund will be accomplished in compliance with the investment restrictions of the Investing Fund and will be consistent with the investment policies set forth in the Investing Fund's registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on a Stock Exchange.

2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

3. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior Business Day's NAV and the market closing price or Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

4. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

5. The Advisor or any Sub-Advisor, directly or indirectly, will not cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively-managed exchange-traded funds.

B. Section 12(d)(1) Relief

1. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Sub-Advisory Group with respect to a Fund for which the Investing Fund Sub-Advisor or a person controlling, controlled by or under common control with the Investing Fund Sub-Advisor acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Advisor and any Investing Fund Sub-Advisor are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Investing Fund Advisor, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the

would apply to direct sales of Shares in Creation Units by a Fund to an Investing Fund and redemptions of those Shares. The requested relief is intended to also cover the in-kind transactions that may accompany such sales and redemptions.

[24] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of Shares of the Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to an Investing Fund, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b-1 under the Act) received from a Fund by the Investing Fund Advisor, or Trustee or Sponsor, or an affiliated person of the Investing Fund Advisor, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Advisor, or Trustee, or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Advisor will waive fees otherwise payable to the Investing Fund Sub-Advisor, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Advisor, or an affiliated person of the Investing Fund Sub-Advisor, other than any advisory fees paid to the Investing Fund Sub-Advisor or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Advisor. In the event that the Investing Fund Sub-Advisor waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

7. The Board of a Fund, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund relying on the section 12(d)(1) relief will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03377 Filed 2–14–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71519; File No. SR–ICEEU–2014–02]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Regarding New Permitted Cover

February 11, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder[2] notice is hereby given that on February 11, 2014, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed changes to the rules as described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed changes to the rules 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 principal purpose of the change is to permit ICE Clear Europe Clearing Members to post additional categories of securities, including KfW Euro Benchmark Bonds ("KfWs") and European Investment Bank Euro Area Reference Notes ("EIBs", together with KfWs, the "New Permitted Cover") to ICE Clear Europe as permitted cover to meet initial margin, original margin and certain other margin requirements, including delivery margin requirements. The New Permitted Cover will not be accepted to satisfy variation margin requirements or guaranty fund requirements.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for proposing the New Permitted Cover. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of ICE Clear Europe accepting the New Permitted Cover is to provide its Clearing Members with a greater range of high-quality collateral that can be posted to ICE Clear Europe to satisfy certain margin requirements.

ICE Clear Europe believes that the New Permitted Cover is of minimal credit risk comparable to that of other sovereign debt currently accepted by ICE Clear Europe as permitted cover for margin obligations. ICE Clear Europe further believes that the New Permitted Cover has demonstrated low volatility, including in stressed market conditions. Based on its analysis of the New Permitted Cover and its volatility and other characteristics, ICE Clear Europe has established initial valuation haircut levels for the New Permitted Cover, and will review and modify such haircuts from time to time in accordance with the Rules and procedures. In addition, each type of New Permitted Cover may only be used to satisfy margin requirements up to a specified concentration limit, which is subject to review and modification from time to time in accordance with the Rules and procedures. The concentration limit applies on an aggregate basis across all product categories.

Specifically, KfWs and EIBs may only constitute up to 25% of a Clearing Member's total initial and original margin requirement, up to a maximum amount of EUR 30 million. The New Permitted Cover will be subject to a valuation haircut of three percent (3%), except that the New Permitted Cover with a maturity of more than eleven (11) years will be subject to a valuation haircut of five percent (5%).

Consistent with existing ICE Clear Europe haircut policies, an additional haircut will apply where New Permitted Cover is used to cover a margin requirement denominated in a different currency, to cover the exchange rate risk.

For the avoidance of doubt, the New Permitted Cover cannot be used to satisfy variation margin requirements because variation margin must be paid in cash in the currency of the contract. In addition, the New Permitted Cover will not be accepted in respect of guaranty fund requirements.

ICE Clear Europe has identified New Permitted Cover as types of assets that would be appropriate for Clearing Members to post in order to meet initial margin and original margin requirements. ICE Clear Europe believes that accepting the New Permitted Cover is consistent with the requirements of Section 17A of the Act [3] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22,[4] and is consistent with the prompt and accurate clearance of and settlement of securities transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act in the same manner as other collateral accepted by ICE Clear Europe.[5] In addition, in ICE Clear Europe's view, acceptance of the New Permitted Cover will satisfy the financial resources requirements of Rule 17Ad–22. ICE Clear Europe has determined, through analysis of the credit risk, liquidity, market risk, volatility and other trading characteristics of the New Permitted Cover, that such assets are appropriate for use as permitted cover for Clearing Member's obligations under the Rules, subject to the haircuts and limits described above, consistent with the risk management of the clearing house. In particular, the New Permitted Cover is a stable collateral type that presents minimal credit risk and low volatility. In this regard, the New Permitted Cover is similar to the other categories of sovereign debt that ICE Clear Europe currently accepts as permitted cover. Pursuant to ICE Clear Europe Rule 502, haircuts will be reviewed by ICE Clear Europe periodically and ICE Clear Europe may modify the haircuts in its discretion as it determines to be appropriate. Use of New Permitted Cover will also be subject to concentration limits, as discussed above.

For the reasons noted above, ICE Clear Europe believes that the proposed rule change and the New Permitted Cover are consistent with the requirements of Section 17A of the Act and regulations thereunder applicable to it.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the rules would have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe. The New Permitted Cover has been approved by both the Futures & Options and CDS Risk Committees.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[3] 15 U.S.C. 78q–1.

[4] 17 CFR 240.17Ad–22.

[5] 15 U.S.C. 78q–1(b)(3)(F).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICEEU–2014–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2014–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2014–02 and should be submitted on or before March 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03375 Filed 2–14–14; 8:45 am]

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[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71521; File No. SR–NASDAQ–2013–155]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Shares of the AdvisorShares YieldPro ETF of AdvisorShares Trust

February 11, 2014.

I. Introduction

On December 13, 2013, The NASDAQ Stock Market LLC ("Nasdaq" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade the shares ("Shares") of the AdvisorShares YieldPro ETF (the "Fund") under Nasdaq Rule 5735. The proposed rule change was published for comment in the **Federal Register** on January 2, 2014.[3] The Commission received no comments on the proposal. On January 3, 2014, Nasdaq filed Amendment No. 1 to the proposal.[4] On January 31, 2014, Nasdaq filed Amendment No. 2 to the proposal.[5] The Commission is publishing this notice to solicit comments on Amendment Nos. 1 and 2 from interested persons and is approving the proposed rule change, as modified by Amendment Nos. 1 and 2, on an accelerated basis.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by AdviserShares Trust ("Trust"). The Trust is registered with the Commission as an investment company.[6] The Fund is a series of the Trust.

AdvisorShares Investments, LLC will be the investment adviser ("Adviser") to the Fund. The Elements Financial Group, LLC will be the investment sub-adviser ("Sub-Adviser") to the Fund. Foreside Fund Services, LLC ("Distributor") will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon will act as the administrator, accounting agent, custodian and transfer agent to the Fund.

The Exchange represents that the Adviser and Sub-Adviser are neither a broker-dealer nor affiliated with a broker-dealer.[7] The Exchange also represents that the Shares will be subject to Nasdaq Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares [8] and that for initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[9] The Exchange has made the following additional representations and statements in describing the Fund and its investment strategy, including portfolio holdings and investment restrictions.

Principal Investments

According to the Exchange, the Fund's investment objective will be to provide current income and capital appreciation. The Fund will be an actively managed exchange traded fund ("ETF") that is a "fund of funds" seeking to achieve its investment objective by primarily investing in both long and short positions in other

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71193 (Dec. 26, 2013), 79 FR 0173 (Jan. 2, 2014) ("Notice").

[4] In Amendment No. 1, Nasdaq amended the proposed rule change to clarify that certain requirements, discussed in note 7 and accompanying text, *infra*, are applicable to the Sub-Adviser as well as the Adviser, and to clarify through the deletion of certain text that the Fund does not intend to invest in non-listed American Depositary Receipts ("ADRs"), swaps, or over-the-counter equity securities.

[5] In Amendment No. 2, Nasdaq amended the proposed rule change to remove inapplicable information regarding general limitations on investments in shares of investment companies.

[6] The Trust has filed a registration statement on Form N–1A ("Registration Statement") with the Commission. *See* Registration Statement on Form N–1A for the Trust, dated August 7, 2013 (File Nos. 333–157876 and 811–22110). In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 ("1940 Act"). *See* Investment Company Act Release No. 28822 (July 20, 2009) (File No. 812–13677).

[7] *See* Notice *supra* note 3, 79 FR at 0174, and Amendment No. 1, *supra* note 4. The Exchange states in the event (a) the Adviser or Sub-Adviser becomes, or becomes newly affiliated with a broker-dealer, or registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. *See id.*

[8] *See* Notice *supra* note 3 at 0177.

[9] *See* 17 CFR 240.10A–3. *See also* Notice, *supra* note 3 at 0177.

affiliated and unaffiliated ETFs [10] that offer diversified exposure to fixed income and other income producing securities. The Fund's investments may, at various times, include bonds and instruments issued by the U.S. government,[11] U.S. investment grade corporate debt, high yield bonds, municipal bonds, and mortgage-backed securities. The Fund will not invest in residential-mortgage backed securities or other asset-backed securities. The Fund may also invest in equity, inverse or other types of ETFs to supplement its fixed income ETF positions. The Fund intends to invest the majority of its assets in investments that provide a competitive yield on a risk-adjusted basis. The Fund will also allocate its investments to instruments which provide little or no yield for diversification or risk management purposes.

In seeking to achieve its investment objective, the Fund may also invest directly in U.S.-traded fixed income and equity securities, certain derivatives described below, namely options, futures, and structured notes; and other exchange-traded products ("ETPs").

The Fund may trade put and call options on securities, securities indices and currencies. The Fund may purchase put and call options on securities to protect against a decline in the market value of the securities in its portfolio or to anticipate an increase in the market value of securities that the Fund may seek to purchase in the future. The Fund may write covered call options on securities as a means of increasing the yield on its assets and as a means of providing limited protection against decreases in its market value. The Fund may purchase and write options on an exchange or over-the-counter.

The Fund may buy and sell futures contracts. The Fund will only enter into futures contracts that are traded on a national futures exchange regulated by the Commodities Futures Trading Commission ("CFTC").[12] The Fund may use futures contracts and related options for bona fide hedging; attempting to offset changes in the value of securities held or expected to be acquired or be disposed of; attempting to gain exposure to a particular market, index or instrument; or other risk management purposes. The Fund may buy and sell index futures contracts with respect to any index that is traded on a recognized exchange or board of trade.

The Fund may invest in structured notes, which are debt obligations that also contain an embedded derivative component with characteristics that adjust the obligation's risk/return profile. Generally, the performance of a structured note will track that of the underlying debt obligation and the derivative embedded within it. The Fund has the right to receive periodic interest payments from the issuer of the structured notes at an agreed-upon interest rate and a return of the principal at the maturity date.

On a day-to-day basis, the Fund may hold money market instruments,[13] cash, other cash equivalents, and ETPs that invest in these and other highly liquid instruments to collateralize its derivative or short positions.

Other Investments

The Fund may invest in certificates of deposit issued against funds deposited in a bank or savings and loan association. In addition, the Fund may invest in bankers' acceptances, which are short-term credit instruments used to finance commercial transactions.

The Fund also may invest in fixed time deposits, which are bank obligations payable at a stated maturity date and bearing interest at a fixed rate. Additionally, the Fund may invest in commercial paper, which are short-term unsecured promissory notes. The Fund may invest in commercial paper rated A–1 or A–2 by Standard and Poor's Rating Services or Prime-1 or Prime-2 by Moody's Investors Service, Inc. or, if unrated, judged by the Adviser to be of comparable quality. Together, these Other Investments will make up less than 20% of the Fund assets under normal circumstances.

Investment Restrictions

The Fund may not invest more than 25% of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or securities of other investment companies.

The Fund will not purchase securities of open-end or closed-end investment companies except in compliance with the 1940 Act.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

Additional information regarding the Trust, Fund, and Shares, including

[10] As described in the Registration Statement, an ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. Many ETFs are designed to track the performance of a securities index, including industry, sector, country and region indexes. ETFs included in the Fund will be listed and traded in the U.S. on registered exchanges. The Fund may invest in the securities of ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive orders obtained by other ETFs and their sponsors from the Commission. The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depositary Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (*e.g.*, 2X or –3X) ETFs.

[11] Such securities will include securities that are issued or guaranteed by the U.S. Treasury, by various agencies of the U.S. government, or by various instrumentalities, which have been established or sponsored by the U.S. government. U.S. Treasury obligations are backed by the "full faith and credit" of the U.S. government. Securities issued or guaranteed by federal agencies and U.S. government-sponsored instrumentalities may or may not be backed by the full faith and credit of the U.S. government.

[12] To the extent the Fund invests in futures, options on futures or other instruments subject to regulation by the CFTC, it will do so in reliance on and in compliance with CFTC regulations in effect from time to time and in accordance with the Fund's policies. The Trust, on behalf of certain of its series, has filed a notice of eligibility for exclusion from the definition of the term "commodity pool operator" in accordance with CFTC Regulation 4.5. Therefore, neither the Trust nor the Fund is deemed to be a "commodity pool" or "commodity pool operator" with respect to the Fund under the Commodity Exchange Act ("CEA"), and they are not subject to registration or regulation as such under the CEA. In addition, as of the date of this filing, the Adviser is not deemed to be a "commodity pool operator" or "commodity trading adviser" with respect to the advisory services it provides to the Fund. The CFTC recently adopted amendments to CFTC Regulation 4.5 and has proposed additional regulatory requirements that may affect the extent to which the Fund invests in instruments that are subject to regulation by the CFTC and impose additional regulatory obligations on the Fund and the Adviser. The Fund reserves the right to engage in transactions involving futures and options thereon to the extent allowed by CFTC regulations in effect from time to time and in accordance with the Fund's policies.

[13] For the Fund's purposes, money market instruments will include: Short-term, high-quality securities issued or guaranteed by U.S. governments, agencies and instrumentalities; non-convertible corporate debt securities with remaining maturities of not more than 397 days that satisfy ratings requirements under Rule 2a–7 of the 1940 Act; money market mutual funds; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions. As a related matter, according to the Registration Statement, the Fund may invest in shares of money market mutual funds to the extent permitted by the 1940 Act.

investment strategies, risks, creation and redemption procedures, fees, portfolio holdings, disclosure policies, distributions and taxes, calculation of net asset value per share ("NAV"), availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Notice or the Registration Statement, as applicable.[14]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the requirements of Section 6 of the Act[15] and the rules and regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,[17] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5735 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[18] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares and any underlying exchange-traded products.[19] In addition, the Intraday Indicative Value (as defined in Nasdaq Rule 5735(c)(3)) will be based upon the current value of the components of the Disclosed Portfolio (as defined in Nasdaq Rule 5735(c)(2)), will be available on the NASDAQ OMX Information LLC proprietary index data service,[20] and will be updated and widely disseminated and broadly displayed at least every 15 seconds during the Regular Market Session.[21] On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio, which will form the basis for the Fund's calculation of NAV at the end of the business day.[22] The NAV of the Fund will be determined once each business day, normally as of the close of trading on the New York Stock Exchange (normally 4:00 p.m. Eastern time).[23] Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services.[24] Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.[25] Intra-day, executable price quotations for the securities and other assets held by the Fund will be available from major broker-dealer firms or on the exchange on which they are traded, as applicable.[26] Intra-day price information will also be available through subscription services, such as Bloomberg, Markit, and Thomson Reuters, which can be accessed by authorized participants and other investors.[27] The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.[28]

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[29] Further, trading in the Shares will be subject to Nasdaq 5735(d)(2)(D), which sets forth circumstances under which trading in the Shares may be halted.[30] The Exchange may halt trading in the Shares if trading is not occurring in the securities or the financial instruments constituting the Disclosed Portfolio or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[31] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[32] The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.[33] The Exchange also states that neither the Adviser nor Sub-Adviser is a broker-dealer and that in the event (a) the Adviser or Sub-Adviser becomes, or becomes newly affiliated with a broker-dealer or registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate regarding access to information concerning the composition of or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the portfolio.[34]

[14] *See* Notice and Registration Statement, *supra* notes 3 and 6, respectively.

[15] 15 U.S.C. 78(f).

[16] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[19] *See* Notice, *supra* note 3, 79 FR at 0177.

[20] According to the Exchange, the NASDAQ OMX Global Index Data Service is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for exchange-traded funds. *See id.*

[21] *See id.*

[22] The Web site information will be publicly available at no charge. *See id.*

[23] *See id.* at 0175.

[24] *See id.* at 0177.

[25] *See id.*

[26] *See id.*

[27] *See id.*

[28] *See id.* at 0179.

[29] *See id.* at 0177.

[30] *See id.* at 0177.

[31] *See id. See also* 5735(d)(2)(C) (providing additional considerations for the suspension of trading in or removal from listing of Managed Fund Shares on the Exchange). With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Nasdaq will halt or pause trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. *See* Notice, *supra* note 3, 79 FR at 0177.

[32] *See* Nasdaq Rule 5735(d)(2)(B)(ii).

[33] *See* Notice, *supra* note 3, 79 FR at 0178.

[34] *See supra* note 7 and accompanying text.

In support of this proposal, the Exchange has made representations, including:

(1) The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

(2) The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(3) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value is disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) Trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(6) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG")[35] and FINRA may obtain trading information regarding trading in the Shares and exchange-traded securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Such securities and instruments will compose at least 90% of the Fund's assets at all times.

(7) For initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Exchange Act.[36]

(8) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

(9) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment); will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained; and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets.

(10) The Fund will not invest in swaps.

(11) The Fund will not invest in leveraged or inverse leveraged ETFs.

(12) The Fund's investments will be consistent with the Fund's investment objective.

This approval order is based on all of the Exchange's representations and description of the Fund, including those set forth above and in the Notice.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment Nos. 1 and 2 are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2013–155 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–155. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–155, and should be submitted on or before March 11, 2014.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 1 and 2, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The proposed Amendments state that certain responsibilities are applicable to the Sub-Adviser as well as the Adviser, and clarify that the fund will not invest in ADRs, swaps, or over-the-counter equity securities, and remove references to general limitations on investments in registered investment companies that are inapplicable to the Fund. The Amendments supplement the proposed rule change by adding protections (with respect to the additional obligations of the Sub-Adviser) and greater clarity regarding

[35] For a list of the current members of ISG, *see www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[36] 17 CFR 240.10A–3.

the intended investments of the Fund. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[37] to approve the proposed rule change, as modified by Amendment Nos. 1 and 2, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[38] that the proposed rule change (SR–NASDAQ–2013–155), as modified by Amendment Nos. 1 and 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03383 Filed 2–14–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71520; File No. SR–Phlx–2014–09]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange's Pricing Schedule under Section VIII with Respect to Execution and Routing of Orders in Securities Priced at $1 or More Per Share

February 11, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 31, 2014, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Pricing Schedule under Section VIII, entitled "NASDAQ OMX PSX FEES," with respect to execution and routing of orders in securities priced at $1 or more per share.

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on February 3, 2014.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the [sic] certain fees and credits for order execution and routing applicable to the use of the order execution and routing services of the NASDAQ OMX PSX System by member organizations for all securities traded at $1 or more per share. Specifically, the Exchange is proposing to amend fees and credits provided for the routing of orders in all securities.

Currently, for PSTG, PSCN, PTFY, PCRT or XCST orders that execute at NASDAQ OMX BX ("BX") the Exchange provides a credit of $0.0011 per share to the member organization. The Exchange proposes to no longer offer this credit.

Additionally, the Exchange currently charges a member organization entering a PMOP order that executes at the New York Stock Exchange ("NYSE") $0.0030 per share. The Exchange is proposing to increase the charge assessed for such orders executed at NYSE to $0.0035 per share.

The Exchange also currently charges a member organization $0.0005 per share for entering a PTFY order that executes in a venue other than the NASDAQ OMX PSX ("PSX), NYSE, The Nasdaq Stock Market LLC ("Nasdaq") or BX. The Exchange is proposing to increase the charge assessed for such orders to $0.0007 per share.

Finally, the Exchange will institute a $0.0007 per share charge for XCST and XDRK orders for shares executed at a venue other than BX. Currently, there is no charge for either XCST or XDRK.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act[3] in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of the Act[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using its facilities, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed changes are reasonable because they reflect a modest decrease in the credits provided in the execution of certain orders and a modest increase in the fees assessed for others, which will allow the Exchange to reduce costs and increase revenue.

The Exchange is proposing modest increase of only $0.0002 per share, from $0.000t [sic] to $0.0007 per share, for a member organization entering a PTFY order that executes in a venue other than the PSX, NYSE, NASDAQ or BX. The Exchange proposes the same $0.0007 per share charge for a member organization entering a XCST or XDRK order that executes in a venue other than the PSX, NYSE, NASDAQ or BX. Currently, there is no charge for such XCST and XDRK orders. These changes are consistent with an equitable allocation of fees and not unfairly discriminatory because it [sic] will eliminate an existing disparity between the fees charged for a PTFY, XCST and XDRK orders that execute in a venue other than the PSX, NYSE, NASDAQ or BX, thereby making the applicable fees consistent. In addition, the change is equitable and not unfairly discriminatory because it affects these similarly situated member organizations in the same way.

The Exchange is proposing a similarly modest increase of only $0.0005 per share, from $0.0030 to $0.0035 per share, for a member organization entering a PMOP order that executes in [sic] the NYSE. This change is consistent with an equitable allocation of fees and not unfairly discriminatory because it will eliminate an existing disparity between the fees charged for a PTFY order executed at NYSE with PMOP orders executed at venues other than NYSE, thereby making the applicable fees consistent. In addition,

[37] 15 U.S.C. 78s(b)(2).

[38] 15 U.S.C. 78s(b)(2).

[39] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4), (5).

the change is equitable and not unfairly discriminatory because it affects all similarly situated member organizations in the same way.

The Exchange is also proposing to no longer provide a credit of $0.0011 per share executed at BX to a member organization entering PSTG, PSCN, PTFY, PCRT or XCST orders that execute at BX. These changes are reasonable because the Exchange believes it is no longer necessary to further incentivizes [sic] member organizations to provide displayed quotes and orders on PSX. Additionally, the changes are equitable and not unfairly discriminatory because they affect all similarly situated member organizations in the same way.

The changes with respect to the charges assessed and credits provided for routing of orders in all securities are reasonable because they represent a modest increases [sic] in charges assessed a member organization for PTFY, XCST and XDRK orders that execute at a venue other than BX and for PMOP orders that execute at NYSE, and a modest decreases [sic] in the credits provided to member organizations for PSTG, PSCN, PTFY, PCRT and XCST orders that execute at BX. The Exchange notes that the increase in fees and decrease in credits are designed to incentivize member organizations to provide orders and quotes that execute on PSX. In addition, the change is equitable and not unfairly discriminatory because it affects only those members that opt to use the Exchange's optional routing services.

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, as amended.[5] The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, the decreased credits and increased fees are intended to reduce the Exchange's costs, while still continuing to provide an incentive for members to execute shares on PSX and make use of its optional routing functionality. Because there are numerous competitive alternatives to PSX, it is likely the Exchange will lose market share as a result of the changes if they are unattractive to market participants. Accordingly, the Exchange does not believe the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[6] 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
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2014–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2014–09. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–09, and should be submitted on or before March 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03376 Filed 2–14–14; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78f(b)(8).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71518; File No. SR–ICEEU–2014–01]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Regarding New Permitted Cover

February 11, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder[2] notice is hereby given that on February 11, 2014, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed changes to the rules as described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed changes to the rules from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the change is to permit Clearing Members of ICE Clear Europe to post certain Japanese Government Bonds ("JGBs"), Japanese Treasury Bills ("JTBs") and Japanese Treasury Discount Bills ("JTDBs" together with JGBs and JTBs, the "New Permitted Cover") to ICE Clear Europe in order to meet initial margin, original margin and certain other margin requirements, including delivery margin requirements. The New Permitted Cover will not be accepted to satisfy variation margin requirements or guaranty fund requirements. ICE Clear Europe commenced accepting the New Permitted Cover as of June 28, 2013.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for proposing the New Permitted Cover. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of ICE Clear Europe accepting the New Permitted Cover is to provide its Clearing Members with a greater range of high-quality collateral that can be posted to ICE Clear Europe to satisfy certain margin requirements.

ICE Clear Europe believes that the New Permitted Cover is of minimal credit risk comparable to that of other sovereign debt currently accepted by ICE Clear Europe as permitted cover for margin obligations. ICE Clear Europe further believes that the New Permitted Cover has demonstrated low volatility, including in stressed market conditions. Based on its analysis of the New Permitted Cover and its volatility and other characteristics, ICE Clear Europe has established initial valuation haircut levels for the New Permitted Cover, and will review and modify such haircuts from time to time in accordance with the Rules and procedures. In addition, each type of New Permitted Cover may only be used to satisfy margin requirements up to a specified concentration limit, which is subject to review and modification from time to time in accordance with the Rules and procedures. The concentration limit applies on an aggregate basis across all product categories.

Specifically, Japanese Government Debt may only constitute up to 10% of a Clearing Member's total initial and original margin requirement, up to a maximum amount of JPY 100 billion. Japanese Government Debt will be subject to a valuation haircut of three percent (3%), except that JGBs with a maturity of more than eleven (11) years will be subject to a valuation haircut of five percent (5%).

Consistent with existing ICE Clear Europe haircut policies, an additional haircut will apply where New Permitted Cover is used to cover a margin requirement denominated in a different currency, to cover the exchange rate risk.

For the avoidance of doubt, the New Permitted Cover cannot be used to satisfy variation margin requirements because variation margin must be paid in cash in the currency of the contract. In addition, the New Permitted Cover will not be accepted in respect of guaranty fund requirements.

ICE Clear Europe has identified New Permitted Cover as types of assets that would be appropriate for Clearing Members to post in order to meet initial margin and original margin requirements. ICE Clear Europe believes that accepting the New Permitted Cover is consistent with the requirements of Section 17A of the Act[3] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22,[4] and is consistent with the prompt and accurate clearance of and settlement of securities transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act in the same manner as other collateral accepted by ICE Clear Europe.[5] In addition, in ICE Clear Europe's view, acceptance of the New Permitted Cover will satisfy the financial resources requirements of Rule 17Ad–22. ICE Clear Europe has determined, through analysis of the credit risk, liquidity, market risk, volatility and other trading characteristics of the New Permitted Cover, that such assets are appropriate for use as permitted cover for Clearing Member's obligations under the Rules, subject to the haircuts and limits described above, consistent with the risk management of the clearing house. In particular, the New Permitted Cover is a stable collateral type that presents minimal credit risk and low volatility. In this regard, the New Permitted Cover is similar to the other categories of sovereign debt that ICE Clear Europe currently accepts as permitted cover. Pursuant to ICE Clear Europe Rule 502, haircuts will be reviewed by ICE Clear Europe periodically and ICE Clear Europe may modify the haircuts in its discretion as it determines to be appropriate. Use of New Permitted Cover will also be subject to concentration limits, as discussed above.

For the reasons noted above, ICE Clear Europe believes that the proposed rule change and the New Permitted Cover are consistent with the requirements of Section 17A of the Act and regulations thereunder applicable to it.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the rules would have any impact, or impose any burden, on competition.

[3] 15 U.S.C. 78q–1.

[4] 17 CFR 240.17Ad–22.

[5] 15 U.S.C. 78q–1(b)(3)(F).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe. The New Permitted Cover has been approved by both the Futures & Options and CDS Risk Committees.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICEEU–2014–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2014–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2014–01 and should be submitted on or before March 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–03374 Filed 2–14–14; 8:45 am]

BILLING CODE 8011–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold its regular business meeting on March 6, 2014, in Harrisburg, Pennsylvania. Details concerning the matters to be addressed at the business meeting are contained in the Supplementary Information section of this notice.

DATES: March 6, 2014, at 8:30 a.m.

ADDRESSES: North Office Building, Hearing Room 1 (Ground Level), North Street (at Commonwealth Avenue), Harrisburg, Pa. 17120

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 1306; fax: (717) 238–2436.

SUPPLEMENTARY INFORMATION: The business meeting will include actions or presentations on the following items: (1) Informational presentation on efforts to restore migratory fish passage on the lower Susquehanna River; (2) rulemaking action on revised emergency water use provisions; (3) memorandum of understanding with New York State facilitating coordinated regulatory activities; (4) revision of FY–2015 budget; (5) ratification/approval of contracts/grants; (6) ratification of settlement agreement pertaining to Federal Energy Regulatory Commission (FERC) licensing of York Haven Hydroelectric project, and authorization to execute on behalf of the Commission additional contemplated settlement agreements under FERC licensing procedures (7) Inflection Energy, LLC and Talisman Energy USA regulatory compliance matters; and (8) Regulatory Program projects. Projects listed for Commission action are those that were the subject of a public hearing conducted by the Commission on February 6, 2014, and identified in the notice for such hearing, which was published in 79 FR 2243, January 13, 2014.

Opportunity to Appear and Comment:

Interested parties are invited to attend the business meeting and encouraged to review the Commission's Public Meeting Rules of Conduct, which are posted on the Commission's Web site, *www.srbc.net*. Written comments on the projects that were the subject of the public hearing, and are listed for action at the business meeting, are subject to a comment deadline of February 18, 2014.Written comments pertaining to any other matters listed for action at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110–1788, or submitted electronically through *http://www.srbc.net/pubinfo/publicparticipation.htm*. Any such comments mailed or electronically submitted must be received by the Commission on or before February 28, 2014, to be considered.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: February 4, 2014.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2014–02983 Filed 2–14–14; 8:45 am]

BILLING CODE 7040–01–P

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending February 1, 2014

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2014–0012.

Date Filed: January 28, 2014.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 18, 2014.

Description: Application of Eastern Air Lines Group, Inc. (''Eastern'') requesting a certificate of public convenience and necessity authorizing Eastern to engage in interstate charter air transportation of persons, property and mail.

Docket Number: DOT–OST–2014–0013.

Date Filed: January 28, 2014.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 18, 2014.

Description: Application of Eastern Air Lines Group, Inc. (Eastern) requesting a certificate of public convenience and necessity authorizing Eastern to engage in foreign charter air transportation of persons, property and mail.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2014–03416 Filed 2–14–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Tier 2 Environmental Impact Statement for the Chicago to Joliet High-Speed Rail Project, Cook and Will counties, Illinois

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS).

SUMMARY: FRA issues this Notice of Intent (Notice) to advise the public that FRA and the Illinois Department of Transportation (IDOT) will jointly prepare a Tier 2 Environmental Impact Statement (EIS) for the Chicago to Joliet High-Speed Rail (HSR) Project (Project). The EIS will evaluate environmental and related impacts of upgrading the rail system and associated infrastructure between the Chicago, IL Union Station and the Joliet, IL Union Station to implement high-speed passenger rail service, increase rail capacity, and improve reliability for identified incremental service additions.

FRA issues this Notice to solicit public and agency input into the development of the scope of the EIS and to advise the public that outreach activities conducted by FRA and IDOT will be considered in the preparation of the EIS. To ensure all significant issues are identified and considered, the public, governmental agencies, and all other interested parties are invited to comment on the scope of the EIS, including the purpose and need, alternatives to be considered, impacts to be evaluated, and methodologies to be used in the evaluation.

DATES: Written comments on the scope of the EIS should be provided to IDOT within thirty (30) days of the publication of this Notice, at the address listed below. Comments may also be provided orally or in writing at the scoping meetings for the Project. Scoping meeting dates, times and locations, in addition to Project information can be found online on the FRA Web site at *http://www.fra.dot.gov* and on the Project Web site at *www.idothsr.org*. Three scoping meetings will be held during February 2014. These meetings will be advertised locally and are scheduled for the following locations on the dates indicated below from 4 p.m.–7 p.m.

- February 24, 2014: Chicago Union Station, The Union Gallery, 500 W. Jackson Boulevard, Chicago, IL 60661.
- February 26, 2014: Jacob Henry Mansion, Victorian Ballroom, 15 S. Richards Street, Joliet, IL 60433.
- February 27, 2014: Homewood Suites by Hilton Orland Park, 6245 S La Grange Road, Orland Park, IL 60467.

ADDRESSES: Written comments on the scope of the EIS should be mailed or emailed within thirty (30) days of the publication of this Notice to Mr. John Oimoen, Deputy Director, Department of Intermodal and Public Transit, Illinois Department of Transportation, 100 West Randolph Street, Suite 6–600, Chicago, Illinois 60601, *john.oimoen@illinois.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Andrea Martin, Environmental Protection Specialist, Office of Railroad Policy and Development, Federal Railroad Administration, 1200 New Jersey Avenue SE, (Mail Stop 20), Washington, DC 20590, *andrea.martin@dot.gov;* or Mr. John Oimoen at the above address. Information and documents regarding the EIS process will also be made available through the FRA Web site at *www.fra.dot.gov* and on the Project Web site at *www.idothsr.org*

SUPPLEMENTARY INFORMATION: FRA is preparing an EIS for the Project proposed by IDOT that will provide HSR service along the Rock Island District (RID) Railroad corridor between Chicago and Joliet, IL. The proposed Project consists of additional track, geometric improvements (e.g., curves), bridge/culvert improvements, grade separations at selected highway-rail crossings, a rail-rail flyover, highway-rail grade crossing warning device improvements, safety improvements to existing Metra Stations to accommodate the HSR through traffic, and a new HSR station or improvements to an existing Metra Station to accommodate HSR service. Scenarios of HSR service will be developed and evaluated including additional frequencies (i.e., number of trips), ridership projections (i.e., estimated number of passengers), and operating speeds.

The Project is intended to implement a portion of the Chicago to St. Louis HSR Corridor Program consistent with the overall purpose and need that was established in the Tier 1 EIS. Because of inadequate rail capacity and deficiencies in the existing rail infrastructure, there is currently a modal imbalance within the Chicago to St. Louis corridor. Currently, 98 percent of the 51 million trips made annually within the Chicago to St. Louis corridor are accomplished through automobile, with only one percent by passenger rail. This modal imbalance contributes to high roadway congestion, reduced

overall traveler safety, increased air pollutant emissions and energy consumption, travel delays, and increased travel unreliability. The purpose of the proposed Chicago to St. Louis HSR Corridor Program is to enhance the passenger transportation network in the Chicago to St. Louis HSR Corridor by improving high-speed passenger rail service, resulting in a more balanced use of different travel options by diverting trips made by automobile and air to rail. Enhancements to passenger rail service would include reduced travel times, improved service reliability, increased frequency of trips, and increased capacity. Increased use of passenger rail is expected to result in an overall improvement in traveler safety in the corridor, and a reduction in air pollutant emissions and energy consumption. The EIS will evaluate the potential environmental and related impacts of constructing and operating the Project within the existing RID Railroad corridor between Chicago and Joliet, IL.

Environmental Review Process

The EIS will be developed in accordance with the Council on Environmental Quality (CEQ) regulations (40 CFR part 1500 *et. seq.*) implementing the National Environmental Policy Act of 1969 (42 U.S.C. 321 *et seq.*) (NEPA) and FRA's Procedures for Considering Environmental Impacts (64 FR 28545, May 26, 1999). In addition to NEPA, the EIS will address other applicable statutes, regulations and executive orders, including the 1980 Clean Air Act Amendments, Section 404 of the Clean Water Act, the National Historic Preservation Act, and Section 4(f) of the Department of Transportation Act, the Endangered Species Act and Executive Order 12898 on Environmental Justice. The FRA and IDOT are using a tiered process, as provided for in 40 CFR 1508.28 and in accordance with FRA guidance, in the completion of the environmental review of the Project. "Tiering" is a staged environmental review process applied to environmental reviews for complex projects. The Tier 1 EIS addressed broad corridor-level issues and alternatives. The Tier 2 EIS will analyze, at a greater level of detail, narrower site-specific proposals based on decisions made in Tier 1.

The purpose of the Tier 2 EIS will be to provide the FRA, reviewing and cooperating agencies, and the public with information to assess alternatives that will meet the Project's purpose and need; to evaluate the potential environmental impacts of each alternative; and to identify potential measures necessary to mitigate or avoid environmental impacts associated with the proposed Project alternatives.

Project Background

The FRA initiated the High-Speed Intercity Passenger Rail (HSIPR) Program in June 2009 as part of the American Recovery and Reinvestment Act (ARRA). On January 28, 2010, Illinois was selected for a $1.2 billion federal award to bring high-speed passenger rail service to Illinois between Dwight and the East St. Louis area. In addition, the Illinois Capital Bill appropriated $400 million for high-speed rail. In December 2010, an additional $42.3 million was received for construction upgrades. The City of Alton and Madison County also received a $13.9 million Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant for a transportation center in late 2011. And, in January 2012, $186.3 million was received for corridor improvements between Joliet and Dwight, IL. IDOT, local municipalities, and the UPRR have provided matching funds to this overall funding package.

In 2012, FRA completed a Final Program EIS for the Chicago to St. Louis HSR Corridor Program as the first phase of a tiered environmental review process, and issued a Record of Decision on the Final Program EIS on December 18, 2012. The Chicago to St. Louis HSR Corridor Program encompasses a corridor that is approximately 284 miles long with trains operating primarily on UPRR track with service provided by Amtrak. The improvements to the route will allow future passenger rail service from Chicago to St. Louis to operate at speeds up to 110 miles per hour (mph). The Tier 1 EIS established the purpose and need for the Chicago to St. Louis HSR Corridor Program, analyzed the Chicago to St. Louis HSR Corridor Program, and considered and evaluated alternatives including a no action alternative and multiple alternative alignments along existing rail corridors between Chicago and St. Louis. The Tier 1 EIS considered increasing the frequency of high-speed passenger rail service, as well as increasing the currently planned maximum speed of such service up to 110 miles per hour (mph), in the Corridor.

As part of the Tier 1 evaluation, FRA selected the Rock Island (RID) Corridor as the Preferred Alternative between Joliet and Chicago; the existing Amtrak route as the Preferred Alternative between Joliet and St. Louis; and a consolidated route along 10th Street through Springfield as the Preferred Alternative for the Springfield Rail Improvements Project. These proposed improvements were considered in addition to those improvements from Dwight to St. Louis associated with FRA's 2004 Record of Decision for the Chicago to St. Louis HSR Project and the 2011 Environmental Assessment (EA)/ Finding of No Significant Impact (FONSI) for the UPRR's Track Improvement Project from Joliet to Dwight, IL.

As previously mentioned, FRA and IDOT will be responsible for implementing the Project and will jointly prepare a Tier 2 EIS. This Tier 2 EIS represents the next stage in the tiered environmental review process associated with the Chicago to St. Louis HSR Corridor Program. The Chicago to Joliet Tier 2 EIS will evaluate reasonable Build Alternatives that would be associated with the development and implementation of HSR service along the existing Rock Island Corridor (RID) Corridor in more detail, this component of the Selected Alternative carried forward from the Tier 1 study.

Tier 2 analyses are also being conducted for the Springfield flyover and Granite City to St. Louis segments. The Tier 2 evaluation for the Springfield Rail Improvements Project was conducted concurrently to the Tier 1 study. More information regarding the development, evaluation, and selection of alignments during the Tier 1 EIS process, the Chicago to St. Louis HSR Tier 1 Draft EIS, Final EIS, and ROD can be viewed at the following Web site: *www.idothsr.org/tier_1.*

In addition to the remaining Tier 2 Project components of the Chicago to St. Louis HSR Corridor Program that were identified in the Tier 1 ROD, there are four regional rail programs that relate to the Chicago to Joliet HSR Project being studied in this Tier 2 EIS: the Chicago Region Environmental and Transportation Efficiency Program (CREATE), Chicago-St. Louis 220 mph High-Speed Rail Express, Midwest Regional Rail Initiative (MWRRI), and Chicago-Detroit/Pontiac Passenger Rail Corridor Program.

CREATE is a cooperative effort between the U.S. Department of Transportation, the State of Illinois, the City of Chicago, the Metropolitan Rail Corporation (Metra), the National Railroad Passenger Corporation (Amtrak), and six freight railroads to improve freight and passenger rail efficiency and to reduce rail/highway traffic conflicts. There are five projects specifically identified by CREATE: P1 (63rd Street and State Street in Chicago); P2 (74th Street in Chicago), P3 (75th

Street in Chicago) and EW2 (80th Street in Chicago), which are being evaluated together as the 75th Street Corridor Improvement Project; and P4 (Grand Crossing in Chicago) that may involve high-speed rail service within the Chicago-Joliet portion of the corridor, depending on the corridor recommendations of this EIS study. More information is available at the CREATE Web site at *http://www.createprogram.org,* the 75th Street Corridor Improvement Project Web site at *http://75thcip.org,* and the Grand Crossing Rail Project Web site at *http://grandcrossingrail.com.*

The Chicago-St. Louis 220 mph High-Speed Rail Express is a concept being pursued by IDOT. This service, at speeds up to 220 mph, may utilize existing rail corridors, a new corridor, or a combination of both, and could serve different travel markets. The 220 mph concept is intended as a complementary service to the HSR service that was evaluated in the Chicago-St. Louis Tier 1 EIS. A feasibility study was prepared in 2009 by the Midwest High Speed Rail Association that indicated that a completely grade separated route could be established by modifying existing rail corridors to connect Chicago, Champaign, Decatur and Springfield, Illinois with St. Louis, Missouri, with a one-way terminal-to-terminal trip time of approximately two hours, utilizing a maximum speed of 220 mph. Also in 2009, an Expression of Interest was prepared by the French National Railways (SNCF) in response to the FRA's Request for Expression of Interest dated December 11, 2008. The SNCF proposed a HSR route to be located adjacent to existing rail corridors and sharing existing rail corridors in urban approaches at lower speeds. IDOT intends to further study the 220 mph project concept, including development of an investment-grade business plan. IDOT completed a preliminary feasibility study for the 220 mph project in September 2013.

MWRRI is an effort of nine Midwestern States to upgrade Amtrak service in those states, with maximum speeds of 79 to 110 mph depending on the level of improvements made. A Chicago-St. Louis corridor is included in MWRRI's September 2004 Executive Report and November 2006 Benefit Cost and Economic Analysis. Additional corridors proposed by MWRRI include: Chicago-Green Bay, Wisconsin; Chicago-Minneapolis, Minnesota; St. Louis-Kansas City, Missouri; Chicago-Cincinnati, Ohio; Chicago-Cleveland, Ohio; Chicago-Detroit, Michigan; Chicago-Port Huron, Michigan; Chicago-Carbondale, Illinois; Chicago-Quincy, Illinois; and Chicago-Omaha, Nebraska. Several other feeder corridors connecting smaller municipalities to the primary corridors are also included. More information is available at *www.dot.wisconsin.gov/projects/rail.htm.*

As part of the Chicago-Detroit/Pontiac Passenger Rail Corridor Program, FRA and the Michigan Department of Transportation (MDOT) are jointly preparing a Tier 1 EIS to evaluate passenger rail service improvements along the Chicago, Illinois to Detroit-Pontiac, Michigan regional passenger rail corridor. Partnering state agencies in the development of the EIS are IDOT and Indiana Department of Transportation (INDOT). The objectives of the Tier 1 EIS are to evaluate a reasonable range of alternatives, select a rail corridor, and make decisions regarding future improvements to intercity passenger rail service provided in the corridor, including increased train frequency, reduced trip time, and improved on-time performance. Alternatives under consideration will include a No-build Alternative, as well as multiple build alternatives between Chicago, Illinois and Porter, Indiana, near Battle Creek, Michigan, and in the Detroit, Michigan region. The Build Alternatives may include infrastructure improvements to the existing rail corridor, the development of a new rail corridor, or a combination of both. More information is available at *www.greatlakesrail.org.*

Although related, the successful implementation of the Chicago to Joliet HSR Project is not dependent on the completion of the above four programs. As indicated above, however, the five CREATE projects may involve and affect high-speed rail service within the Project corridor. The P1 CREATE project is under construction. The other four are undergoing NEPA studies at this time. Where the three CREATE projects still under study are integrated into the Chicago to Joliet HSR Project alternatives, their impacts will be considered. Finally, the Chicago to Joliet HSR Project will not restrict consideration of alternatives for the above four projects.

Scoping and Public Involvement

FRA encourages broad participation in the Tier 2 EIS process during scoping and review of the resulting environmental documents. Comments are invited from all interested agencies and the public to ensure the full range of issues related to the Project are addressed, reasonable alternatives are considered, and significant issues are identified. In particular, FRA is interested in identifying areas of environmental concern where there might be a potential for significant impacts. Public agencies with jurisdiction are requested to advise FRA and IDOT of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed Project. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed Project and if they wish to cooperate in the preparation of the EIS.

Public scoping opportunities and meetings will be scheduled as described above and are an important component of the scoping process for federal environmental review. FRA is seeking participation and input of all interested federal, state, and local agencies, Native American groups, and other concerned private organizations and individuals on the scope of the EIS. The Project may affect historic properties and may be subject to the requirements of Section 106 of the National Historic Preservation Act of 1966 (NHPA) (16 U.S.C. 470(f)). In accordance with regulations issued by the Advisory Council on Historic Preservation (36 CFR part 800), FRA intends to coordinate compliance with Section 106 of the NHPA with the preparation of the EIS, beginning with the identification of consulting parties through the scoping process, in a manner consistent with the standards set out in 36 CFR 800.8. FRA encourages broad participation in the Tier 2 EIS process during scoping and review of the resulting environmental documents. Comments are invited from the public, governmental agencies, and all other interested parties to ensure the full range of issues related to the Project are addressed, reasonable alternatives are considered, and significant issues are identified. In particular, FRA is interested in identifying areas of environmental concern where there might be a potential for significant impacts. Public agencies with jurisdiction are requested to advise FRA and IDOT of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed Project. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed Project and if they wish to cooperate in the preparation of the EIS.

Public scoping opportunities and meetings will be scheduled as described above and are an important component of the scoping process for federal environmental review. FRA is seeking participation and input of all interested federal, state, and local agencies, Native American groups, and other concerned private organizations and individuals on the scope of the EIS. The proposed Project is a federal undertaking with the potential to affect historic properties. As such, it is subject to the requirements of Section 106 of the National Historic Preservation Act of 1966 (NHPA) (16 U.S.C. 470(f)). In accordance with regulations issued by the Advisory Council on Historic Preservation (36 CFR part 800), FRA intends to coordinate compliance with Section 106 of the NHPA with the preparation of the EIS, beginning with the identification of consulting parties through the scoping process, in a manner consistent with the standards set out in 36 CFR 800.8.

Issued in Washington, DC, on February 11, 2014.

Corey W. Hill,

Director, Office of Passenger and Freight Programs.

[FR Doc. 2014–03325 Filed 2–14–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Tier 2 Environmental Impact Statement for the High-Speed Rail Project From Granite City, Illinois to St. Louis, Missouri

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS).

SUMMARY: FRA is issuing this Notice of Intent (Notice) to advise the public that FRA and the Illinois Department of Transportation (IDOT) will jointly prepare a Tier 2 Environmental Impact Statement (EIS) for the Granite City to St. Louis High-Speed Rail (HSR) Project (Project). The EIS will evaluate environmental and related impacts of upgrading rail system and infrastructure between Union Pacific Railroad (UPRR) Milepost (MP) 273 near Granite City, IL and the St. Louis Gateway Station in St. Louis, MO to implement high-speed passenger rail service, increase rail capacity, and improve reliability for identified incremental service additions.

FRA is issuing this Notice to solicit public and agency input into the development of the scope of the EIS and to advise the public that outreach activities conducted by FRA and IDOT will be considered in preparation of the EIS. To ensure all significant issues are identified and considered, the public, governmental agencies, and all other interested parties are invited to comment on the scope of the EIS, including the purpose and need, alternatives to be considered, impacts to be evaluated, and methodologies to be used in the evaluation.

DATES: Written comments on the scope of the EIS should be provided to IDOT within thirty (30) days of the publication of this notice, at the address listed below. The public scoping meeting is scheduled on February 25, 2014, as noted below. Scoping meeting date, time and location, in addition to Project information can be found online on the FRA Web site at *www.fra.dot.gov* and on the Project Web site at *http://www.idothsr.org.*

ADDRESSES: Written comments on the scope of the EIS may be mailed or emailed within thirty (30) days of the publication of this Notice to Mr. John Oimoen, Deputy Director of Railroads, Division of Public and Intermodal Transportation, Illinois Department of Transportation, 100 West Randolph Street, Suite 6–600, Chicago, Illinois 60601, *John.Oimoen@illinois.gov.* Comments may also be provided orally or in writing at the scoping meeting scheduled as follows:

- The public scoping meeting will be advertised locally and is scheduled on February 25, 2014: Jackie Joyner-Kersee Center, 101 Jackie Joyner-Kersee Circle, East St Louis, IL 62204, from 5:00 p.m.–7:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Andréa E. Martin, Environmental Protection Specialist, Office of Railroad Policy and Development, Federal Railroad Administration, 1200 New Jersey Avenue SE., (Mail Stop 20), Washington, DC 20590, *andrea.martin@dot.gov,* or Mr. John Oimoen at the above address. Information and documents regarding the EIS process will also be made available through the FRA Web site at *www.fra.dot.gov* and on the Project Web site at *http://www.idothsr.org.*

SUPPLEMENTARY INFORMATION: FRA is preparing an EIS for the Project proposed by IDOT that will provide high-speed rail service between Granite City, IL and St. Louis, MO. The proposed Project would increase rail capacity associated with the Mississippi River crossings to accommodate increased rail traffic and improve reliability for identified incremental service additions anticipated with the proposed high-speed rail service of the Chicago to St. Louis HSR Corridor Program.

For the purposes of the Tier 2 EIS, a study area has been established that includes existing rail corridors. These corridors cover approximately five square miles between MP 273, near Granite City, IL and the St. Louis Gateway Station in St. Louis, MO, and include two 1,000-foot rail corridors (MacArthur Bridge and Merchants Bridge crossings) and two 500-foot intersecting roadway corridors (Niedringhaus and Bissell Avenues).

The Project is needed to accommodate the projected high-speed passenger rail traffic between MP 273, near Granite City, IL and the St. Louis Gateway Station in St. Louis, MO. Improved travel time, service reliability, and safety are necessary to attract travelers to high-speed passenger rail from automobile and air travel.

The Tier 2 EIS will analyze alternatives that meet the Project's purpose and need while maximizing community benefits and minimizing impacts to community, cultural, and natural resources. Anticipated improvements would require acquisition of new rights-of-way and permanent/temporary easements; however, the exact limits of the land acquisitions are not known at this time. Right-of-way impacts associated with proposed routes will be identified and made available for comment in the Draft EIS.

The inception of high-speed passenger rail service between Chicago and St. Louis, combined with increased freight traffic, would likely require the following:

- Evaluation of efficient and reliable routes across Mississippi River (new and existing)
- Upgrading and expansion of existing mainline tracks
- Operational improvements to interlockings within the St. Louis Terminal
- Evaluation of potential grade separations and other crossing safety measures
- Improvements to existing bridges and other infrastructure
- Evaluation of the feasibility of a new station between Granite City and St. Louis

The EIS will evaluate the potential environmental and related impacts of constructing and operating the Project within the corridors located within Madison and St. Clair Counties, IL and St. Louis, MO.

Environmental Review Process

The EIS will be developed in accordance with the Council on Environmental Quality (CEQ) regulations (40 CFR 1500 *et seq.*) implementing the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), and FRA's Procedures for Considering Environmental Impacts (64 FR 28545; May 26, 1999). In addition to NEPA, the EIS will address other applicable statutes, regulations and executive orders, including the 1980 Clean Air Act Amendments, Section 404 of the Clean Water Act, the National Historic Preservation Act, Section 4(f) of the Department of Transportation Act, the Endangered Species Act, and Executive Order 12898 on Environmental Justice. FRA and IDOT are using a tiered process, as provided for in 40 CFR 1508.28 and in accordance with FRA guidance, in the completion of the environmental review of the Project. "Tiering" is a staged environmental review process applied to environmental reviews for complex projects. The Tier 1 EIS addressed broad corridor-level issues and alternatives. The Tier 2 EIS will analyze, at a greater level of detail, narrower site-specific proposals based on decisions made in Tier 1.

The purpose of the Tier 2 EIS will be to provide the FRA, reviewing and cooperating agencies, and the public with information to assess alternatives that will meet the Project's purpose and need; to evaluate the potential environmental impacts of each alternative; and to identify potential measures necessary to mitigate or avoid environmental impacts associated with the proposed Project alternatives.

Project Background

FRA initiated the High-Speed Intercity Passenger Rail (HSIPR) Program in June 2009 as part of the American Recovery and Reinvestment Act (ARRA). On January 28, 2010, Illinois was selected for a $1.2 billion federal award to bring high-speed passenger rail service to Illinois between Dwight and the East St. Louis area. In addition, the Illinois Capital Bill appropriated $400 million for high-speed rail. In December 2010, an additional $42.3 million was received for construction upgrades. The City of Alton and Madison County also received a $13.9 million Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant for a transportation center in late 2011. And, in January 2012, $186.3 million was received for corridor improvements between Joliet and Dwight, IL. IDOT, local municipalities, and the UPRR have provided matching funds to this overall funding package.

In 2012, FRA completed a Final Program EIS for the Chicago to St. Louis High-Speed Rail Corridor Program as the first phase of a tiered environmental review process, and issued a Record of Decision on the Final Program EIS on December 18, 2012. The Chicago to St. Louis HSR Corridor Program encompasses a corridor that is approximately 284 miles long with trains operating primarily on UPRR track with service provided by Amtrak. The improvements to the route will allow future passenger rail service from Chicago to St. Louis to operate at speeds up to 110 miles per hour (mph). The Tier 1 EIS established the purpose and need for the Chicago to St. Louis HSR Corridor Program, analyzed the Chicago to St. Louis HSR Corridor Program, and considered and evaluated alternatives including a no action alternative and multiple alternative alignments along existing rail corridors between Chicago and St. Louis. The Tier 1 EIS considered increasing the frequency of high-speed passenger rail service, as well as increasing the currently planned maximum speed of such service up to 110 miles per hour (mph), in the Corridor.

As part of the Tier 1 evaluation, FRA selected the Rock Island Corridor as the Preferred Alternative between Joliet and Chicago; the existing Amtrak route as the Preferred Alternative between Joliet and St. Louis; and a consolidated route along 10th Street through Springfield as the Preferred Alternative for the Springfield Rail Improvements Project. These proposed improvements were considered in addition to those improvements from Dwight to St. Louis associated with FRA's 2004 Record of Decision for the Chicago to St. Louis HSR Project and the 2011 Environmental Assessment (EA)/ Finding of No Significant Impact (FONSI) for the UPRR's Track Improvement Project from Joliet to Dwight, IL.

As previously mentioned, FRA and IDOT will be responsible for implementing the Project and will jointly prepare a Tier 2 EIS. This Tier 2 EIS represents the next stage in the tiered environmental review process associated with the Chicago to St. Louis HSR Corridor Program. The Tier 2 EIS for the Granite City to St. Louis HSR Project is part of the Chicago to St. Louis HSR Corridor Program and is being conducted to address and evaluate, in more detail, this component of the Selected Alternative carried forward from the Tier 1 study.

Tier 2 analyses are being conducted between Joliet and Chicago; for the Springfield flyover, and Granite City to St. Louis segments. The Tier 2 evaluation for the Springfield Rail Improvements Project was conducted concurrently to the Tier 1 study. More information regarding the development, evaluation, and selection of alignments during the Tier 1 EIS process, the Chicago to St. Louis HSR Tier 1 Draft EIS, Final EIS, and ROD can be viewed at the following Web site: *www.idothsr.org/tier_1.*

In addition to the remaining components of the Chicago to St. Louis HSR Corridor Program selected in the overall project's Tier 1 ROD, there are ongoing rail improvement programs that relate to the Project studied in this EIS, including the Chicago Region Environmental and Transportation Efficiency Program (CREATE), the Chicago to St. Louis 220 mph High-Speed Rail Express and the Midwest Regional Rail Initiative (MWRRI). Although related, the successful implementation of this Project is not dependent and will not restrict considerations of alternatives or the completion of the following regional rail improvement programs described below.

The Chicago to St. Louis 220 mph High-Speed Rail Express is a project concept being pursued by IDOT. This service, at speeds up to 220 mph, may utilize existing rail corridors, a new corridor, or a combination of both, and could serve different travel markets. The 220 mph concept is intended as a complementary service to the Chicago to St. Louis high-speed rail service that is being evaluated in this EIS. In 2009, the Midwest High-Speed Rail Association prepared a feasibility study that indicated that a completely grade separated route could be established by modifying existing rail corridors to connect Chicago, Champaign, Decatur and Springfield, IL with St. Louis, MO, with a one-way terminal-to-terminal trip time of approximately two hours, utilizing a maximum speed of 220 mph. The French National Railways (SNCF) prepared an Expression of Interest in 2009 in response to FRA's Request for Expression of Interest dated December 11, 2008. The SNCF proposed a high-speed rail route to be located adjacent to existing rail corridors and sharing existing rail corridors in urban approaches at lower speeds. IDOT intends to further study the 220 mph project concept, including development of an investment-grade business plan

and the preparation of a separate Tier 1 EIS.

MWRRI is an effort led by the Wisconsin Department of Transportation and supported by eight other midwestern states to upgrade Amtrak service in those states, with maximum speeds of 79 to 110 mph depending on the level of improvements made. A Chicago-St. Louis corridor is included in MWRRI's September 2004 Executive Report and November 2006 Benefit Cost and Economic Analysis. Additional corridors proposed by MWRRI include: Chicago-Green Bay, Wisconsin; Chicago-Minneapolis, Minnesota; St. Louis-Kansas City, Missouri; Chicago-Cincinnati, Ohio; Chicago-Cleveland, Ohio; Chicago-Detroit, Michigan; Chicago-Port Huron, Michigan; Chicago-Carbondale, Illinois; Chicago-Quincy, Illinois; and Chicago-Omaha, Nebraska. Several other feeder corridors connecting smaller municipalities to the primary corridors are also included. More information is available at *http://www.dot.wisconsin.gov/projects/rail.htm.*

Scoping and Public Involvement

FRA encourages broad participation in the Tier 2 EIS process during scoping and review of the resulting environmental documents. Comments are invited from the public, governmental agencies, and all other interested parties to ensure the full range of issues related to the Project are addressed, reasonable alternatives are considered, and significant issues are identified. In particular, FRA is interested in identifying areas of environmental concern where there might be a potential for significant impacts. Public agencies with jurisdiction are requested to advise FRA and IDOT of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed Project. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed Project and if they wish to cooperate in the preparation of the EIS.

Public scoping opportunities and meetings will be scheduled as described above and are an important component of the scoping process for federal environmental review. FRA is seeking participation and input of all interested federal, state, and local agencies, Native American groups, and other concerned private organizations and individuals on the scope of the EIS. The proposed Project is a federal undertaking with the potential to affect historic properties. As such, it is subject to the requirements of Section 106 of the National Historic Preservation Act of 1966 (NHPA) (16 U.S.C. 470(f)). In accordance with regulations issued by the Advisory Council on Historic Preservation (36 CFR 800), FRA intends to coordinate compliance with Section 106 of the NHPA with the preparation of the EIS, beginning with the identification of consulting parties through the scoping process, in a manner consistent with the standards set out in 36 CFR 800.8.

Issued in Washington, DC, on February 11, 2014.

Corey W. Hill,

Director, Office of Passenger and Freight Programs.

[FR Doc. 2014–03324 Filed 2–14–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0003]

Petition for Amending Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that by a document dated December 13, 2013, the Strasburg Rail Road Company (SRC) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations. Specifically, SRC requests relief from certain provisions of 49 CFR Part 240, Qualification and Certification of Locomotive Engineers, and 49 CFR Part 242, Qualification and Certification of Conductors. The request was assigned Docket Number FRA–2014–0003. The relief is contingent on SRC's implementation of and participation in the Confidential Close Call Reporting System (C3RS).

SRC seeks to shield reporting employees and the railroad from mandatory punitive sanctions that would otherwise arise as provided in 49 CFR 240.117(e)(1)–(4); 240.305(a)(l)–(4) and (a)(6); 240.307; and 242.403(b), (c), (e)(l)–(4), (e)(6)–(11), and (f)(l)–(2). This will encourage certified operating crew members to report close calls and protect the employees and the railroad from discipline or sanctions arising from the incidents reported per the C3RS Implementing Memorandum of Understanding.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within April 4, 2014 of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2014–03473 Filed 2–14–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0123]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated November 19, 2013, Mr. Benny McCune of Cass Scenic Railroad State Park (CASS) of the West Virginia Division of Natural Resources has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 215, Railroad Freight Car Safety Standards. FRA assigned the petition Docket Number FRA–2013–0123.

Specifically, CASS seeks an exemption from the requirements for stenciling of restricted cars for three cabooses, identified as Car Numbers 50, 51, and 311. The three cabooses are more than 50 years of age and, therefore, are restricted in accordance with 49 CFR 215.203(a). Specifically, 215.303, *Stenciling of restricted cars,* requires that cars restricted by 215.203(a) shall be stenciled in a certain way.

In support of its petition, CASS states that due to the historical importance of these cabooses and the fact that CASS is based on the historical facts surrounding the log camps of the early 1900s, CASS would like to keep the cabooses as historically accurate as possible.

CASS is a steam-powered tourist railroad operating on a main track of approximately 11 miles. There are additional sidings and a track connecting CASS with another State-owned and operated railroad, the West Virginia Central Railroad. The total track mileage is approximately 18 miles. CASS has been operating since June 1963.

CASS states that it operates from Memorial Day weekend through the end of October. CASS does not interchange passenger cars or passengers. One trip is a 1.5-hour round trip covering a total of 8 track miles. The other trip is a 4.5-hour round trip covering a total of 22 track miles. The trains travel at a speed of 6 to 8 mph.

CASS also states that these three cabooses are primarily used for overnight rentals and will be used for special charter trains for photographic purposes from one to five times per year. Apart from these photographic trips, the cabooses will only be moved for maintenance reasons, and at no time will they exceed a speed of 10 mph or carry any passengers.

CASS further states that these cabooses are well maintained and in good condition. The slow speed, short-trip length, and the fact that CASS will not be carrying any passengers on these cabooses make the cabooses safe to be operated in the limited capacity on CASS track.

In addition, CASS also requests a Special Approval to continue these cars in service in accordance with 49 CFR 205.203(c).

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by April 4, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2014–03472 Filed 2–14–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2014–0002]

Notice of Proposed Buy America Waiver for the Cross-Connect Cabinet

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of proposed Buy America waiver and request for comment.

SUMMARY: The City of Cincinnati (Cincinnati) has requested a Buy America waiver based upon non-availability for a cross-connect cabinet. The cross-connect cabinet is needed for Cincinnati Bell's utility relocation work associated with the Cincinnati Streetcar Project. This notice is to inform the public of the waiver request and to seek public comment to inform the Federal Transit Administration's (FTA) decision whether to grant the request.

DATES: Comments must be received by March 4, 2014. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FTA–2014–0002:

1. *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site.
2. *Fax:* (202) 493–2251.
3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the "Federal Transit Administration" and include docket number FTA–2014–0002. Due to the security procedures in effect since October 2011, mail received through the

U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov*. For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mary J. Lee, FTA Attorney-Advisor, at (202) 366–0985 or *mary.j.lee@dot.gov*.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to provide notice and to seek comment on whether FTA should grant a non-availability waiver for the procurement of a cross-connect cabinet that will be used in a utility relocation performed by Cincinnati Bell. This utility relocation will be performed in connection with the Cincinnati Streetcar Project, which is an FTA-funded project.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) all of the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that "the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality," then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

On September 30, 2013, the City of Cincinnati (Cincinnati) formally requested a non-availability waiver for the procurement of one cross-connect cabinet.[1] In its request, Cincinnati stated that the only known cross-connect cabinet that complies with Cincinnati Bell's network specifications and service protocols is the Tyco Electronics (TE) NGXC pad mount cross-connect cabinet. At this time, deviations from the use of this particular cross-connect cabinet would result in impacts that would cascade down from the installation, maintenance, and emergency repair aspects, to operational impacts due to hardware incompatibility.

On October 17, 2013, Cincinnati alerted FTA that Cincinnati Bell had installed the cross-connect cabinet in order to comply with its scheduling demands. Unfortunately, because almost all FTA employees were furloughed during this time due to a partial government shutdown, Cincinnati was unable to consult with FTA on how to proceed.

The purpose of this notice is to publish the request and seek public comment from all interested parties in accordance with 49 U.S.C. 5323(j)(3)(A). Comments will help FTA understand completely the facts surrounding the request, including the effects of a potential waiver and the merits of the request. If granted, the waiver would apply to one procurement and FTA would expect that Cincinnati Bell work towards finding a domestically manufactured cross-connect cabinet that meets its network specifications for future FTA-funded projects. A full copy of the request has been placed in docket number FTA–2014–0002.

Dana Nifosi,

Deputy Chief Counsel.

[FR Doc. 2014–03444 Filed 2–14–14; 8:45 am]

BILLING CODE 4910–57–P

[1] This request was the result of several informal communications between FTA, Cincinnati, and Cincinnati Bell to work through all of the Buy America issues. The availability of a domestic cross-connect cabinet that meets Cincinnati Bell's specifications in order to conform to its telecommunications network is the only remaining issue.

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2013–0034]

Notice of Proposed Buy America Waiver for a Variable Refrigerant Flow HVAC System

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of proposed Buy America waiver and request for comment.

SUMMARY: The Federal Transit Administration (FTA) received a request for a waiver to permit the purchase of a Variable Refrigerant Flow (VRF) HVAC system that is non-compliant with Buy America requirements using FTA funding. The request is from the Rock Island County Metropolitan Mass Transit District (MetroLINK) for its Rock Island Transfer Station. In accordance with 49 U.S.C. 5323(j)(3)(A), FTA is providing notice of the waiver request and seeks public comment before deciding whether to grant the request. If granted, the waiver would apply only to the FTA-funded procurement of a VRF HVAC system by MetroLINK.

DATES: Comments must be received by March 4, 2014. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FTA–2013–0034:

1. *Web site: http://www.regulations.gov*. Follow the instructions for submitting comments on the U.S. Government electronic docket site.
2. *Fax:* (202) 493–2251.
3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the "Federal Transit Administration" and include docket number FTA–2013–0034. Due to the security procedures in effect since October 2011, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov*. For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mary J. Lee, FTA Attorney-Advisor, at (202) 366–0985 or *mary.j.lee@dot.gov*.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to provide notice and seek comment on whether the Federal Transit Administration (FTA) should a grant non-availability waiver for the Rock Island County Metropolitan Mass Transit District's (MetroLINK) procurement of a Variable Refrigerant Flow (VRF) HVAC system

for the Rock Island Transfer Station project that is funded by FTA.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) All of the manufacturing processes for the product must take place in the United States; and (2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that "the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality," then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

MetroLINK is requesting a non-availability waiver for its procurement of a VRF HVAC system that will be installed into its passenger transfer facility in Rock Island, Illinois, the Rock Island Transfer Station. This facility is being built to U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) standards and will incorporate a number of sustainable and energy efficient elements. One of those elements is a VRF HVAC system that, among other things, is space saving, has invertor technology, efficiency, and a non-ozone depleting refrigerant that domestic manufacturers of HVAC systems do not provide. According to MetroLINK, this VRF HVAC system is critical in obtaining the LEED points necessary to achieve the Silver certification (or better) that it is seeking. Thus, MetroLINK specified the brands Daikin AC and Mitsubishi or approved equal, but MetroLINK has been unable to identify a domestic manufacturer of the VRF HVAC system that meets its specifications and now requests that FTA grant a Buy America waiver.

A similar Buy America non-availability waiver was issued on June 22, 2010 by the U.S. Department of Energy (DOE) for the same VRF HVAC system. 75 FR 35447. According to MetroLINK, the U.S. DOE's determination of inapplicability (U.S. DOE's Buy America waiver for non-availability) of the American Reinvestment and Recovery Act of 2009 to the same VRF HVAC system indicates the continued non-availability of this product.

The purpose of this notice is to publish NFRMPO request and seek public comment from all interested parties in accordance with 49 U.S.C. 5323(j)(3)(A). Comments will help FTA understand completely the facts surrounding the request, including the effects of a potential waiver and the merits of the request. A full copy of the request has been placed in docket number FTA–2013–0034.

Dana Nifosi,

Deputy Chief Counsel.

[FR Doc. 2014–03448 Filed 2–14–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 27590 (Sub-No. 4)]

TTX Company, *et al.*—Application for Approval of Pooling of Car Service With Respect to Flatcars

AGENCY: Surface Transportation Board.

ACTION: Notice of Pooling Application and Request for Public Comments.

SUMMARY: On January 16, 2014, TTX Company (TTX) and certain participating railroads (collectively Applicants) filed an application to extend for 15 years TTX's flatcar pooling authority, which the Board's predecessor, the Interstate Commerce Commission (ICC), originally granted in 1974 and extended in 1989 and 1994, and the Board again extended in 2004. Under the Board's 2004 order, TTX's pooling authority is set to expire October 1, 2014. If the application seeking renewal or modification of pooling authority is pending before the Board but not yet decided by the existing expiration date, the pooling authority shall continue until 180 days after the Board has issued a final decision on the request and all appeals of that decision have been exhausted or the time to appeal has expired.

DATES: Any comments on the application must be filed by April 21, 2014. If comments are filed, Applicants' rebuttal is due by May 19, 2014.

ADDRESSES: An original and 10 copies of all pleadings, referring to Docket No. FD 27590 (Sub-No. 4), must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each comment must be sent to each of Applicants' representatives: (1) Michael L. Rosenthal, Covington & Burling, 1201 Pennsylvania Avenue NW., Washington, DC 20004; (2) David L. Meyer, Morrison Foerster, 2000 Pennsylvania Avenue NW., Suite 6000, Washington, DC 20006; and (3) Patrick B. Loftus, TTX Company, 101 North Wacker Drive, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet, (202) 245–0368. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Applicants seek the Board's approval of a 15-year extension of their pooling of flatcar service. Under 49 U.S.C. 11322(a), the Board may approve a pooling agreement if it finds that the proposal: (1) Will be in the interest of better service to the public or of economy of operation, and (2) will not unreasonably restrain competition. The proposed pooling agreement was originally approved by the ICC in *American Rail Box Car Co.—For Approval of the Pooling of Car Service with Respect to Box Cars,* 347 I.C.C. 862 (1974). The agency subsequently approved a five-year extension of TTX's pooling authority in *Trailer Train Co.—Pooling of Car Service with Respect to Flatcars,* 5 I.C.C. 2d 552 (1989); a 10-year extension in *TTX Co.—Application for Approval of the Pooling of Car Service with Respect to Flat Cars,* FD 27590 (Sub-No. 2) (ICC served Aug. 31, 1994); and another 10-year extension in *TTX Co.—Application for Approval of Pooling of Car Service with Respect to Flatcars,* 7 S.T.B. 778 (2004). The present application seeks to extend TTX's authority to continue the flatcar pool under substantively the same pooling agreement—with certain technical updates—for an additional 15 years.

In addition to TTX, Applicants are:

BNSF Railway Company;
Grand Trunk Western Railroad Company & Illinois Central Railroad Company (Canadian National Railway Company);
Soo Line Railroad (Canadian Pacific Railway Company);
CSX Transportation, Inc.;
Ferrocarril Mexicano S.A. de C.V.;
Kansas City Southern Railway Company;
Central of Georgia Railroad Company & Norfolk Southern Railway Company;
Boston & Maine Corporation (Pan Am Railways); and
Union Pacific Railroad Company.

Applicants contend that, because the proposed transaction does not involve any changes in rail operations or service to shippers, neither environmental documentation nor an historic report is required. *See* 49 CFR 1105.6(c)(2) & 1105.8(b)(2).

Filings and Board decisions and notices are available on the Board's Web site at "*WWW.STB.DOT.GOV.*" Copies of the application may also be obtained free of charge by contacting one of Applicants' representatives, Michael L. Rosenthal, at (202) 662–6000. A copy of this notice will be served on the Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW., Washington, DC 20530.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: February 12, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–03456 Filed 2–14–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35582]

Rail-Term Corp.—Petition for Declaratory Order

AGENCY: Surface Transportation Board.

ACTION: Request for public comments.

SUMMARY: On December 13, 2013, Rail-Term Corp. (Rail-Term) filed a petition for reconsideration of the Board's November 19, 2013 decision which found Rail-Term to be a "rail carrier," as defined in the Interstate Commerce Act at 49 U.S.C. 10102(5), and, therefore, subject to the Board's jurisdiction. In response to filings by the Association of American Railroads (AAR), the American Short Line and Regional Railroad Association (ASLRRA), and the National Railroad Construction and Maintenance Association, Inc. (NRC), the Board is allowing the public to file comments as *amicus curiae* and allowing AAR, ASLRRA, and NRC to participate as *amicus curiae.*

DATES: Comments in support of reconsideration are due by March 10, 2014. Replies in opposition to reconsideration are due by March 31, 2014.

ADDRESSES: Comments and replies may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies, referring to Docket No. FD 35582, to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet, (202) 245–0368. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: February 12, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2014–03417 Filed 2–14–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination, Kansas Bankers Surety Company

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 3 to the Treasury Department Circular 570, 2013 Revision, published July 1, 2013, at 78 FR 39440.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to Kansas Bankers Surety Company (NAIC# 15962) under 31 U.S.C. 9305 to qualify as an acceptable surety on Federal bonds is terminated immediately. Federal bond-approving officials should annotate their reference copies of the Treasury Department Circular 570 ("Circular"), 2013, Revision, to reflect this change.

With respect to any bonds currently in force with this company, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from this company and bonds that are continuous in nature should not be renewed.

The Circular may be viewed and downloaded through the Internet at *www.fms.treas.gov/c570.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Bureau of the Fiscal Service, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: February 5, 2014.

Kevin McIntyre,

Manager, Financial Accounting and Services, Bureau of the Fiscal Service.

[FR Doc. 2014–03237 Filed 2–14–14; 8:45 am]

BILLING CODE 4810–35–M

FEDERAL REGISTER

Vol. 79 Tuesday,
No. 32 February 18, 2014

Part II

Environmental Protection Agency

40 CFR Part 51
Promulgation of Air Quality Implementation Plans; Arizona; Regional Haze and Interstate Visibility Transport Federal Implementation Plan; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–R09–OAR–2013–0588, FRL–9906–30–Region 9]

Promulgation of Air Quality Implementation Plans; Arizona; Regional Haze and Interstate Visibility Transport Federal Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed Federal Implementation Plan (FIP) addresses the requirements of the Regional Haze Rule (RHR) and interstate visibility transport for the disapproved portions of Arizona's Regional Haze (RH) State Implementation Plan (SIP) as described in our final rule published on July 30, 2013. Our final rule on Arizona's RH SIP partially approved and partially disapproved the State's plan to implement the regional haze program for the first planning period. Today's proposed rule addresses the RHR's requirements for Best Available Retrofit Technology (BART), Reasonable Progress Goals (RPGs) and Long-term Strategy (LTS) as well as the interstate visibility transport requirements for pollutants that affect visibility in Arizona's 12 Class I areas as well as areas in nearby states. The BART sources addressed in this proposed FIP are Tucson Electric Power (TEP) Sundt Generating Station Unit 4, Lhoist Nelson Lime Plant Kilns 1 and 2, ASARCO Incorporated Hayden Smelter, and Freeport-McMoran Inc. (FMMI) Miami Smelter. The sources with proposed controls for reasonable progress are the Phoenix Cement Clarkdale Plant and the CalPortland Cement Rillito Plant.

DATES: Written comments must be submitted to the designated contact at the address in the General Information section of **SUPPLEMENTARY INFORMATION** on or before March 31, 2014.

ADDRESSES: See the General Information section of **SUPPLEMENTARY INFORMATION** for further instructions on where and how to learn more about this proposal, attend a public hearing, or submit comments.

FOR FURTHER INFORMATION CONTACT: Thomas Webb, U.S. EPA, Region 9, Planning Office, Air Division, Air, 75 Hawthorne Street, San Francisco, CA 94105. Thomas Webb may be reached at telephone number (415) 947–4139 and via electronic mail at *r9azreghaze@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. General Information

A. Definitions

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

(2) The initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.

(3) The words *Arizona* and *State* mean the State of Arizona.

(4) The initials *BACT* mean or refer to Best Available Control Technology.

(5) The initials *BART* mean or refer to Best Available Retrofit Technology.

(6) The initials *BOD* mean or refer to boiler operating day.

(7) The term *Class I area* refers to a mandatory Class I Federal area.

(8) The initials *CEMS* refers to continuous emission monitoring system or systems.

(9) The initials *dv* mean or refer to deciview, a measure of visual range.

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

(11) The initials *FGD* mean or refer to flue gas desulfurization.

(12) The initials *FIP* mean or refer to Federal Implementation Plan.

(13) The initials *FLM* mean or refer to Federal Land Managers.

(14) The initials *IMPROVE* mean or refer to Interagency Monitoring of Protected Visual Environments monitoring network.

(15) The initials *IPM* mean or refer to Integrated Planning Model.

(16) The initials lb/MMBtu mean or refer to pounds per one million British thermal units.

(17) The initials *LDSCR* and *HDSCR* mean or refer to low and high dust Selective Catalytic Reduction, respectively.

(18) The initials *LNB* mean or refer to low NO_X burners.

(19) The initials *LTS* mean or refer to Long-term Strategy.

(20) The initials *MACT* mean or refer to Maximum Achievable Control Technology.

(21) The initials *MW* mean or refer to megawatts.

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

(23) The initials *NEI* mean or refer to National Emissions Inventory.

(24) The initials *NESCAUM* mean or refer to Northeast States for Coordinated Air Use Management.

(25) The initials *NM* mean or refer to National Monument.

(26) The initials NO_X mean or refer to nitrogen oxides.

(27) The initials *NP* mean or refer to National Park.

(28) The initials *NPS* mean or refer to the National Park Service.

(29) The initials *NSCR* mean or refer to non-selective catalytic reduction.

(30) The initials *NSPS* mean or refer to new source performance standards.

(31) The initials *PM* mean or refer to particulate matter.

(32) The initials $PM_{2.5}$ mean or refer to fine particulate matter with an aerodynamic diameter of less than 2.5 micrometers.

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

(34) The initials *PSAT* mean or refer to Particulate Source Apportionment Technology.

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

(36) The initials *PTE* mean or refer to potential to emit.

(37) The initials *RH* mean or refer to regional haze.

(38) The initials *RHR* mean or refer to the Regional Haze Rule, originally promulgated in 1999 and codified at 40 CFR 51.301–309.

(39) The initials *RMC* mean or refer to Regional Modeling Center.

(40) The initials *RP* mean or refer to Reasonable Progress.

(41) The initials *RPG* or *RPGs* mean or refer to Reasonable Progress Goal(s).

(42) The initials *SCR* mean or refer to Selective Catalytic Reduction.

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

(44) The initials *SNCR* mean or refer to Selective Non-catalytic Reduction.

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

(46) The initials *SOFA* mean or refer to Separated Overfire Air.

(47) The initials *SRP* mean or refer to Salt River Project Agricultural Improvement and Power District.

(48) The initials *tpy* mean tons per year.

(49) The initials *TSD* mean or refer to Technical Support Document.

(50) The initials *TSF* mean or refer to tons of stone feed.

(51) The initials *ULNB* mean or refer to ultra-low NO_X burners.

(52) The initials *URP* mean or refer to Uniform Rate of Progress.

(53) The initials *VOC* mean or refer to volatile organic compounds.

(54) The initials *WRAP* mean or refer to the Western Regional Air Partnership.

B. Docket

This proposed action relies on documents, information and data that are listed in the index on *http://www.regulations.gov* under docket number EPA–R09–OAR–2013–0588. Previous proposed and final actions regarding Arizona's RH SIP are under docket number EPA–R09–OAR–2012–0904 and EPA–R09–OAR–2012–0021. Although listed in the index, some information is not publicly available (e.g., Confidential Business Information (CBI)). Certain other material, such as copyrighted material, is publicly available only in hard copy form. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Planning Office of the Air Division, AIR–2, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 9–5 PST, excluding Federal holidays.

C. Instructions for Submitting Comments to EPA

Written comments must be submitted on or before March 31, 2014. Submit your comments, identified by Docket ID No. EPA–R09–OAR–2013–0588, by one of the following methods:

- *Federal Rulemaking portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: r9azreghaze@epa.gov.*
- *Fax:* 415–947–3579 (Attention: Thomas Webb).
- *Mail, Hand Delivery or Courier:* Thomas Webb, EPA Region 9, Air Division (AIR–2), 75 Hawthorne Street, San Francisco, California 94105. Hand and courier deliveries are only accepted Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

EPA's policy is to include all comments received in the public docket without change.

We may make comments available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be CBI or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or that is otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *http://www.regulations.gov*, we will include your email address as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption, and be free of any defects or viruses.

D. Submitting Confidential Business Information

Do not submit CBI to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim as 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 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, you must submit a copy of the comment that does not contain the information claimed as CBI for inclusion in the public docket. We will not disclose information so marked except in accordance with procedures set forth in 40 CFR part 2.

E. Tips for Preparing Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (e.g., subject heading, **Federal Register** date and page number).
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding profanity or personal threats.
- Make sure to submit your comments by the identified comment period deadline.

To provide opportunities for questions and discussion, EPA will hold an open house prior to the public hearing. During the open house, EPA staff will be available informally to

answer questions on our proposed rule. Any comments made to EPA staff during the open house must still be provided formally in writing or orally during a public hearing to be considered in the record. The open house and public hearing schedule is as follows.

F. Public Hearings

EPA will hold two public hearings at the dates, times and locations stated below to accept oral and written comments into the record. To request interpretation services or to request reasonable accommodation for a disability, please contact the person in the **FOR FURTHER INFORMATION CONTACT** section by February 14, 2014.

Public Hearing in Phoenix:
Date: February 25, 2014.
Open House: 4–5 p.m.
Public Hearing: 6–8 p.m.
Location: Phoenix Convention Center, Rooms 150–153, 33 South 3rd Street, Phoenix, Arizona 85004.

Public Hearing in Tucson:
Date: February 26, 2014.
Open House: 4–5 p.m.
Public Hearing: 6–8 p.m.
Location: Tucson High Magnet School, Auditorium, 400 North 2nd Avenue, Tucson, Arizona 85705.

The public hearing will provide the public with an opportunity to present views or information concerning the proposed RH FIP for Arizona. EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. We will consider written statements and supporting information submitted during the comment period with the same weight as any oral comments and supporting information presented at the public hearing. Please consult section I.C, I.D and I.E of this preamble for guidance on how to submit written comments to EPA. We will include verbatim transcripts of the hearing in the docket for this action. The EPA Region 9 Web site for the rulemaking, which includes the proposal and information about the public hearing, is at *http://www.epa.gov/region9/air/actions.*

II. Proposed Actions Background and Overview

A. Background

The Clean Air Act (CAA) establishes as a national goal the prevention of any future, and the remedying of any existing man-made impairment of visibility in 156 national parks and wilderness areas designated as Class I areas. Arizona has a wealth of such areas. The sources addressed in this FIP affect many Class I areas in the State of Arizona and adjacent states. This FIP will ensure that progress is made toward natural visibility conditions at these national treasures, as Congress intended when it directed EPA to improve visibility in national parks and wilderness areas. Please refer to our previous rulemaking on the Arizona RH SIP for additional background regarding the CAA, regional haze and EPA's RHR.[1]

B. Regional Haze

We propose to promulgate a FIP as described in this notice and summarized in this section to address those portions of Arizona's RH SIP that we disapproved on July 30, 2013.[2] We disapproved in part Arizona's BART control analyses and determinations for four sources, Reasonable Progress Goal (RPG) analyses and determinations, and Long-term Strategy (LTS) for making reasonable progress. The proposed FIP includes emission limits, compliance schedules and requirements for equipment maintenance, monitoring, testing, recordkeeping and reporting for all affected sources and units. The regulatory language for the proposed FIP requirements is under Part 52 at the end of this notice.

1. Proposed BART Determinations

EPA conducted BART analyses and determinations for four sources: Sundt Generating Station Unit 4, Nelson Lime Plant Kilns 1 and 2, Hayden Smelter and Miami Smelter. The results of our BART evaluations are summarized here for each source and are shown in Table 1. We are seeking comments on our proposals.

Sundt: We propose that Sundt Unit 4 is BART-eligible and subject to BART for sulfur dioxide (SO_2), nitrogen oxides (NO_X) and particulate matter with aerodynamic diameter less than 10 micrometers (PM_{10}). For NO_X, we propose an emission limit of 0.36 lb/MMBtu as BART based upon an annual capacity factor of 0.49, which is consistent with the use of Selective Non-Catalytic Reduction (SNCR) as a control technology. For SO_2, we propose an emission limit of 0.23 lb/MMBtu as BART on a 30-day boiler operating day (BOD) rolling basis, which is consistent with dry sorbent injection (DSI) as a control technology. For PM_{10}, we propose a filterable PM_{10} emission limit of 0.030 lb/MMBtu as BART based on the use of the existing fabric filter baghouse. We also are proposing a switch to natural gas as a better-than-BART alternative to the other proposed controls for all three pollutants.

Nelson Lime Plant: We propose that Nelson Lime Kilns 1 and 2 are subject to BART for NO_X, SO_2 and PM_{10}. For NO_X, we propose a BART emission limit at Kiln 1 of 3.80 lb/ton lime and at Kiln 2 of 2.61 lb/ton lime on a 30-day rolling basis as verified by continuous emission monitoring systems (CEMS). This emission limit is consistent with the use of low-NO_X burners (LNB) and SNCR as control technologies. We propose that BART for SO_2 is an emission limit of 9.32 lb/ton for Kiln 1 and 9.73 lb/ton for Kiln 2 on a 30-day rolling basis, which is consistent with the use of a lower sulfur fuel blend. For PM_{10}, we propose a BART emission limit of 0.12 lb/tons of stone feed (TSF) to control PM_{10} at Kilns 1 and 2 based on the use of the existing fabric filter baghouses. This level of control is commensurate with the MACT standard that applies to this source.

Hayden Smelter: We propose that the Hayden Smelter is subject to BART for NO_X, and propose BART emission limits for NO_X and SO_2. EPA previously approved the State's determination that the Hayden Smelter is subject to BART for SO_2. For NO_X, we propose to find that controlling emissions from the converters and anode furnaces is cost-effective, but would not result in sufficient visibility improvement to warrant the cost. Therefore, we are proposing an annual emission limit of 40 tpy NO_X emissions from the BART-eligible units, which is consistent with current emissions from these units. For SO_2 from the converters, we propose a BART control efficiency of 99.8 percent on a 30-day rolling basis on all SO_2 captured by primary and secondary control systems, which can be achieved with a new double contact acid plant. For SO_2 from the anode furnaces, we propose to find that controlling the 37 tons per year (tpy) of SO_2 emissions from these furnaces, while cost-effective, is not warranted as BART given the potential for only minimal visibility improvement. We propose as an emission limitation for the anode furnace a work practice standard requiring that the furnaces only be charged with blister copper or higher purity copper. We previously approved Arizona's determination that BART for PM_{10} at the Hayden Smelter is no additional controls. In order to ensure the enforceability of this determination, we are proposing to incorporate emission limitations and associated compliance requirements from the National Emission Standard for Hazardous Air Pollutants (NESHAP) for

[1] 77 FR 75704, 75707–75702 (December 21, 2012).
[2] 78 FR 46142.

Primary Copper Smelting at 40 CFR Part 63, Subpart QQQ, as part of the LTS.

Miami Smelter: EPA proposes that the Miami Smelter is subject to BART for NO_X, and proposes BART emission limits for NO_X and SO_2. EPA previously approved the State's determination that the Miami Smelter is subject to BART for SO_2. For NO_X, we propose to find that controlling the small amount of emissions from the converters and electric furnace is cost-effective, but would not result in sufficient visibility improvement to warrant the cost. Therefore, we are proposing an annual emission limit of 40 tpy NO_X emissions from the BART-eligible units, which is consistent with current emissions. For SO_2 from the converters, we propose a BART control efficiency of 99.7 percent on a 30-day rolling basis on all SO_2 emissions captured by the primary and secondary control systems as verified by CEMS. This control efficiency could be met through improvements to the primary capture system, construction of a secondary capture system, and application of the MACT QQQ standards to the capture systems. For SO_2 emissions from the electric furnace, we propose as BART the work practice standard to prohibit active aeration. We previously approved Arizona's determination that BART for PM_{10} at the Miami Smelter is the NESHAP for Primary Copper Smelting. We now propose to find that the federally enforceable provisions of the NESHAP, which apply to the Miami Smelter and are incorporated into its Title V Permit, are sufficient to ensure the enforceability of this determination.

TABLE 1—PROPOSED EMISSION LIMITS ON BART SOURCES

Source	Units	Pollutants	Limit	Measure	Corresponding control technology
Sundt Generating Station.	Unit 4	NO_X	0.36	lb/MMBtu	Selective Non-Catalytic Reduction.
		SO_2	0.23		Dry Sorbent Injection.
		PM_{10}	0.030		Fabric filter baghouse (existing).
	Unit 4 (Alternative)	NO_X	0.25	lb/MMBtu	Switch to natural gas.
		SO_2	0.00064		
		PM_{10}	0.010		
Chemical Lime Nelson	Kiln 1	NO_X	3.80	lb/ton feed	Selective Non-Catalytic Reduction.
		SO_2	9.32		Lower sulfur fuel.
		PM_{10}	0.12		Fabric filter baghouse (existing).
	Kiln 2	NO_X	2.61		Selective Non-Catalytic Reduction.
		SO_2	9.73		Lower sulfur fuel.
		PM_{10}	0.12		Fabric filter baghouse (existing).
Hayden Smelter	Converters 1, 3–5	NO_X	40	tpy	None.
		SO_2	99.8	Control efficiency	New double contact acid plant.
	Anode Furnaces 1, 2	SO_2	None	None	Work practice standard.
Miami Smelter	Converters 2–5	NO_X	40	tpy	None.
		SO_2	99.7	Control efficiency	Improve primary and new secondary capture systems.
	Electric Furnace	SO_2	None	None	Work practice standard.

2. Proposed RP Determinations

Point Sources of NO_X: EPA conducted an extensive RP analysis of NO_X point sources that resulted in proposed determinations for nine sources and proposed controls on two sources as shown in Table 2. We are proposing an emissions limit of 2.12 lb/ton on Kiln 4 of the Phoenix Cement Clarkdale Plant based on a 30-day rolling average, which is consistent with SNCR as a control technology. We are proposing an emissions limit of 2.67 lb/ton on Kiln 4 of the CalPortland Cement Rillito Plant based on a 30-day rolling average, which also is consistent with SNCR control technology. We are also taking comment on the possibility of requiring a rolling 12-month cap on NO_X emissions in lieu of a lb/ton emission limit. For Phoenix Cement, this cap would be 947 tpy and apply to Kiln 4. For CalPortland, this cap would be 2,082 tpy and apply to Kilns 1–4.

TABLE 2—PROPOSED EMISSION LIMITS ON RP SOURCES

Source	Units	Pollutants	Limit	Measure	Corresponding control technology
Phoenix Cement	Kiln 4	NO_X	2.12	lb/ton	Selective Non-Catalytic Reduction.
CalPortland Cement	Kiln 4	NO_X	2.67	lb/ton	Selective Non-Catalytic Reduction.

Area Sources of NO_X and SO_2: We propose to find that it is reasonable not to require additional controls on these sources at this time. Primarily, these area source categories are distillate fuel oil combustion in industrial and commercial boilers and in internal combustion engines, and residential natural gas combustion. The State's area sources, which currently contribute a relatively small percentage of the visibility impairment at impacted Class I areas, would benefit from better emission inventories and an improved RP analysis in the next planning period.

Reasonable Progress Goals: EPA is proposing RPGs consistent with a combination of control measures that include those in the approved Arizona RH SIP as well as the approved and proposed Arizona RH FIP. While not quantifying a new set of RPGs based on these control measures, we propose that it is reasonable to assume improved levels of visibility at Arizona's 12 Class I areas by 2018 since the measures in the FIP are significantly beyond what was in the State's plan.

Demonstration of Reasonable Progress: EPA proposes to find that it is not reasonable to provide for rates of progress at the 12 Class I areas consistent with the uniform rate of progress (URP) in this planning period.[3] Given the variety and location of sources contributing to visibility impairment in Arizona, EPA considers

[3] 40 CFR 51.308(d)(1)(ii).

it unlikely that Arizona's Class I areas will meet the URP in 2018. We propose to find that the RP analyses underlying our actions on the Arizona SIP[4] and in this proposal are sufficient to demonstrate that it is not reasonable to provide for rates of progress in this planning period that would attain natural conditions by 2064.[5] This is consistent with our proposed and final rules on the Arizona RH SIP in which we approved Arizona's determinations that it is not reasonable to require additional controls to address organic carbon, elemental carbon, coarse mass and fine soil during this planning period.[6] We also approved the State's decision not to require additional controls (i.e., controls beyond what the State or we determine to be BART) on point sources of SO_2.[7]

3. Long-Term Strategy Proposal

EPA proposes to find that provisions in today's proposal in combination with provisions in the approved Arizona SIP and FIP[8] fulfill the requirements of 40 CFR 51.308(d)(3)(ii), (v)(C) and (v)(F). These requirements are to include in the LTS measures needed to achieve emission reductions for out-of-state Class I areas, emissions limitations and schedules for compliance to achieve the reasonable progress goals, and enforceability of emissions limitations and control measures.[9] In today's notice we propose to promulgate emission limits, compliance schedules and other requirements for four BART sources and two RP sources to complete the actions taken in our previous final rule to address these requirements.

C. Interstate Transport of Pollutants That Affect Visibility

We propose that a combination of SIP and FIP measures will satisfy the FIP obligation for the visibility requirement of CAA section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS. CAA section 110(a)(2)(D)(i)(II) requires that all SIPs contain adequate provisions to prohibit emissions that will interfere with other states' required measures to protect visibility. We refer to this requirement herein as the interstate transport visibility requirement. ADEQ submitted SIP revisions to address this requirement in 2007 for the 1997 8-hour ozone NAAQS[10] and 1997 $PM_{2.5}$ NAAQS[11] (2007 Transport SIP)[12] and in 2009 for the 2006 $PM_{2.5}$ NAAQS[13] (2009 Transport SIP).[14] Each of these SIP revisions indicated that it is appropriate to assess Arizona's interference with other states' measures to protect visibility in conjunction with the State's RH SIP.[15] In our final rule published on July 30, 2013, EPA disapproved these SIP submittals with respect to the interstate transport visibility requirement, triggering the obligation for EPA to promulgate a FIP to address this requirement.[16] Accordingly, today's notice describes our proposed FIP for the interstate transport visibility requirement for the 1997 8-hour ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS.

III. Review of State and EPA Actions on Regional Haze

A. EPA's Schedule To Act on Arizona's RH SIP

EPA received a notice of intent to sue in January 2011 stating that we had not met the statutory deadline for promulgating RH FIPs and/or approving RH SIPs for dozens of states, including Arizona. This notice was followed by a lawsuit filed by several advocacy groups (Plaintiffs) in August 2011.[17] In order to resolve this lawsuit and avoid litigation, EPA entered into a Consent Decree with the Plaintiffs, which sets deadlines for action for all of the states covered by the lawsuit, including Arizona. This decree was entered and later amended by the United States District Court for the District of Columbia over the opposition of Arizona.[18] Under the terms of the Consent Decree, as amended, EPA is currently subject to three sets of deadlines for taking action on Arizona's RH SIP as listed in Table 3.[19]

TABLE 3—CONSENT DECREE DEADLINES FOR EPA TO ACT ON ARIZONA'S RH SIP

EPA actions	Proposed rule	Final rule
Phase 1—BART determinations for Apache, Cholla and Coronado	July 2, 2012[1]	November 15, 2012.[2]
Phase 2—All remaining elements of the Arizona RH SIP	December 8, 2012[3]	July 15, 2013.[4]
Phase 3—FIP for disapproved elements of the Arizona RH SIP	January 27, 2014	June 27, 2014.

[1] Published in the **Federal Register** on July 20, 2012, 77 FR 42834.
[2] Published in the **Federal Register** on December 5, 2012, 77 FR 72512.
[3] Published in the **Federal Register** on December 21, 2012, 77 FR 75704.
[4] Published in the **Federal Register** on July 30, 2013, 78 FR 46142.

B. History of State Submittals and EPA Actions

Because four of Arizona's 12 mandatory Class I Federal areas are on the Colorado Plateau, the State had the option of submitting a RH SIP under CAA section 309 of the RHR. A SIP that is approved by EPA as meeting all of the requirements of section 309 is "deemed to comply with the requirements for reasonable progress with respect to the 16 Class I areas [on the Colorado

[4] See proposed actions at 77 FR 75727–75730, 78 FR 29297–292300 and final action at 78 FR 46172.

[5] 40 CFR 51.308(d)(1)(ii).

[6] See 77 FR 75728 for a discussion on sources of organic carbon and elemental carbon (fires), and 78 FR 29297–29299 for a discussion of coarse mass and fine soil.

[7] 78 FR 46172.

[8] 77 FR 75512–72580, December 5, 2012.

[9] See 78 FR 46173 (codified at 40 CFR 52.145(e)(ii)).

[10] 62 FR 38856, July 18, 1997.

[11] 62 FR 38652, July 18, 1997.

[12] "Revision to the Arizona State Implementation Plan Under Clean Air Act Section 110(a)(2)(D)(i)—Regional Transport," submitted by ADEQ on May 24, 2007.

[13] 71 FR 61144, October 17, 2006.

[14] "Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); 2006 $PM_{2.5}$ NAAQS, 1997 $PM_{2.5}$ NAAQS, and 1997 8-hour Ozone NAAQS," submitted by ADEQ on October 14, 2009, which addressed the requirements of section 110(a)(2)(D)(i) with respect to the 2006 $PM_{2.5}$ NAAQS in Section 2.4 and Appendix B of the submittal.

[15] This concept is also presented in EPA's 2006 guidance memo on interstate transport, which recommended that states make a submission indicating that it was premature, at that time, to determine whether there would be any interference with other states' required measures to protect visibility until the submission and approval of regional haze SIPs. See "Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the [1997] 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards," August 15, 2006.

[16] 78 FR 46142, July 30, 2013.

[17] *National Parks Conservation Association* v. *Jackson* (D.D.C. Case 1:11–cv–01548).

[18] *National Parks Conservation Association* v. *Jackson* (D.D.C. Case 1:11–cv–01548), Memorandum Order and Opinion (May 25, 2012), Minute Order (July 2, 2012), Minute Order (November 13, 2012) and Minute Order (February 15, 2013).

[19] *Id.*

Plateau] for the period from approval of the plan through 2018." [20] When these regulations were first promulgated, 309 SIPs were due no later than December 31, 2003. Accordingly, ADEQ submitted to EPA on December 23, 2003, a 309 SIP for Arizona's four Class I Areas on the Colorado Plateau. ADEQ submitted a revision to its 309 SIP, consisting of rules on emissions trading and smoke management, and a correction to the State's regional haze statutes, on December 31, 2004. EPA approved the smoke management rules submitted as part of the revisions in 2004,[21] but did not propose or take final action on any other portion of the 309 SIP.

In response to a court decision,[22] EPA revised 40 CFR 51.309 on October 13, 2006, making a number of substantive changes and requiring states to submit revised 309 SIPs by December 17, 2007.[23] Subsequently, ADEQ sent a letter to EPA dated December 24, 2008, acknowledging that it had not submitted a SIP revision to address the requirements of 40 CFR 51.309(d)(4) related to stationary sources and 40 CFR 51.309(g), which governs reasonable progress requirements for Arizona's eight mandatory Class I areas outside of the Colorado Plateau.[24]

EPA made a finding on January 15, 2009, that 37 states, including Arizona, had failed to make all or part of the required SIP submissions to address regional haze.[25] Specifically, EPA found that Arizona failed to submit the plan elements required by 40 CFR 51.309(d)(4) and (g). EPA sent a letter to ADEQ on January 14, 2009, notifying the State of this failure to submit a complete SIP. ADEQ decided to submit a SIP under CAA section 308, instead of under section 309. EPA proposed on February 5, 2013,[26] to disapprove Arizona's 309 SIP except for the smoke management rules that we had previously approved. Our final rule partially disapproving Arizona's 309 SIP was published on August 8, 2013.[27]

ADEQ adopted and transmitted its 2011 RH SIP under section 308 of the RHR to EPA Region 9 in a letter dated February 28, 2011. The SIP was determined complete by operation of law on August 28, 2011.[28] The SIP was properly noticed by the State and available for public comment for 30 days prior to one public hearing held in Phoenix, Arizona, on December 2, 2010. Arizona included in its SIP responses to written comments from EPA Region 9, the National Park Service, the U.S. Forest Service, and other stakeholders including regulated industries and environmental organizations. The 2011 RH SIP is available to review in the docket for this proposed rule.[29]

As shown in Table 3, the first phase of EPA's action on the 2011 RH SIP addressed three BART sources. The final rule for the first phase (a partial approval and partial disapproval of the State's plan and a partial FIP) was signed by the Administrator on November 15, 2012, and published in the **Federal Register** on December 5, 2012. The emission limits on the three sources will improve visibility by reducing NO_X emissions by about 22,700 tons per year. In the second phase of our action, we proposed on December 21, 2012, to approve in part and disapprove in part the remainder of the 2011 RH SIP. ADEQ submitted an Arizona RH SIP Supplement on May 3, 2013, to correct certain deficiencies identified in that proposal. We then proposed on May 20, 2013, to approve in part and disapprove in part the Supplement. Our final rule approving in part and disapproving in part Arizona's RH SIP was published on July 30, 2013.

C. EPA's Authority To Promulgate a FIP

Under CAA section 110(c), EPA is required to promulgate a FIP within 2 years of the effective date of a finding that a state has failed to make a required SIP submission. The FIP requirement is terminated if a state submits a regional haze SIP, and EPA approves that SIP before promulgating a FIP. See 74 FR 2392. Specifically, CAA section 110(c) provides:

> (1) The Administrator shall promulgate a Federal implementation plan at any time within 2 years after the Administrator—
>
> (A) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under [CAA section 110(k)(1)(A)], or
>
> (B) disapproves a State implementation plan submission in whole or in part, unless the State corrects the deficiency, and the Administrator approves the plan or plan revision, before the Administrator promulgates such Federal implementation plan.

Section 302(y) defines the term "Federal implementation plan" in pertinent part, as:

> [A] plan (or portion thereof) promulgated by the Administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a State implementation plan, and which includes enforceable emission limitations or other control measures, means or techniques (including economic incentives, such as marketable permits or auctions or emissions allowances) . . .

Thus, because we determined that Arizona failed to timely submit a Regional Haze SIP, we are required to promulgate a Regional Haze FIP for Arizona, unless we first approve a SIP that corrects the non-submittal deficiencies identified in our finding of January 15, 2009. For the reasons explained below, we approved in part and disapproved in part the Arizona Regional Haze SIP on July 30, 2013. Therefore, we are proposing a FIP to address those portions of the SIP that we disapproved.

IV. EPA's BART Process

A. BART Factors

The purpose of the BART analysis is to identify and evaluate the best system of continuous emission reduction based on the BART Guidelines [30] as summarized below. Steps 1 through 3 address the availability, feasibility and effectiveness of retrofit control options. In our analysis of control technology options, we expressly include the emission baseline calculation that is a key factor in determining control effectiveness. Step 4 is the five-factor BART analysis that results in selecting the emission limit that represents BART in Step 5. Following the process steps is a short description of each BART factor.

Step 1—Identify all available retrofit control technologies.

Step 2—Eliminate technically infeasible options.

Step 3—Evaluate control effectiveness of remaining control technologies.

Step 4—Evaluate impacts and document the results.

- Factor 1: Cost of compliance.
- Factor 2: Energy and non-air quality environmental impacts of compliance.
- Factor 3: Pollution control equipment in use at the source.
- Factor 4: Remaining useful life of the facility.
- Factor 5: Visibility impacts.

Step 5—Select BART.

Factor 1: Costs of Compliance: The evaluation of costs is an important part of a five-factor analysis because it influences the cost-effectiveness that is

[20] 40 CFR 51.309(a).

[21] 71 FR 28270 and 72 FR 25973.

[22] *Center for Energy and Economic Development v. EPA*, 398 F.3d 653 (D.C. Circuit 2005).

[23] 71 FR 60612.

[24] Letter from Stephen A. Owens, ADEQ, to Wayne Nastri, EPA, dated December 24, 2008.

[25] 74 FR 2392.

[26] 78 FR 8083.

[27] 78 FR 48326.

[28] CAA section 110(k)(1)(B).

[29] "Arizona State Implementation Plan, Regional Haze under Section 308 of the Federal Regional Haze Rule," February 28, 2011.

[30] See July 6, 2005 BART Guidelines, 40 CFR 51, Regional Haze Regulations and Guidelines for Best Available Retrofit Technology Determinations.

compared to the visibility benefits. Estimating the cost of compliance primarily depends on the cost estimates and control effectiveness of each technically feasible BART control option. For each of the four BART facilities evaluated in this section, we state the source of the cost-related information and how it was used in our analysis. While EPA relies primarily on the cost methods in our Control Cost Manual, we also rely on verified cost estimates from the companies and cost methods used for specific industries. In some cases, certain capital costs and annual operating costs were developed by our contractor based on actual costs associated with specific types of sources. Where possible, we have conducted new cost analyses considering more recent information from ADEQ or from the four BART facilities. Please refer to the TSD for the detailed cost analyses.

Factor 2: Energy and Non-air Quality Environmental Impacts: In assessing the potential energy impacts of BART control options, we consider direct and indirect effects on energy availability and costs. An example of a direct energy impact is the cost of energy consumption from the control equipment. Examples of non-air quality impacts include safety issues associated with handling and transportation of anhydrous ammonia or the ability to sell fly ash rather than dispose of it.

Factor 3: Pollution Equipment in Use at the Source: The presence of existing pollution control technology at each source is reflected in our BART analysis in two ways. First, we always consider simple retention of existing equipment as a BART candidate. We also consider existing equipment in determining available control technologies that can be used with or replace such equipment. Second, where appropriate, we consider existing equipment in developing baseline emission rates for use in cost calculations and visibility modeling. Pollutant-specific discussions of these issues are included in the following sections.

Factor 4: Remaining Useful Life of the Source: We consider each source's "remaining useful life" as one element of the overall cost analysis as allowed by the BART Guidelines.[31] In cases where we are not aware of any enforceable shut-down date for a particular source or unit, we use a 20-year amortization period as the remaining useful life per the EPA Cost Control Manual.

Factor 5: Anticipated Degree of Visibility Improvement: EPA relied on the CALPUFF modeling system (version 5.8) for visibility modeling, which consists of the CALPUFF dispersion model, the CALMET meteorological data processor, and the CALPOST post-processing program. The initial modeling was performed by our contractor, the University of North Carolina (UNC) at Chapel Hill. In some cases, companies submitted BART analyses including visibility modeling that we used to evaluate visibility benefits. An explanation of the visibility analysis and tables follows this section, a description of the modeling is included in the five-factor discussion for each source, and more details are available in the TSD.

B. Visibility Analysis

EPA estimated the degree of visibility improvement expected to result from various BART control options based on the difference between baseline visibility impacts prior to controls and visibility impacts with controls in operation. Baseline emissions were based on the highest 24-hour emissions from monitored emissions data when available, otherwise from estimates of production rates and emission factors. Control case emissions were derived from the baseline by applying the percent reduction in emission factor expected from the control. Impacts at all Class I areas within 300 km of each facility were assessed. EPA used the CALPUFF model version 5.8 [32] to determine the baseline and post-control visibility impacts, following the modeling approach recommended in the BART Guidelines. Our contractor at UNC developed a modeling protocol and carried out most of the modeling and the post-processing of model output into tables of visibility impacts. EPA supplemented this for certain sources with modeling of additional control scenarios, corrections to some scenarios and post-processing work, and some sensitivity simulations. Also, EPA performed the modeling for the two smelters. Details of the modeling are in the TSD.

EPA modeled all units (stacks) and pollutants simultaneously for each source. Modeling of all emissions from all units accounts for the chemical interaction between multiple plumes, and between plumes and background concentrations. This also accounts for the fact that deciview benefits from controls on individual units are not strictly additive. As recommended in the BART Guidelines, the 98th percentile daily impact in deciviews is used as the basic metric of visibility impact. EPA relied on the 98th percentile over the merged 2001–2003 period. The alternative of using the average of the three 98th percentiles from 2001, 2002 and 2003 was also calculated, and the results of using it are provided in the TSD, although they differ little from the merged approach. Both are valid indicators of the 98th percentile.[33] EPA also mainly relied on the revised IMPROVE equation for translating pollutant concentrations into deciviews (CALPOST visibility method 8), the recommended method for new visibility analyses. The old IMPROVE equation (method 6) was used by most states in their original SIP submittals and was acceptable at that time. EPA used the best 20 percent of natural background days in calculating delta deciviews. For the original SIP submittals, states were free to use this or the annual average background. Overall, we refer to the method we used as method "8b" ("b" for "best"). Model results using visibility method 6 and annual average background conditions ("a" for average) also are provided in the TSD (i.e., methods 6a, 6b, and 8a, as well as 8b).

C. Explanation of Visibility Tables

For each facility, this notice provides one or more tables of visibility impacts and visibility improvement from controls in deciviews. Each table has the same format: columns list the Class I areas within 300 km of the facility, the distance,[34] baseline modeled visibility impact from the facility for each area, and one or more columns with the

[31] 40 CFR Part 51, Appendix Y, section IV.D.4.k.

[32] EPA relied on version 5.8 of CALPUFF because it is the EPA-approved version promulgated in the Guideline on Air Quality Models (40 CFR part 51, Appendix W, section 6.2.1.e; 68 FR 18440, April 15, 2003). EPA updated the specific version to be used for regulatory purposes on June 29, 2007, including minor revisions as of that date; the approved CALPUFF modeling system includes CALPUFF version 5.8, level 070623, and CALMET version 5.8 level 070623. At this time, any other version of the CALPUFF modeling system would be considered an "alternative model", subject to the provisions of Guideline on Air Quality Models section 3.2.2(b), requiring a full theoretical and performance evaluation.

[33] For each modeled day, the CALPUFF model provides the highest impact from among the receptor locations for a given Class I area. The baseline impact in the tables is the 98th percentile among these daily values. The improvement in the tables is the difference between that baseline impact and the 98th percentile impact after applying controls. The 98th percentile is represented by the 22nd high over the 2001–2003 period modeled. The TSD includes an alternative, the average of each of the three years' 8th highs, which yields slightly different values.

[34] The distances given are from the facility to the nearest model receptor location; distances to the actual Class I area boundary may be slightly less. Receptor locations are defined for all Class I areas by the National Park Service. See "Class I Receptors" Web site, *http://www2.nature.nps.gov/air/maps/Receptors/.*

modeled visibility improvement from a candidate control option. A modeling run abbreviation, such as "base" or "ctrl2", is included along with a short description of the option. For several facilities, there are two different baselines incorporating different emission assumptions. For these, there are baseline and control columns for each of the two baselines. For Sundt Unit 4, there are separate tables for SO_2 and NO_X controls, and an additional table showing the effect of reductions for both SO_2 and NO_X for the proposed BART controls and for a better-than-BART alternative. At the bottom of each table are five rows showing impacts and improvements from the facility for all the Class I areas considered together, and also two measures of visibility cost-effectiveness. The cost-effectiveness here is "dollars per deciview," where dollars is the annualized total cost of the control in millions of dollars per year, divided by either the sum of deciview improvements over all impacted Class I areas, or the largest single area deciview improvement. Cost-effectiveness in terms of dollars per ton is presented in other tables and has been considered for each source and BART option. The headings for these table rows are:

(1) "Cumulative (sum)," the cumulative impact or improvement that is computed as the sum of impact or improvement over all the areas;

(2) "Maximum," single largest impact or improvement that is the maximum over all the areas;

(3) "# ClAs >= 0.5 dv," the number of Class I areas having a baseline impact from the source of at least 0.5 dv (or, for the control columns, the number of areas showing improvement of at least 0.5 dv due to the control);

(4) "Million $/dv (cumul. dv)," annual control cost in millions of dollars per deciview considering the improvement at all the Class I areas together; and

(5) "Million $/dv (max. dv)," annualized cost per deciview considering the largest single area improvement.

The Federal Land Managers have sometimes used $10 million/dv as a comparison benchmark for the $/dv computed from the maximum, and $20 million/dv as a benchmark for $/dv computed from cumulative deciviews. We have not endorsed the use of these or any other $/dv benchmarks as criteria for making BART determinations.

The TSD for this notice provides bar charts and additional visibility tables, including results for individual modeled years and their average, the old IMPROVE equation, and annual average background conditions instead of best 20 percent. There also are model results for various sensitivity analyses.

V. EPA's Proposed BART FIP

A. Sundt Generating Station Unit 4

Summary: EPA is proposing to find that Sundt Unit 4 is eligible for and subject to BART. EPA is proposing BART emissions limits on Sundt Generating Station Unit 4 for NO_X, SO_2 and PM_{10} based on the corresponding control technologies listed in Table 4 and described in the following BART analyses. For NO_X, we propose an emission limit of 0.36 lb/MMBtu consistent with the use of SNCR. For SO_2, we propose an emission limit of 0.23 lb/MMBtu consistent with the use of DSI. For PM_{10}, we propose a filterable PM_{10} emission limit of 0.03 lb/MMBtu based on the use of the existing fabric filter baghouse. Finally, we are also proposing a switch to natural gas as a better-than-BART alternative.

TABLE 4—SUNDT 4: SUMMARY OF PROPOSED BART DETERMINATIONS

Pollutant	Emission limit (lb/MMBtu)	Control technology
NO_X	0.36	Selective Non-Catalytic Reduction.
SO_2	0.23	Dry Sorbent Injection.
PM_{10}	0.030	Fabric filter baghouse (existing).

Affected Class I Areas: Ten Class I areas are within 300 km of Sundt. Their nearest borders range from 17 km to 247 km away, with Saguaro NP the closest, and Galiuro WA the second closest. The highest baseline visibility impact of Sundt Unit 4 is 3.4 dv at Saguaro. The second highest baseline impact is 1.1 dv at Galiuro. Other areas have visibility impacts of 0.5 dv or less. The cumulative sum of visibility impacts over all the Class I areas is 6.6 dv.

Facility Overview: The Sundt Generating Station is an electric utility power plant located in Tucson, Arizona, operated by Tucson Electric Power. The plant consists of four steam electric boilers and three stationary combustion turbines for a total net generating capacity of approximately 500 megawatts (MW).[35] Sundt Unit 4 is a steam electric boiler that was manufactured in 1964 and placed into operation in about 1967. Unit 4 is a dry bottom wall-fired boiler with a maximum gross capacity of 130 MW when firing coal. Originally designed to fire natural gas and fuel oil, Sundt Unit 4 was converted to also be able to fire coal in the early 1980s as a result of an order issued by the Department of Energy. The unit now fires both coal and natural gas, as explained in more detail below. As part of the coal conversion, the unit was equipped with a fabric filter for particulate matter control. Unit 4 was upgraded in 1999 with LNB and overfire air (OFA) designed to meet Phase II Acid Rain Program requirements. At present, Unit 4 operates with the pollution control equipment and is subject to the emission limits listed in Table 5 that reflects a coal-operating scenario.

[35] As described in Pima DEQ Permit No. 1052, in the TSD.

TABLE 5—SUNDT 4: CURRENT EMISSION LIMITS AND CONTROL TECHNOLOGY

Pollutant	Emission limit	Control device
NO_X	0.46 lb/MMBtu [36]	LNB with OFA.
SO_2	1 lb/MMBtu [37]	None.
PM_{10}	233 lb/hr [38]	Fabric filter/baghouse.

TEP has indicated that the generating capacity of Sundt Unit 4 while firing coal is reduced compared to its capacity using natural gas. As reported to the Energy Information Agency (EIA), Unit 4 has a 173 MW nameplate capacity while firing natural gas. However, the maximum gross capacity at which the unit could operate for a sustained period of time while burning coal is about 130 MW. This is due primarily to the fact that the amount of coal that can be introduced to the boiler is limited by the size of the boiler. Excess coal injection causes the flame to impinge on the back wall of the boiler which damages the boiler tubes.[39] A summary of historical emissions data for a recent period of time is in Table 6.

TABLE 6—SUNDT 4: HISTORICAL EMISSIONS (2008–2012)

Year	Heat duty (MMBtu/yr)	NO_X		SO_2		Coal (tons)	Natural gas (MCF)
		(tpy)	(lb/MMBtu)	(tpy)	(lb/MMBtu)		
2012	6,313,719	945	0.297	371	0.118	44,049	4,660,701
2011	5,993,769	1,366	0.445	2,185	0.729	265,111	157,919
2010	6,869,999	1,303	0.368	1,733	0.505	162,212	1,904,433
2009	4,801,971	709	0.285	636	0.265	73,464	2,642,992
2008	8,709,923	1,880	0.429	2,882	0.661	378,956	18,422

Baseline Emissions Calculations: The baseline period, baseline emissions, and capacity factor are three key variables in determining BART that are linked to fuel usage. TEP has indicated that while Sundt Unit 4 predominantly has operated as a coal-fired unit, it has recently expanded its use of natural gas as a result of historically low natural gas prices.[40] As shown in the last column of Table 6, Unit 4 has used much higher amounts of natural gas during 2009–2010 and again in 2012 that are not representative of anticipatable operations based on coal. Accordingly, we use calendar year 2011 emissions when Unit 4 predominately used coal as the baseline period for annual average emission estimates. Although this represents only a single year of emissions data, we consider this period of coal usage, rather than a period of primarily natural gas usage, to represent a realistic depiction of anticipated annual emissions when burning coal.[41] In addition, we rely on an annual capacity factor of 0.49 based on a coal-fired capacity of 130 MW and actual generation from the baseline period of 2011. For visibility modeling, we used baseline emissions for NO_X and SO_2 based on maximum daily emission rates, as reported to EPA's CAMD Acid Rain Program database, for the period from 2008 to 2010. While this time period is prior to the 2011 baseline period used for the annual emission estimates, the highest daily emission rates from 2008 to 2010 correspond to coal usage. Since these maximum daily emission rates still correspond to coal usage, we consider them reasonable estimates of baseline emissions despite the fact that they are drawn from a baseline period different from the one used to estimate annual emission rates. For PM_{10}, the baseline emission rate used in visibility modeling is based on the value in the original Western Regional Air Partnership (WRAP) visibility modeling that reflects the use of coal and the existing fabric filter. For a more detailed analysis of how we determined the baseline period, baseline emissions and capacity factor, please refer to the TSD.

Modeling Overview: EPA's contactor UNC performed the initial modeling of Sundt's visibility impacts. EPA performed supplemental modeling to correct some minor errors in the initial work and to estimate impacts from additional control scenarios, such as switching entirely to natural gas fuel. EPA also modeled the impacts for the western unit of Saguaro NP, whereas originally only the eastern unit was included. Although only Unit 4 is BART-eligible, all four Sundt units were included in the CALPUFF modeling to more accurately represent the chemistry of the facility's pollutant plume. Baseline emissions for modeling were based on daily CAMD emissions monitoring data for 2008–2010, a period with no changes in pollution controls at the facility. Control case emissions were derived from the baseline by applying the percent reduction expected from the control.

Saguaro NP has an eastern unit, the Rincon Mountain District, and a western unit, the Tucson Mountain District. In the original set of modeling receptor locations developed by the National Park Service, only the eastern unit was included. CALPUFF modeling typically covered only the eastern unit. This is true of modeling by the WRAP, and also of modeling by EPA's contractor UNC, which used the WRAP work as a starting point. A more recent set of NPS modeling receptors from 2008 is available that covers both eastern and western units of Saguaro. For this FIP, EPA remodeled for both Saguaro units where needed for a given facility. The only facilities for which it makes a significant difference are TEP Sundt and CalPortland Cement due to their close proximity to Saguaro.

[36] Pima DEQ Permit No. 1052, Attachment F: Phase II Acid Rain Permit.

[37] Pima DEQ Permit No. 1052, Specific Condition II.A.2.b.

[38] As determined by Pima DEQ Permit No. 1052, Specific Condition II.A.1.

[39] TEP's letter dated May 10, 2013, page 2.

[40] TEP's letter dated May 10, 2013, page 2.

[41] As discussed in the BART Guidelines, 40 CFR Part 51, Appendix Y, section IV.D.4.d.

1. Proposed Eligible and Subject to BART

EPA is proposing to find that Sundt Unit 4 is eligible for and subject to BART. In our final rulemaking on the Arizona RH SIP dated July 30, 2013, we disapproved ADEQ's finding that Sundt Unit 4 was not eligible for BART.[42] In particular, we found that, although this unit was "reconstructed" in 1987, it remains BART-eligible because it did not undergo prevention of significant deterioration (PSD) review at the time of reconstruction.[43] For this reason, we propose to find Sundt Unit 4 is eligible for a BART analysis of the three haze-causing pollutants: NO_X, SO_2 and PM_{10}.

Under the RHR and the BART Guidelines, any BART-eligible source that either "causes" or "contributes" to visibility impairment at any Class I area is subject to BART.[44] EPA previously approved ADEQ's decision to set 0.5 dv as the threshold for determining whether a source contributes to visibility impairment at a given Class I area.[45] In order to determine whether Sundt Unit 4 is subject to BART, EPA's contractor UNC evaluated whether Unit 4 has an impact of 0.5 dv or more at any Class I area. UNC's visibility modeling showed that two Class I areas experienced a 98th percentile impact greater than 0.5 dv due to emissions from Sundt Unit 4.[46] In particular, the 98th percentile impact across the three years modeled was 2.798 dv at Saguaro and 0.839 dv at Galiuro.[47] These results indicate that Sundt Unit 4 causes visibility impairment at Saguaro and contributes to impairment at Galiuro. Therefore, EPA proposes to find that Sundt Unit 4 is subject to BART.

2. Proposed BART Analysis and Determination for NO_X

For our NO_X BART analysis, we identify all available control technologies, eliminate options that are not technically feasible, and evaluate the control effectiveness of the remaining control options. We then evaluate each technically feasible control in terms of a five-factor BART analysis and propose a determination for BART.

a. Control Technology Availability, Technical Feasibility, and Effectiveness

EPA proposes to find that SNCR and selective catalytic reduction (SCR) are available and technically feasible options to control NO_X emissions with a control efficiency of approximately 50 percent for SNCR and approximately 89 percent for SCR.

SNCR involves the non-catalytic decomposition of NO_X to molecular nitrogen and water. Typical NO_X control efficiencies for SNCR range from 40 to 60 percent, depending on inlet NO_X concentrations, fluctuating flue gas temperatures, residence time, amount and type of nitrogenous reducing agent, mixing effectiveness, acceptable levels of ammonia slip, and presence of interfering chemical substances in the gas stream. Because Sundt Unit 4 already operates with NO_X combustion controls, we have used an SNCR control efficiency of 30 percent from a baseline that includes LNB with OFA. Considering typical combustion control technologies such as LNB and OFA can achieve control efficiencies of about 25 to 30 percent, the result is total control efficiency from an uncontrolled baseline of about 50 percent, which is in the mid-range of SNCR control efficiencies.

SCR is a post-combustion gas treatment technique that uses either ammonia or urea in the presence of a metal-based catalyst to selectively reduce NO_X to molecular nitrogen, water, and oxygen. The catalyst lowers the temperature required for the chemical reaction between NO_X and the reducing agent. Technical factors that impact the effectiveness of this technology include the catalyst reactor design, operating temperature, type of fuel fired, sulfur content of the fuel, design of the ammonia injection system, and the potential for catalyst poisoning. SCR has been installed on numerous coal-fired boilers of varying sizes, and is considered technically feasible. We note that SCRs are classified as a low dust SCR (LDSCR) or high dust SCR (HDSCR). As explained in the TSD, the SCR system considered in this analysis is the HDSCR.

Existing vendor literature and technical studies indicate that SCR systems are capable of achieving approximately 80 to 90 percent control efficiency, and that this emission rate can be achieved on a retrofit basis, particularly when combined with combustion control technology such as LNB.[48] Our contractor used a design emission rate of 0.050 lb/MMBtu (annual average), which in the case of Sundt Unit 4 corresponds to a control efficiency of 89 percent. While this is a value close to the upper range of SCR control efficiency, we consider the use of 0.050 lb/MMBtu appropriate for Sundt Unit 4. A review of Acid Rain Program data indicates that there are up to seven dry-bottom, wall-fired boilers operating with SCR on a retrofit basis that have achieved an annual average emission rate of 0.050 lb/MMBtu or lower in practice.[49] However, there are design differences between Sundt Unit 4 and these other units (i.e., boiler size, coal type and characteristics, and loading profile) that have the potential to affect this comparison. If we receive additional comments that sufficiently document source-specific considerations justifying the use of an emission rate higher than 0.050 lb/MMBtu, we may incorporate such considerations in our selection of BART.

b. BART Analysis for NO_X

Costs of Compliance: In evaluating the costs of compliance for SNCR and SCR, we calculated the control costs ($) and emission reductions (tons/year of pollutant) for each control technology, and developed average cost-effectiveness ($/ton) values. Estimated NO_X emission reductions are summarized in Table 7 and cost-effectiveness numbers are summarized in Table 8 for each option. A more detailed version of emission calculations are in our docket[50] and in our contractor's report. The heat duty and capacity factor used in the emission calculations below differ from the values used in the calculations originally prepared by our contractor, due to the unit's lower capacity when burning coal (130 MW) rather than natural gas (173 MW). The heat duty (MMBtu/hr) and capacity factor (0.49) reflect the coal-burning heat duty, rather than the natural gas-burning heat duty.[51]

[42] 78 FR 46175 (codified at 40 CFR 52.145(e)(2)(i)).

[43] See 78 FR 75722, 78 FR 46151, and "TEP Sundt Unit 14 BART Eligibility Memo" (November 21, 2012).

[44] 40 CFR part 51, appendix Y, section III.A.

[45] 77 FR 46152–53.

[46] Technical Analysis for Arizona and Hawaii Regional Haze FIPs: Report on Identification of Sources Subject to BART, UNC, July 20, 2012, Table 4.

[47] For an expanded discussion of our approach to visibility modeling, please refer to Section III (General Approach to the Five-Factor BART analysis) of the Sundt4 TSD. This approach was used in both determining whether Sundt 4 was subject to BART, as well as in evaluating the visibility factor in the BART analysis.

[48] See "Emissions Control: Cost-Effective Layered Technology for Ultra-Low NOx Control" (2007), "What's New in SCRs" (2006), and "Nitrogen Oxides Emission Control Options for Coal-Fired Electric Utility Boilers" (2005).

[49] See spreadsheet "CAMD Wall-fired Coal EGUs.xlsx" in the docket.

[50] See spreadsheet "Sundt4 2001–12 Emission Calcs 2014–01–24.xlsx" in the docket.

[51] As noted by TEP in its May 10, 2013 letter, although the calculated capacity factor is different, the annual emissions in tons per year removed do not change significantly, as the change in capacity factor is largely offset by the change in maximum unit gross rating.

TABLE 7—SUNDT 4: NO_X CONTROL OPTION EMISSION ESTIMATES

Control option	Control efficiency	Emission factor	Heat duty	Capacity factor	NO_X emission rate		NO_X emission reduction
	%	lb/MMBtu	MMBtu/hr	%	lb/hr	tpy	tpy
Baseline (LNB+OFA)	.....	0.445	1,371	0.49	610	1,310	
SNCR+LNB+OFA	30	0.312	1,371	0.49	427	917	393
SCR+LNB+OFA	89	0.050	1,371	0.49	69	147	1,162

Our consideration of the cost of compliance focuses primarily on the cost-effectiveness of each control option as measured in average cost per ton and incremental cost per ton of each control option as shown in Table 8. SCR is the most stringent option with the highest average cost-effectiveness of $5,176/ton, and incremental cost-effectiveness over SNCR of $6,174/ton. Detailed cost calculations can be found in our docket.[52] While we have relied primarily upon the cost calculations prepared by our contractor, we have incorporated certain elements of TEP's analysis[53] into our cost calculations. The most significant revisions to cost estimates include the following:

- We have changed the unit size from 173 MW to 130 MW to reflect the gross capacity of using coal. Although this has the net effect of decreasing certain costs, particularly several operation and maintenance (O&M) costs, the revised capital cost estimates increased for SCR (from $38 million to $45 million) and SNCR (from $2.8 million to $3.1 million).
- We have used a retrofit difficulty value of 1.5 (increased from 1.0) in cost estimates due to certain difficulties associated with retrofit installation of SCR. These difficulties are the result of site congestion and the configuration of the existing boiler structure and coal handling system as noted by TEP.
- We have included the cost of air preheater modifications that TEP stated are necessary in order to accommodate SCR due to site congestion and coal handling configuration.

TABLE 8—SUNDT 4: NO_X CONTROL OPTION COST-EFFECTIVENESS

Control option	Capital cost	Annualized capital cost	Annual operating cost	Total annual cost	Emission reduction	Cost-effectiveness ($/ton)	
	($)	($)	($)	($/yr)	(tpy)	Ave	Incremental
SNCR	$3,079,089	$290,644	$975,124	$1,265,768	393	$3,222	
SCR	45,167,561	4,263,498	1,753,975	6,017,474	1,162	5,176	$6,174

Pollution Control Equipment in Use at the Source: The presence of existing pollution control technology at Sundt Unit 4 is reflected in the consideration of available control technologies and in the development of baseline emission rates for use in cost calculations and visibility modeling. In the case of NO_X, current pollution controls are reflected in our selection of 2011 as the baseline period, which includes the use of LNB and OFA.

Energy and Non-Air Quality Environmental Impacts: Regarding potential energy impacts of the BART control options, we note that SCR incurs a draft loss that will result in certain load loss, and that other emissions controls may also have modest energy impacts. The costs for direct energy impacts, i.e., power consumption from the control equipment and additional draft system fans from each control technology, are included in the cost analyses. Indirect energy impacts, such as the energy to produce raw materials, are not considered, which is consistent with the BART Guidelines. Ammonia adsorption (resulting from ammonia injection from SCR or SNCR) to fly ash is generally not desirable due to odor but does not impact the integrity of the use of fly ash in concrete. The ability to sell fly ash is unlikely to be affected by the installation of SNCR or SCR technologies. Finally, SNCR and SCR may involve potential safety hazards associated with the transportation and handling of anhydrous ammonia. However, since the handling of anhydrous ammonia will involve the development of a risk management plan (RMP), we consider the associated safety issues to be manageable as long as established safety procedures are followed. As a result, we do not consider these impacts sufficient to warrant the elimination of either of the available control technologies.

Remaining Useful Life of the Source: We are considering the "remaining useful life" of Sundt Unit 4 as one element of the overall cost analysis as allowed by the BART Guidelines.[54] Since there is not state- or federally-enforceable shut-down date for this unit, we have used a 20-year amortization period per the EPA Cost Control Manual as the remaining useful life for the facility.[55]

Degree of Visibility Improvement: The visibility improvement due to NO_X controls is modest. SNCR was modeled at a 30 percent NO_X emission reduction. As shown in Table 9, this yields a maximum visibility improvement of just over 0.2 dv at Saguaro. Galiuro improves about half as much, and other areas much less. The cumulative improvement across all impacted Class I areas is 0.5 dv. SCR was modeled at 89 percent NO_X reduction to achieve 0.05 lb/MMBtu. SCR provides a maximum improvement of 0.8 dv, which occurs at Saguaro. Galiuro again improves about half as much, and the cumulative improvement across all Class I areas is 1.6 dv. This visibility improvement is substantially greater for SCR than for SNCR.

[52] See spreadsheet "Sundt4 Control Costs 2014–01–26.xlsx" in the docket.

[53] Letter dated May 10, 2013.

[54] 40 CFR Part 51, Appendix Y, section IV.D.4.k.

[55] We note that the 20 year amortization period is primarily used in NO_X control cost calculations, such as for SCR. In order to promote consistency in the analysis, we have used the 20 year period in the cost calculations for other control options, such as for SO_2 control, for which the Control Cost Manual includes examples that use an amortization period of 15 years.

TABLE 9—SUNDT 4: VISIBILITY IMPACT AND IMPROVEMENT FROM NO_X CONTROLS

Class I area	Distance (km)	Visibility impact	Visibility improvement	
		Base case	SNCR (ctrl04)	SCR (ctrl08)
Chiricahua NM	144	0.43	0.03	0.12
Chiricahua WA	141	0.51	0.05	0.15
Galiuro WA	64	1.10	0.12	0.34
Gila WA	232	0.17	0.02	0.04
Mazatzal WA	203	0.19	0.02	0.04
Mount Baldy WA	232	0.15	0.01	0.03
Pine Mountain WA	247	0.15	0.02	0.03
Saguaro NP	17	3.40	0.23	0.78
Sierra Ancha WA	178	0.19	0.01	0.04
Superstition WA	137	0.32	0.01	0.05
Cumulative (sum)	.....	6.6	0.5	1.6
Maximum	.....	3.40	0.23	0.78
# CIAs >= 0.5 dv	.....	3	0	1
Million $/dv (cumul. dv)	.....	.....	$2.4	$3.7
Million $/dv (max. dv)	.....	.....	$5.5	$7.7

c. Proposed BART Determination for NO_X

EPA proposes to find that BART for NO_X is an emission limit of 0.36 lb/MMBtu on a 30-day BOD rolling basis that is achievable by SNCR with LNB and OFA. The primary factors supporting this proposed finding are the average cost-effectiveness and anticipated visibility benefits of controls. In particular, while SCR is anticipated to achieve the greatest degree of visibility improvement, it is also significantly more expensive than SNCR, with an average cost-effectiveness of $5176/ton. We do not consider this average cost to be warranted by the projected visibility benefit of SCR for this facility. Table 10 provides a summary of our five-factor BART analysis.

In proposing an emission limit of 0.36 lb/MMBtu, we have considered the annual average design value for SNCR of 0.31 lb/MMBtu as well as the need to account for emissions associated with startup and shutdown events. To account for this variability, we have examined the difference between the highest 30-day rolling NO_X value and the highest annual average NO_X value observed over the baseline period, which is approximately 17 percent.[56] We have applied this variability to the annual average design value to develop a 30-day BOD rolling emission limit, which we consider to provide sufficient margin for a limit that will apply at all times.

We propose to require compliance with this requirement within three years of the effective date of the final rule. A 2006 Institute of Clean Air Companies (ICAC) study indicated that the installation time for a typical SNCR retrofit, from bid to startup, is 10 to 13 months.[57] However, because we are also requiring the installation of additional SO_2 controls, we consider a three year period for compliance with both BART determinations to be appropriate. We are seeking comment on whether this compliance date is reasonable and consistent with the requirement of the Clean Air Act that BART be installed "as expeditiously as practicable but in no event later than five years after [promulgation of the applicable FIP]."[58] If we receive information during the comment period that establishes that a different compliance time frame is appropriate, we may finalize a different compliance date. Finally, we are proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements to ensure that the emission limit and compliance deadline are enforceable. As part of the proposed monitoring requirements, we are including a requirement to monitor rates of ammonia injection in order to ensure proper operation of the SNCR in a manner that minimizes ammonia emissions.

TABLE 10—SUNDT 4: SUMMARY OF BART ANALYSIS FOR NO_X

Sundt unit 4 (130 MW)	LNB+OFA (baseline)	SNCR+LNB	SCR+LNB
Emissions			
Emission Factor (lb/MMBtu)	0.445	0.312	0.050
Emission Rate (tpy)	1310	917	147
Emission Reduction (tpy)	.....	393	1,162
Control Effectiveness (%)	.....	30%	89%
Costs of Compliance			
Capital Cost ($)	.....	$3,079,089	$45,167,561
Annualized Capital Cost ($)	.....	$290,644	$4,263,498
Annual O&M ($)	.....	$975,124	$1,753,975

[56] See spreadsheet "Sundt4 2001–12 Emission Calcs 2014–01–24.xlsx" in the docket.

[57] See "Typical Installation Timelines for NO_X Emissions Control Technologies on Industrial Sources", Institute of Clean Air Companies, December 4, 2006.

[58] Clean Air Act section 169A(g)(4), 42 U.S.C. 7491(g)(4).

TABLE 10—SUNDT 4: SUMMARY OF BART ANALYSIS FOR NO_X—Continued

Sundt unit 4 (130 MW)	LNB+OFA (baseline)	SNCR+LNB	SCR+LNB
Total Annual Cost ($)		$1,265,768	$6,017,474
Ave Cost-Effectiveness ($/ton)		$3,222	$5,176
Incremental Cost-Effectiveness ($/ton)			$6,174
Pollution Control Equipment in Use			
Low-NO_X Burners and Over Fire Air			
Energy and Non-Air Quality Environmental Impacts			
Energy impacts have been reflected in annual O&M costs in the costs of compliance.			
SCR and SNCR may create potential safety and environmental hazards from the transportation and handling of anhydrous ammonia. We consider these impacts manageable with the development of an RMP and additional safety procedures, and do not consider them sufficient enough to warrant eliminating either of these available control technologies.			
Remaining Useful Life			
Control technology amortization period		20 years	20 years
Visibility Improvement			
Single largest Class I area improvement (dv)		0.23	0.78
Single Class I area cost-effectiveness (million $/dv)		$5.5	$7.7
Class I areas with ≥ 0.50 dv improvement		0	1
Cumulative visibility improvement (dv)		0.5	1.6
Cumulative cost-effectiveness (million $/dv)		$2.4	$3.7

4. Proposed BART Analysis and Determination for SO_2

For our SO_2 BART analysis, we identified all available control technologies, eliminated options that are not technically feasible, and evaluated the control effectiveness of the remaining control options. We then evaluated each control in terms of a five-factor BART analysis and proposed a determination for BART.

a. Control Technology Availability, Technical Feasibility, and Effectiveness

EPA identified three available and technically feasible technologies to control SO_2 emissions from Sundt Unit 4. These technologies are lime or limestone-based wet flue gas desulfurization (wet FGD), lime spray dry absorber (SDA or dry FGD), and dry sorbent injection (DSI). While each of these control options has certain design concerns and constraints associated with their implementation, all three options are considered technically feasible.

Lime or limestone-based wet FGD: Wet scrubbing systems mix an alkaline reagent, such as hydrated lime or limestone, with water to generate scrubbing slurry that is used to remove SO_2 from the flue gas. The alkaline slurry is sprayed countercurrent to the flue gas, such as in a spray tower, or the flue gas may be bubbled through the alkaline slurry as in a jet bubbling reactor. As the alkaline slurry contacts the exhaust stream, it reacts with the SO_2 in the flue gas. Design variations may include changes to increase the alkalinity of the scrubber slurry, increase slurry/SO_2 contact, and minimize scaling and equipment problems. Insoluble calcium sulfite ($CaSO_3$) and calcium sulfate ($CaSO_4$) salts are formed in the chemical reaction that occurs in the scrubber, and exit as part of the scrubber slurry. The salts are eventually removed and handled as a solid waste byproduct. The waste byproduct is mainly $CaSO_3$, which is difficult to dewater. Solid waste byproducts from wet lime scrubbing are typically managed in dewatering ponds and landfills.

Design concerns associated with wet FGD involve the substantial water usage requirements needed to generate the alkaline reagent slurry as well as the substantial amount of wastewater and solid waste discharge associated with the spent byproduct. A wet FGD control system must be located after the fabric filter baghouse because the moist plume resulting from the wet scrubber system would create baghouse plugging issues if the control is placed ahead of the baghouse. In addition, a substantial footprint is required for the management of these waste products as well as for the absorber tower and associated process equipment such as the slurry preparation, mixing, associated tanks, and dewatering activities. While these design concerns do present some challenges, they do not warrant elimination of this option as technically infeasible.[59]

Our contractor has estimated that newly constructed wet FGD systems could achieve design emission rates (annual average basis) of 0.06 lb/MMBtu. Relative to baseline SO_2 emission rates, this corresponds to a control efficiency of 92 percent. We recognize that FGD systems are designed to achieve more stringent emission rates, and have demonstrated an ability to achieve control efficiencies up to 98 percent. Our contractor's report notes that the lower control efficiency cited here is regarded as a conservative estimate. While this is not the most stringent level of control that the technology is capable of achieving, we consider 92 percent control efficiency to be consistent with the median values reported for wet FGD systems.

Lime SDA or dry FGD: A spray dryer absorber uses a stream of either dry lime or hydrated lime (semi-dry) in a reaction tower where it reacts with SO_2 in the flue gas to form calcium sulfite solids. Unlike wet FGD systems that produce a slurry by-product that is collected

[59] TEP's review does not eliminate consideration of wet FGD, but does describe several design challenges that TEP notes should be reflected in the five factor analysis. We have incorporated certain elements of TEP's review in our analysis, as discussed in Step 4.

separately from the fly ash, dry FGD systems are designed to produce a dry byproduct that must be removed with the fly ash in the particulate control equipment. As a result, dry FGD systems must be located upstream of the particulate control device to remove the reaction products and excess reactant material. In instances where hydrated lime is used as a reagent, the reaction towers must be designed to provide adequate contact and residence time between the exhaust gas and the slurry to produce a relatively dry byproduct. Typical process equipment associated with a spray dryer typically includes an alkaline storage tank, mixing and feed tanks, an atomizer, spray chamber, particulate control device and a recycle system. The recycle system collects solid reaction products and recycles them back to the spray dryer feed system to reduce alkaline sorbent use.

A design concern associated with a dry FGD system is that it must be installed prior to the fabric filter baghouse in order for the reagent to be captured and recycled. As noted in our contractor's report, the location of the existing fabric filter baghouse does not present enough space to install a new absorber between the boiler and the existing baghouse. As a result, a dry FGD at Sundt Unit 4 is assumed to include a new baghouse, which is reflected in the costs of compliance for the five-factor analysis. We consider this control option to be technically feasible.

Our contractor has estimated that newly constructed dry FGD systems could achieve design emission rate (annual average basis) of 0.08 lb/MMBtu. Relative to baseline SO_2 emission rates, this corresponds to a control efficiency of 89 percent. As noted for wet FGD systems, this is a conservative estimate of what dry FGD systems can achieve, and is consistent with the median values reported for dry FGD systems.

Dry Sorbent Injection: DSI involves the injection of powdered absorbent directly into the flue gas exhaust stream. These are simple systems that generally require a sorbent storage tank, feeding mechanism, transfer line and blower, and an injection device. The dry sorbent is typically injected countercurrent to the gas flow. An expansion chamber is often located downstream of the injection point to increase residence time and efficiency. Particulates generated in the reaction are controlled in the system's particulate control device. DSI requires less capital equipment, less physical space, and less modification to existing ductwork compared to a dry FGD system. However, reagent costs are much higher and, depending upon the absorbent and amount of sorbent injected, control efficiency is lower when compared to a dry FGD system. Soda ash and Trona (sodium sesquicarbonate) are potential options for reagent use. An important design consideration of DSI is the ability of the downstream particulate control device to accommodate the additional particulate loading resulting from the addition of the DSI reagent into the boiler flue gas. More effective particulate control devices allow for higher rates of sorbent injection, which in turn allow for more effective SO_2 control.

In a review of SO_2 control options for BART eligible units, the Northeast States for Coordinated Air Use Management (NESCAUM) estimated control effectiveness for DSI in a range of 40–60 percent.[60] More recently, as part of work done as part of the Integrated Planning Model (IPM), EPA has estimated control effectiveness as high as 80 percent,[61] depending upon factors such as the type of sorbent, the quantity of sorbent used, and the type of particulate control device employed. Generally, the use of more effective particulate control devices allow for higher rates of sorbent injection, and therefore greater DSI effectiveness. Since Sundt Unit 4 operates with a fabric filter, we consider a control effectiveness value in the upper range appropriate, and have used 70 percent control effectiveness in our calculations. This value is above the range indicated in the NESCAUM study, but does not require the high sorbent injection rates required to achieve the upper range of control indicated in IPM documentation. A summary of the control technologies and their associated control effectiveness is presented in Table 11.

TABLE 11—SUNDT 4: SO_2 CONTROL OPTIONS

Control option	Control effectiveness %
Dry Sorbent Injection	70
Dry FGD or Lime SDA	89
Wet FGD (lime- or limestone-based)	92

[60] "Assessment of Control Technology Options for BART-Eligible Sources", Northeast States for Coordinated Air Use Management In Partnership with The Mid-Atlantic/Northeast Visibility Union, March 2005.

[61] IPM Model—Revisions to Cost and Performance for APC Technologies, Dry Sorbent Injection Cost Development Methodology, August 2010.

b. BART Analysis for SO_2

Costs of Compliance: Our consideration of the costs of compliance focuses primarily on the cost-effectiveness of each control option, as measured in cost per ton and incremental cost per ton. The emissions estimates and cost-effectiveness for the three control options are shown in Table 12 and Table 13, respectively. Both wet and dry FGD have average cost-effectiveness values over $5,000/ton, much greater than DSI, which is a control option that we consider very cost-effective at $1,857/ton. Moreover, both wet and dry FGD have very high incremental cost-effectiveness values, indicating that while they are more effective than less stringent control options, this additional degree of effectiveness comes at a substantial cost.

In evaluating the costs of compliance for the control options, we have calculated the control costs ($) and emission reductions (tons/year of pollutant) for each control technology, developed average cost-effectiveness ($/ton) values, and arrived at the emission reductions for each option as summarized Table 12. A more detailed version of emission calculations is in our docket,[62] and in our contractor's report. As noted previously in our NO_X BART analysis, the heat duty and capacity factor used in these calculations differ from the values used in the calculations originally prepared by our contractor because the maximum gross capacity of Sundt Unit 4 while burning coal is about 130 MW, compared to its natural-gas nameplate capacity of 173 MW. The heat duty (MMBtu/hr) and capacity factor used in Table 12 reflect the coal-burning nameplate capacity.[63] Detailed cost calculations presented in Table 13 are in the docket.[64]

[62] See spreadsheet "Sundt4 2001–12 Emission Calcs 2014–01–24.xlsx" in the docket.

[63] As noted by TEP and Burns and McDonnell, although the calculated capacity factor is different, the annual emissions in tons per year removed do not change significantly, as the change in capacity factor is largely offset by the change in maximum unit gross rating.

[64] See spreadsheet "Sundt4 Control Costs 2014–01–26.xlsx" in the docket.

TABLE 12—SUNDT 4: SO_2 CONTROL OPTION EMISSION ESTIMATES

Control option	Control efficiency	Emission factor	Heat duty	Capacity factor	SO_2 emission rate		SO_2 emission reduction
	(%)	(lb/MMBtu)	(MMBtu/hr)		(lb/hr)	(tpy)	(tpy)
Baseline (no control)	.....	0.729	1,371	0.49	1,000	2,145	
DSI	70	0.219	1,371	0.49	300	644	1,502
DFGD	89	0.080	1,371	0.49	110	236	1,909
WFGD	92	0.060	1,371	0.49	82	177	1,969

TABLE 13—SUNDT 4: SO_2 CONTROL OPTION COST-EFFECTIVENESS

Control option	Capital cost	Annualized capital cost	Annual operating cost	Total annual cost	Emission reduction	Cost-effectiveness ($/ton)	
	($)	($)	($)	($/yr)	(tpy)	Ave	Incremental
DSI	$3,250,000	$306,777	$2,482,107	$2,788,884	1,502	$1,857	
DFGD	72,470,559	6,840,708	2,880,841	9,721,549	1,909	5,091	$17,007
WFGD	80,629,663	7,610,870	3,227,467	10,838,337	1,969	5,505	18,795

Pollution Control Equipment in use at Source: In the case of SO_2, Sundt Unit 4 does not operate with any existing control technology. This is reflected in our selection of calendar year 2011 as the baseline period, which represents uncontrolled coal-fired emissions.

Energy and Non-Air Quality Environmental Impacts: For wet FGD, energy impacts include certain auxiliary power requirements that are necessary to operate the wet FGD system and to potentially compensate for pressure head loss through the scrubber. These energy impacts are reflected as auxiliary power costs in the cost of compliance estimates. Non-air quality environmental impacts include water usage requirements and the storage and disposal of wet ash. Wet FGD requires very large quantities of water to ensure proper control effectiveness. Securing such quantities of water is a significant challenge in more arid regions of the country such as Arizona, and would preclude the use of that water for potentially more beneficial uses. The on-site storage and disposal of wet ash in large retention ponds triggers significant additional regulatory requirements, as it represents a substantial water pollution threat.

For dry FGD, the energy and non-air environmental impacts are similar to those for wet FGD. Operation of a dry FGD system still requires securing significant supplies of water, although to a lesser degree than wet FGD systems. In addition, dry FGD systems will result in generation of larger quantities of boiler ash, and has the potential to affect negatively the properties and quality of boiler ash. In some instances, boiler ash that is suitable to sell for beneficial purposes may no longer be marketable following installation of a dry FGD system. Energy impacts also include auxiliary power requirements for operation of the dry FGD system, and for overcoming pressure head loss through the scrubber. While we note certain potential impacts resulting from the water resource requirements associated with wet FGD as well as the additional solid waste generation associated with wet and dry FGD, we do not consider these impacts sufficient enough to warrant eliminating these control technologies.

DSI could potentially have an adverse effect on the quality of the boiler fly ash, which would make it unmarketable for beneficial uses. Use of DSI also results in an ash byproduct which would require landfill disposal, thereby increasing solid waste generation rates at the plant. Energy impacts are limited to auxiliary power requirements for operation of the DSI system. We do not consider these impacts sufficient enough to warrant eliminating this control technology.

Remaining Useful Life of the Source: We are considering the remaining useful life of Sundt Unit 4 as one element of the overall cost analysis as allowed by the BART Guidelines. Since we are not aware of any federally- or State-enforceable shut down date for Sundt Unit 4, we have used a 20-year amortization period described in the EPA Cost Control Manual as the remaining useful life for the control options considered for Unit 4. We note that the remaining useful life of the source is reflected in the evaluation of cost of compliance through the use of a 20-year amortization period in control cost calculations.

Degree of Visibility Improvement: The visibility improvement due to SO_2 controls is modest. As shown in Table 14, control via DSI, with a 70 percent SO_2 emissions reduction, gives a maximum visibility improvement of 0.2 dv, which occurs at Saguaro. Three other areas improve about half as much, and the cumulative improvement is 0.8 dv. Emissions controls via dry and wet FGD were modeled at 89 percent and 92 percent SO_2 emissions reduction, respectively. Both dry and wet FGD would cause a visibility disbenefit at Saguaro as indicated by the negative improvements in Table 14. The disbenefit is mainly due to the decreased stack exit temperature and exit velocity associated with these technologies, and more so for wet FGD than for dry FGD. These stack decreases result in less plume rise and increased impacts nearby. At areas farther away, the disbenefit is outweighed by the benefit of SO_2 reductions from FGD. This issue is discussed further in the TSD. With FGD, the maximum benefit occurs not at Saguaro, but at Galiuro, with 0.2 dv for dry FGD and 0.1 dv for wet FGD. The corresponding cumulative improvements are 0.6 dv and 0.4 dv for dry and wet FGD, respectively, including the areas of disbenefit. All these improvements are substantially lower than those from DSI, and the visibility cost-effectiveness of each FGD is more than quadruple that of DSI. EPA finds that the improvement from DSI is substantial enough to support its selection as BART, and that it is clearly a better choice than dry FGD and wet FGD.

TABLE 14—SUNDT 4: VISIBILITY IMPACT AND IMPROVEMENT FROM SO_2 CONTROLS

Class I Area	Distance (km)	Visibility impact	Visibility improvement		
		Base case	DSI 70% (ctrl14)	Dry FGD (ctrl02)	Wet FGD (ctrl03)
Chiricahua NM	144	0.43	0.05	0.07	0.06
Chiricahua Wild	141	0.51	0.10	0.10	0.11
Galiuro Wild	64	1.10	0.10	0.16	0.09
Gila Wild	232	0.17	0.04	0.05	0.05
Mazatzal Wild	203	0.19	0.07	0.08	0.09
Mount Baldy Wild	232	0.15	0.05	0.05	0.06
Pine Mountain Wild	247	0.15	0.05	0.06	0.06
Saguaro NP	17	3.40	0.20	−0.16	−0.27
Sierra Ancha Wild	178	0.19	0.06	0.08	0.08
Superstition Wild	137	0.32	0.09	0.10	0.10
Cumulative (sum)	.....	6.6	0.8	0.6	0.4
Maximum	.....	3.40	0.20	0.16	0.11
# CIAs >= 0.5 dv	.....	3	0	0	0
Million $/dv (cumul. dv)	.....	.....	$3.5	$16.4	$25.1
Million $/dv (max. dv)	.....	.....	$14	$60	$97

c. BART Determination for SO_2

EPA proposes an emission limit of 0.23 lb/MMBtu on a 30-day (BOD) rolling basis as BART to control SO_2 from Sundt Unit 4. This emission limit, equivalent to using DSI, is considered very cost-effective at $1,857/ton. In evaluating the appropriate emission limit for DSI, we have considered the annual average design value for DSI of 0.21 lb/MMBtu as well as the need to account for emissions associated with startup and shutdown events. To determine how to account for this variability, we have examined the difference between the highest 30-day rolling SO_2 value and the highest annual average SO_2 value observed over the baseline period, which is approximately 9 percent.[65] We have applied this variability to the annual average design value to develop a 30-day BOD rolling emission limit, which we consider a sufficient margin for a limit that will apply at all times. Please refer to Table 15 that provides a summary of our five-factor BART analysis.

We propose to require compliance with this requirement within three years of the effective date of the final rule. However, we are seeking comment on whether this compliance date is reasonable and consistent with the requirement of the Clean Air Act that BART be installed "as expeditiously as practicable but in no event later than five years after [promulgation of the applicable FIP]."[66] If we receive information during the comment period that establishes that a different compliance time frame is appropriate, we may finalize a different compliance date. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this emission limit.

TABLE 15—SUNDT 4: SUMMARY OF BART ANALYSIS FOR SO_2

Sundt Unit 4 (130 MW)	Baseline	DSI	Dry FGD	Wet FGD
Emission Factor (lb/MMBtu)	0.729	0.219	0.08	0.06
Emission Rate (tpy)	2145	644	236	177
Emission Reduction (tpy)	.....	1,502	1,909	1,969
Control Effectiveness	.....	70%	89%	92%
Cost of Compliance				
Capital Cost ($)	.....	$3,250,000	$72,470,559	$80,629,663
Annualized Capital Cost ($)	.....	$306,777	$6,840,708	$7,610,870
Annual O&M ($)	.....	$2,482,107	$2,880,841	$3,227,467
Total Annual Cost ($)	.....	$2,788,884	$9,721,549	$10,838,337
Ave CE ($/ton)	.....	$1,857	$5,091	$5,505
Incremental CE ($/ton)	.....	.....	$23,081	$18,795
Pollution Control Equipment in Use at Source				
There is no existing control technology for SO_2				
Energy and Non-Air Quality Environmental Impacts				
Energy impacts are reflected in annual O&M costs in the costs of compliance.				
Wet ash from wet and dry FGD represents a substantial water pollution threat.				
Water resources for wet and dry FGD may preclude more beneficial uses of water.				
Remaining Useful Life				
Control technology amortization period	.....	20 years	20 years	20 years

[65] See spreadsheet "Sundt4 2001–12 Emission Calcs 2014–01–24.xlsx" in the docket.

[66] Clean Air Act section 169A(g)(4), 42 U.S.C. 7491(g)(4).

TABLE 15—SUNDT 4: SUMMARY OF BART ANALYSIS FOR SO_2—Continued

Sundt Unit 4 (130 MW)	Baseline	DSI	Dry FGD	Wet FGD
Visibility Improvement				
Single largest Class I area improvement (dv)		0.20	0.16	0.11
Single Class I area cost-effectiveness (million $/dv)		$14.3	$60.4	$96.8
Class I areas with ≥ 0.50 dv improvement		0	0	0
Cumulative visibility improvement (dv)		0.8	0.6	0.4
Cumulative cost-effectiveness (million $/dv)		$3.5	$16.4	$25.1

3. Proposed BART Analysis and Determination for PM_{10}

a. Control Technology Availability, Technical Feasibility, and Effectiveness

Sundt Unit 4 currently operates with a fabric filter baghouse for particulate control, which is considered the most stringent control device for particulate matter. These devices operate on the same principle as a vacuum cleaner. Air carrying dust particles is forced through a cloth bag that is designed and manufactured to trap particles greater than a certain specified diameter. As the air passes through the fabric, the dust accumulates on the cloth and is removed from the air stream. The accumulated dust is periodically removed from the cloth by shaking or by reversing the air flow. The layer of dust, known as dust cake, trapped on the surface of the fabric has the potential to result in high efficiency rates for particles ranging in size from submicron to several hundred microns in diameter.

b. BART Analysis for PM_{10}

The BART Guidelines provide that, where a source has controls already in place that are the most stringent controls available, it is not necessary to complete comprehensively a full five-factor BART analysis, as long the most stringent controls available are made federally enforceable. Therefore, instead of completing the remaining steps of a five-factor BART analysis, we have evaluated the appropriate level of emissions to ensure that the fabric filter achieves an appropriate degree of control.

c. Proposed BART Determination for PM_{10}

EPA is proposing a filterable PM_{10} BART emission limit of 0.03 lb/MMBtu based on the use of the existing fabric filter baghouse currently in operation, which is the most stringent control for particulate matter. We note that Mercury and Air Toxics (MATS) Rule establishes an emission standard of 0.03 lb/MMBtu filterable PM (as a surrogate for toxic non-mercury metals) as representing Maximum Achievable Control Technology (MACT) for coal-fired EGUs.[67] This standard derives from the average emission limitation achieved by the best performing 12 percent of existing coal-fired EGUs, as based upon test data used in developing the MATS Rule.[68] The BART Guidelines provide that, "unless there are new technologies subsequent to the MACT standards which would lead to cost-effective increases in the level of control, you may rely on the MACT standards for purposes of BART."[69] Therefore, we propose to find that 0.03 lb/MMBtu filterable PM_{10} is an appropriate limit for BART at Sundt Unit 4.

4. Better Than BART Alternative

We are proposing a switch to natural gas on Sundt Unit 4 as a better-than-BART alternative to the emissions controls previously proposed in this section for a coal-fired unit. Unit 4 was originally constructed as a natural gas-fired boiler, and has used natural gas as a primary fuel for significant periods of time since 2009. While a change in fuel supply to natural gas instead of coal is an inherently less polluting option, the BART Guidelines do not require the consideration of fuel supply changes as a control option.[70] As a result, the option of burning only natural gas is not considered in our BART analysis. However, TEP has submitted to EPA an alternative to BART based on the elimination of coal as a fuel source for Sundt Unit 4 by December 31, 2017. As part of this submittal, TEP compared the potential emission reductions and visibility benefit between a natural gas fuel change and certain combinations of NO_X and SO_2 controls.[71]

EPA has evaluated this alternative proposal pursuant to the "better-than-BART" provisions of the RHR. In particular, the RHR allows for implementation of "an emissions trading program or other alternative measure" in lieu of BART if the alternative measure achieves greater reasonable progress than would be achieved through the installation and operation of BART.[72] The rule further states that "[i]f the distribution of emissions is not substantially different than under BART, and the alternative measure results in greater emissions reductions, than the alternative measures may be deemed to achieve greater reasonable progress".[73] Because the emissions reductions under EPA's BART proposal for Sundt Unit 4 and the reductions from TEP's proposed alternative would occur at the same facility, the distribution of emissions under BART and the alternative are not substantially different. Therefore, if the alternative emission control strategy results in greater emissions reductions than our BART proposal, EPA may deem the alternative emission control strategy to achieve greater reasonable progress. A comparison of annual emission estimates between the BART determination and alternative to BART is summarized in Table 16. BART determination annual emissions are based upon the annual average emission factors and annual capacity factor used in our BART analysis, consistent with coal usage. For the alternative to BART, annual emissions are based on a combination of historical natural gas usage data as indicated in TEP's submittal, as well as standard emission factors for natural gas combustion. A more detailed discussion of emission estimates from these two scenarios is included in our TSD.

[67] 77 FR 9304, 9450, 9458 (February 16, 2012) (codified at 40 CFR 60.42Da(a), 60.50Da(b)(1)).

[68] See Memorandum from Jeffrey Cole (RTI International) to Bill Maxwell (EPA) regarding "National Emission Standards for Hazardous Air Pollutants (NESHAP) Maximum Achievable Control Technology (MACT) Floor Analysis for Coal- and Oil-fired Electric Utility Steam Generating Units for Final Rule" (December 16, 2011).

[69] 40 CFR Part 51, Appendix Y, Section IV.C.

[70] 40 CFR Part 51, Appendix Y, Section IV.D.1.5, "STEP 1: How do I identify all available retrofit emission control techniques?"

[71] Letter dated November 1, 2013.

[72] 40 CFR 51.308(e)(2).

[73] 40 CFR 51.308(e)(3).

TABLE 16—SUNDT 4: COMPARISON OF BART DETERMINATION AND ALTERNATIVE TO BART

Parameters	Units	BART determination	Natural gas fuel switch	Difference
Heat Duty	MMBtu/hr	1,371	1,828.	
Capacity Factor		0.49	0.37.	
NO_X	Ctrl Tech	SNCR+LNB+OFA	LNB+OFA.	
	lb/MMBtu [1]	0.31	0.22.	
	tpy	917	652	265
Particulate Matter	Ctrl Tech	Fabric Filter	None.	
	lb/MMBtu [1]	0.03	0.01.	
	tpy	88	30	59
SO_2	Ctrl Tech	Dry Sorbent Injection	None.	
	lb/MMBtu [1]	0.22	0.00064.	
	tpy	644	1.9	642

[1] Annual average emission factors.

As seen in Table 16, a change to natural gas usage achieves greater emission reductions than each of the individual BART determinations for NO_X, SO_2, and particulate matter, as well as in the aggregate. Although visibility modeling is not required to support a better-than-BART determination in this instance, EPA conducted modeling to verify the visibility benefits of the proposed alternative, as compared with EPA's BART determination. This modeling is described in the TSD and the results are summarized in Table 17.

TABLE 17—SUNDT 4: VISIBILITY IMPACT AND IMPROVEMENT FROM COMBINED SO_2 AND NO_X BART, AND FROM BETTER-THAN-BART ALTERNATIVE

Class I Area	Distance (km)	Visibility impact	Visibility improvement	
		Base case	SNCR DSI 70% (ctrl15)	Natural gas (ctrl13)
Chiricahua NM	144	0.43	0.09	0.19
Chiricahua WA	141	0.51	0.16	0.25
Galiuro WA	64	1.10	0.24	0.47
Gila WA	232	0.17	0.06	0.10
Mazatzal WA	203	0.19	0.08	0.12
Mount Baldy WA	232	0.15	0.06	0.09
Pine Mountain WA	247	0.15	0.06	0.09
Saguaro NP	17	3.40	0.49	1.06
Sierra Ancha WA	178	0.19	0.08	0.12
Superstition WA	137	0.32	0.11	0.19
Cumulative (sum)		6.6	1.4	2.7
Maximum		3.40	0.49	1.06
# CIAs >= 0.5 dv		3	0	1
Million $/dv (cumul. dv)			$2.8	
Million $/dv (max. dv)			$8.3	

Since Sundt is only 17 km from the eastern unit of Saguaro, its emitted NO_X may not be fully converted to NO_2 by the time it reaches there, as is assumed in the CALPUFF model. It thus may not be fully available to form visibility-degrading particulate nitrate. EPA explored this issue in CALPUFF sensitivity simulations described in the TSD. For EPA's proposed BART of SNCR plus DSI, the visibility improvement remains above 0.3 dv even when unrealistically low 10 percent NO-to-NO_2 conversion is assumed (i.e., no additional conversion of NO to NO_2 once the plume leaves the stack). The improvement from switching to natural gas remains above 0.7 dv at Saguaro. These results show that the FIP's proposed BART determination remains reasonable despite any concern over the NO conversion rate; the visibility improvement from BART remains substantial. The finding that natural gas provides better visibility improvement than the proposed BART determination also remains sound regardless of the NO conversion assumed.

Based on this information, we consider a natural gas fuel switch to result in greater emission reductions and achieve greater reasonable progress than the proposed BART determinations. Under this scenario, we are proposing a NO_X emission limit of 0.25 lb/MMBtu based on a 30-day BOD rolling average. As discussed previously in the NO_X BART determination, this represents about a 17 percent increase from the annual average emission rate of 0.22 lb/MMBtu, which we consider to provide sufficient margin for a limit that will apply at all times, including periods of startup and shutdown. In addition, we are proposing particulate matter and SO_2 emission limits consistent with natural gas use, as well as monitoring, reporting, and recordkeeping requirements.

B. Chemical Lime Nelson Plant Kilns 1 and 2

Summary: EPA is proposing to find that Chemical Lime Nelson is subject to BART. EPA is proposing BART emission limits for NO_X, SO_2 and PM_{10} for Kilns 1 and 2 at the Nelson Plant as listed in Table 18 and described in this section.

TABLE 18—NELSON LIME PLANT: SUMMARY OF PROPOSED BART DETERMINATIONS

Source	Pollutant	Emission Limit (lb/ton feed)	Control technology* (for reference only)
Kiln 1	NO_X	3.80	Selective Non-Catalytic Reduction (SNCR).
	SO_2	9.32	Lower sulfur fuel.
	PM_{10}	0.12	Fabric filter baghouse (existing).
Kiln 2	NO_X	2.61	Selective Non-Catalytic Reduction (SNCR).
	SO_2	9.73	Lower sulfur fuel.
	PM_{10}	0.12	Fabric filter baghouse (existing).

*The facility is not required to install the listed technology to meet the BART limit.

Affected Class I Areas: Nine Class I areas are within 300 km of the Nelson Lime Plant. Their nearest borders range from 24 km to 289 km away, with the Grand Canyon the closest and other areas more than 100 km away. The highest baseline visibility impact from the Nelson Plant is 1.79 dv at Grand Canyon NP followed by 0.31 at Sycamore Canyon WA and 0.28 at Zion NP. The cumulative sum of visibility impacts over all the Class I areas is 3.34 dv.

Facility Overview: The Nelson Plant processes limestone and manufactures lime near Peach Springs in Yavapai County, Arizona. The limestone processing plant consists of a quarry mining operation, a limestone crushing and screening operation, a limestone kiln feed system, a solid fuel handling system, two rotary lime kilns, front and back lime handling systems, a lime hydrator, diesel electric generators, fuel storage tanks, and other support operations and equipment. The lime manufacturing equipment consists of two lime rotary kilns (Kiln 1 and Kiln 2) and auxiliary equipment necessary for receiving crushed limestone, processing it through the lime kilns, and processing the lime kiln product. The lime kilns are used to convert crushed limestone ($CaCO_3$) into quicklime (CaO).

We primarily relied on four sources of information for our proposed BART analyses and determinations. An initial BART analysis performed by our contractor [74] is available in the docket in the form of a final contractor's report and associated modeling spreadsheets. We also incorporated elements of a five-factor BART analysis [75] provided by Lhoist North America (LNA) of Arizona, owner of the Nelson Plant, that includes control cost estimates and visibility modeling. Another key document in our analysis is the Nelson Lime Plant's Title V Operating Permit.[76]

Baseline Emissions Calculations: LNA's approach to establishing baseline emissions was to first establish baseline emission factors in lb/ton lime based on CEMS testing performed from March to June 2013. Annual average baseline emissions were calculated by multiplying these lb/ton emission factors by the highest annual lime production rate observed over a period from 2001 to 2012. Maximum daily emissions were calculated by multiplying lb/ton emission factors by the maximum daily lime production rate observed during the March to June 2013 testing period. As explained in further detail in our TSD, we consider LNA's general approach appropriate, but also note that it represents a conservatively high estimate of baseline emissions, and potentially overstates the anticipated emission reductions and visibility benefit from the evaluated control options. Nonetheless, given the lack of measured annual emissions data, we concur with LNA's use of a conservatively high baseline emissions estimate and we have incorporated this estimate into our analysis. The baseline daily and annual emission rates and associated production levels are shown in Table 19.

TABLE 19—NELSON LIME PLANT: SUMMARY OF MAXIMUM DAILY AND ANNUAL BASELINE EMISSIONS FOR NO_X AND SO_2

Kiln	Lime production			NO_X			SO_2		
	Max daily [2]	Max annual	Year	Emission factor [1]	Maximum emissions		Emission factor [1]	Maximum emissions	
	(tpd)	(tpy)		(lb/ton lime)	(lb/day)	(tpy)	(lb/ton lime)	(lb/day)	(tpy)
Kiln 1	866	[3] 258,508	2010	7.59	6,573	981	12.15	10,522	1,570
Kiln 2	1,246	[4] 378,296	2012	5.21	6,492	985	12.69	15,812	2,400

[1] Maximum emission factors observed during March, May and June 2013 CEMS testing.
[2] Maximum daily rates occurring during the March 2013 CEMS testing.
[3] 2010.
[4] 2012.

1. Proposed Subject to BART

As part of our July 30, 2013 final rulemaking on the Arizona RH SIP, we approved ADEQ's finding that Chemical Lime Nelson Plant (Nelson Lime Plant) Kilns 1 and 2 were BART-eligible, but disapproved ADEQ's determination that the Nelson Lime Plant was not subject to BART.[77] In light of this disapproval, we have conducted our own evaluation of whether Nelson Lime Plant is subject to BART, relying primarily on emissions

[74] Technical Analysis for Arizona and Hawaii Regional Haze FIPs: Task 7: Five-Factor BART Analysis for Chemical Lime Company Nelson, TEP Sundt (Irvington), and Catalyst Paper (Snowflake) Plants, Contract No. EP–D–07–102, Work Assignment 5–12; Prepared for EPA Region 9 by University of North Carolina at Chapel Hill, ICF International, and Andover Technology Partners; October 9, 2012.

[75] *BART Five Factor Analysis, Lhoist North America Nelson Lime Plant;* Prepared by Trinity Consultants in Conjunction with Lhoist North America of Arizona, Inc.; Project 131701.0061; August 2013. (Public version dated September 27, 2013).

[76] Title V Operating Permit and Technical Support Document for the Nelson Lime Plant, Permit # 42782, Issued August 8, 2011 by the Arizona Department of Environmental Quality.

[77] 78 FR 46175 (codified at 40 CFR 52.145(g)(1)(i)).

data and modeling results provided by the facility's owner, LNA.[78]

As explained in the TSD, the baseline emissions estimates and the corresponding modeling results provided by LNA are conservative (i.e., tending to overestimate rather than underestimate the impacts, in this case). Nonetheless, we consider these results to be appropriate for purposes of a subject-to-BART determination, as well as for the five-factor BART analysis. LNA's modeling results indicate that the 98th percentile impact for each of the 3 years modeled is well over 0.5 dv at Grand Canyon National Park.[79] Therefore, we propose to determine that Nelson Lime Plant (Kilns 1 and 2) is subject to BART.

2. Proposed BART for NO_X

For our NO_X BART analysis, we identified all available control technologies, eliminated options that are not technically feasible, and evaluated the control effectiveness of the remaining control options. We then evaluated each control in terms of a five-factor BART analysis and made a determination for BART.

a. Control Technology Availability, Technical Feasibility and Effectiveness

EPA proposes to find that SNCR is the only technically feasible control option to control NO_X emissions with a control efficiency of 50 percent. In order to determine a reasonable performance standard for controlling NO_X emissions, we considered four available retrofit control technologies for NO_X on Kilns 1 and 2. These control technologies are a LNB, mixing air technology (MAT), SCR, and SNCR. After evaluating each of these technologies to eliminate technically infeasible options, we determined that SNCR is the only remaining technically feasible control option.

Low-NO_X Burners: LNB are designed to reduce flame turbulence, delay fuel/air mixing, and establish fuel-rich zones for initial combustion. LNA indicated that it experimented with the installation of bluff body LNB on the Nelson Lime Plant kilns in 2001.[80] These LNB wore out in about six months, negatively affected production, caused brick damage, and resulted in unscheduled shutdowns of the kilns. We recognize that the staged combustion principle of LNB can present operational difficulties and potential product quality issues for lime production that are not exhibited in the cement industry. At this time we consider LNB to be technically infeasible for the Nelson Plant kilns, since we do not have any information to suggest otherwise at this time. The technical feasibility of LNB will be re-evaluated for lime kilns in subsequent reasonable progress planning periods.

Mixing Air Technology: MAT is the practice of injecting a high pressure air stream into the middle of a kiln to help mix the air flowing through the kiln. While the theory behind MAT suggests that the technology is effective at reducing NO_X emissions, it is not clear whether this control technology is effective on lime kilns. We propose to eliminate MAT as not technically feasible for retrofit on Kiln 1 and Kiln 2.

Selective Catalytic Reduction: This process uses ammonia in the presence of a catalyst to selectively reduce NO_X emissions from exhaust gases. In SCR, ammonia, usually diluted with air or steam, is injected through a grid system into hot flue gases that are then passed through a catalyst bed to carry out NO_X reduction reactions. The catalyst is not consumed in the process but allows the reactions to occur at a lower temperature. However, SCR is subject to catalyst poisoning in high dust kiln exhausts. Therefore, SCR would have to be placed after the particulate control systems. According to LNA, given the operating temperature range for Kiln 1 and Kiln 2 at the Nelson Lime Plant, the SCR catalyst would need to be located prior to the kiln baghouses, which would result in poisoning or covering of the catalyst. In addition, there are no SCR systems currently operating on lime kilns. We propose to eliminate SCR as not technically feasible for retrofit on Kiln 1 and Kiln 2.

Selective Non-Catalytic Reduction: SNCR is a technically feasible option for reducing NO_X emissions from the Nelson Lime Plant kilns as shown in Table 20. This control technique relies on the reduction of NO_X in exhaust gases by injection of ammonia or urea, without using any catalyst. This approach avoids the problems related to catalyst fouling and poisoning attributed to SCR, but requires injection of the reagents in the kiln at a temperature between 1600 °F to 2000 °F. Because no catalyst is used to increase the reaction rate, the temperature window is critical for conducting this reaction. LNA has not conducted any detailed design work for an SNCR system for the Nelson Plant kilns, but anticipates that a 50 percent reduction is achievable based on LNA's experience with operating a urea-injection system at another LNA lime plant.

TABLE 20—NELSON LIME PLANT: SNCR CONTROL EFFICIENCY FOR BASELINE EMISSIONS

Control option	Control efficiency	Emission factor	Maximum emission rate		Emissions removed
	(%)	(lb/ton lime)	(lb/day)	(tpy)	(tpy)
Kiln 1:					
Baseline		7.59	6,573	981	
SNCR	50	3.80	3,286	491	491
Kiln 2:					
Baseline		5.21	6,492	985	
SNCR	50	2.61	3,246	493	493

[78] BART Five Factor Analysis, Lhoist North America Nelson Lime Plant; Prepared by Trinity Consultants in Conjunction with Lhoist North America of Arizona, Inc.; Project 131701.0061; August 13, 2013 (Public version dated September 27, 2013).

[79] *Id.*, Table 4–7. We note that the visibility modeling performed by LNA used only the annual average Class I area background concentrations, rather than the best 20 percent days background concentrations. The use of annual average generally results in lower visibility impacts than the best 20 percent days. Therefore, had LNA used the best 20 percent days, the baseline impacts would likely have been even greater.

[80] Described on page 5–2, *"BART Five Factor Analysis, Lhoist North America Nelson Lime Plant"* (Public version dated September 27, 2013).

b. BART Analysis for NO_X

EPA conducted a five-factor BART analysis of SNCR to evaluate its cost-effectiveness and visibility benefit. This analysis indicates that SNCR is cost-effective and results in visibility improvement.

Cost of Compliance: The following table provides LNA's estimated cost for installation and operation of SNCR. Capital cost estimates developed by LNA relied primarily on vendor cost estimates and LNA's experience at other lime plants, with the remainder of the capital costs calculated using the cost methodology contained in EPA's Control Cost Manual. LNA has asserted a confidential business information (CBI) claim regarding certain annual operating costs such as reagent usage and auxiliary power costs. As a result, we have prepared our own independent estimate of annual operating costs based upon a combination of publicly available data and certain general assumptions as described in the Contractor's Report.[81] Table 21 is a summary of the estimated cost for installation and operation of SNCR.

TABLE 21—NELSON LIME PLANT: ESTIMATED COST FOR SNCR

Kiln	Capital cost ($)	Annualized capital cost ($)	Annual operating cost ($)	Total annual cost ($/yr)	Emission reduction (tpy)	Cost-effectiveness ($/ton)
Kiln 1	$450,000	$42,477	$358,459	$400,936	491	$817
Kiln 2	450,000	42,477	354,981	397,458	493	807

Energy and Non-Air Quality Environmental Impacts: SNCR systems require electricity to operate the blowers and pumps, which will likely involve fuel combustion that will generate emissions. Overall, while the generation of the required electricity will result in emissions, the emissions should be low compared to the reduction in NO_X that would be gained by operating an SNCR system. The operation of SNCR systems on Kiln 1 and Kiln 2 would require that either urea or ammonia be stored on site. The storage of the chemicals does not result in a direct non-air quality impact. However, the potential for the urea or ammonia that would be stored to leak or otherwise be released from the storage vessels means there is the potential for both air and non-air quality related impacts. The storage of these chemicals does not significantly impact the BART determination.

Pollution Control Equipment in Use at the Source: The presence of existing pollution control technology at each source is reflected in our BART analysis in two ways: first, in the consideration of available control technologies, and second, in the development of baseline emission rates for use in cost calculations and visibility modeling. Air pollution control equipment in use at the Nelson Lime Plant includes a number of baghouses, two multi-cyclone dust collectors, and a Ducon wet scrubber to control particulate matter emissions. The facility does not currently have control equipment for NO_X and SO_2. The kilns are allowed to burn coal, petroleum coke, fuel oil, or any combination of these fuels.

Remaining Useful Life of the Source: Since we are not aware of any enforceable shutdown date for the Nelson Lime Plant, we have used a 20-year amortization period, as noted in the EPA Cost Control Manual, as the remaining useful life of the kilns.

Degree of Visibility Improvement: LNA performed a visibility analysis[82] to assess the visibility improvement associated with SNCR. LNA performed dispersion modeling using the CALPUFF modeling system, which consists of the CALPUFF dispersion model, the CALMET meteorological data processor, and the CALPOST post-processing program. The specific program versions that were relied upon in the analysis match the program versions relied upon by EPA's contractor, the University of North Carolina at Chapel Hill and ICF International (UNC/ICF), in the BART analyses that they prepared for select sources, including the Nelson Plant. Most of the same data and parameter settings relied upon in the analysis are the same data and parameter settings that were relied upon in the contractor's report. Compared to the UNC work, LNA used updated higher base case SO_2 and NOx emissions, lower PM emissions, and lower stack exit velocities. LNA's analysis included tables of visibility impacts and the improvement from controls, including results for the individual model years 2001, 2002, and 2003, and it used visibility method "8a" and focused on the highest value from among the three years' 98th percentiles. In order to put all the facilities on the same footing, EPA post-processed the modeling files provided by LNA using the approach followed for the other facilities.

Table 22 represents the 98th percentile by the 22nd high over the 2001–2003 period using visibility method "8b." Using the EPA procedure, the maximum impact still occurs at the Grand Canyon, at 1.8 dv. The 98th percentile impacts at other Class I areas are about 0.3 dv or below, and the cumulative impact is 3.3 dv. The maximum visibility improvement due to SNCR is 0.58 dv, and cumulative improvement is 0.85 dv. There is little improvement at areas other than the Grand Canyon. These improvements yield a visibility cost-effectiveness of $1.4 million/dv using the maximum, and $0.9 million/dv using the cumulative improvement. These visibility improvements support the choice of SNCR as BART for NO_X.

[81] Our estimate of annual operating costs is in the spreadsheet "Nelson Control Costs 2013–10–21.xlsx" in the docket.

[82] *BART Five Factor Analysis, Lhoist North America Nelson Lime Plant,* Trinity Consultants, August 2013.

TABLE 22—NELSON LIME PLANT: VISIBILITY IMPACT AND IMPROVEMENT FROM NO_X CONTROLS

Class I area	Distance (km)	Visibility impact	Visibility improvement
		Base case	SNCR (ctr1)
Bryce Canyon NP	235	0.20	0.06
Grand Canyon NP	24	1.79	0.58
Joshua Tree NP	238	0.23	0.02
Mazatzal WA	206	0.15	0.01
Pine Mountain WA	199	0.15	0.02
Sierra Ancha WA	289	0.11	0.01
Superstition WA	288	0.13	0.01
Sycamore Canyon WA	132	0.31	0.07
Zion NP	183	0.28	0.08
Cumulative (sum)	.....	3.34	0.85
Maximum	.....	1.79	0.58
# CIAs >= 0.5 dv	.....	1	1
Million $/dv (cumul. dv)	.....	.....	$0.9
Million $/dv (max. dv)	.....	.....	$1.4

c. Proposed BART Determination for NO_X

We propose to find that BART for NO_X for Kilns 1 and 2 is SNCR, and are proposing a BART emission limit for Kiln 1 of 3.80 lb/ton lime and for Kiln 2 of 2.61 lb/ton lime on a 30-day rolling basis, as demonstrated through the use of a CEMS. We consider SNCR to be a very cost-effective control option for Kilns 1 and 2, at $817/ton and $807/ton, respectively. In addition, we consider the anticipated visibility benefit from SNCR, 0.58 dv at Grand Canyon National Park and 0.85 cumulatively at all Class I areas within 300 km, to be substantial. In considering the other factors, we do not consider their impact substantial relative to the cost and visibility factors. We note that the remaining useful life of the source is reflected in the evaluation of cost of compliance through the use of a 20-year amortization period in control cost calculations. Since there is no existing NO_X control technology in use on the kilns, baseline emissions reflect uncontrolled NO_X emissions. In examining energy and non-air quality impacts, while we note certain impacts associated with SNCR, we do not consider these impacts sufficient to warrant its elimination as a control option.

We propose to require compliance with this requirement within three years after the effective date of the final rule. A 2006 Institute of Clean Air Companies (ICAC) study indicated that the installation time for a typical SNCR retrofit, from bid to startup-up, is 10–13 months.[83] In relation to other industrial sources, such as fossil fuel boilers, there are a limited number of examples of SNCR installation on lime kilns. Given this relative lack of information regarding SNCR installation schedules on lime kilns, we consider three years to be an appropriate length of time to design, install, and test an ammonia injection system for a lime kiln. In addition, we are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this emission limit. As part of the proposed monitoring requirements, we are including a requirement to monitor rates of ammonia injection in order to ensure proper operation of the SNCR in a manner that minimizes ammonia emissions.

3. Proposed BART for SO_2

For our BART analysis, we identify all available control technologies, eliminate options that are not technically feasible, and evaluate the control effectiveness of the remaining control options. We then evaluate each control in terms of a five-factor BART analysis and make a determination for BART.

a. Control Technology Analysis for SO_2

EPA proposes to find that DSI and switching to lower sulfur fuel are technically feasible controls, while wet or semi-dry scrubbing is not technically feasible.

Wet or Semi-Dry Scrubbing: We do not consider wet or dry scrubbing to be a feasible technology to control SO_2 emissions for this source. Wet scrubbing involves passing flue gas downstream from the main particulate matter control device through a sprayed aqueous suspension of lime or limestone that is contained in a scrubbing device. The SO_2 reacts with the scrubbing reagent to form lime sludge that is collected. The sludge usually is dewatered and disposed of at an offsite landfill. However, LNA has concluded, and we agree, that there is not sufficient water available for this type of system. According to LNA, two ground water wells supply about 106 gallons per minute (gpm) to the Nelson Plant, which currently uses about 80 gpm. Therefore, only 26 gpm of water is available for a scrubbing system that, even for a semi-dry scrubbing system that has lower water requirements than wet scrubbing, would require about 117 gpm. Moreover, a 1998 hydrologic report indicates that the prospects for developing additional wells, even low-yield wells, on the Nelson property are poor.[84] After reviewing the hydrologic report and the vendor estimate of water requirements for a semi-dry scrubber, we agree with this assessment.

Dry Sorbent Injection: DSI involves the injection of powdered absorbent directly into the flue gas exhaust stream. The sorbent reacts with SO_2 in the exhaust to form solid particles that are then removed by a particulate matter control device downstream of the sorbent injection. DSI is a simple system that generally requires a sorbent storage tank, feeding mechanism, transfer line and blower, and an injection device. DSI is generally considered technically feasible for the cement industry, although the level of control effectiveness may vary based upon site-specific conditions. We consider this option technically feasible for lime kilns. LNA has not included information in its analysis indicating

[83] See "Typical Installation Timelines for NO_X Emissions Control Technologies on Industrial Sources," Institute of Clean Air Companies, December 4, 2006.

[84] See "Results of Hydrogeologic Investigations for Development of Additional Water Supply, Chemical Lime Company, Nelson Plant, Yavapai County, AZ," July 8, 1998.

that DSI would be infeasible for the Nelson Plant kilns.

Lower Sulfur Fuel: The lower sulfur fuel option described by LNA involves changing the proportion of coal and petroleum coke used as a fuel blend. LNA currently uses a blend of 27 percent coal and 73 percent petroleum coke, on a mass basis, as the fuel for the kilns. Since coke has about four to five times more sulfur than coal, it is possible to decrease the sulfur in the fuel blend by increasing the proportion of coal. However, an increase in coal in the fuel blend will also increase the ash content of the fuel blend. Ash in the fuel can disrupt operations due to the buildup of ash rings in the kilns. A fuel blend with an ash content of about 6.5 percent or less must be used in order to avoid these operational challenges.

As noted in fuel usage and purchase records, the Nelson Plant currently operates on a coal and petroleum coke mixture. As a result, we consider adjusting the coal/coke ratio in the fuel mixture to be a technically feasible option. We note, however, that since the BART Guidelines do not require fuel supply changes to be considered as a control option, we have typically not considered changes in fuel in BART analyses.[85] However, because LNA included lower sulfur fuel in its analysis, we have retained it as a control option.

b. BART Analysis for SO_2

EPA conducted a five-factor BART analysis of the two technically feasible control options, DSI and lower sulfur fuel, to evaluate the cost-effectiveness and visibility benefit of each option along with any effect on the other factors.

Cost of Compliance: Our consideration of the cost of compliance focuses primarily on the cost-effectiveness of each control option as measured in cost per ton and incremental cost per ton. We estimate the SO_2 emissions rates for DSI and lower sulfur fuel as shown in Table 23, and the cost-effectiveness of these options as shown in Table 24. DSI has a control efficiency of 40 percent that results in about 1,588 tpy of SO_2 removed from both kilns. Lower sulfur fuel has a control efficiency of 23.3 percent that results in about 925 tpy of SO_2 removed from both kilns. Based on the total annual costs of controlling SO_2 emissions at both kilns, DSI would cost an average of about $4,200 per ton removed and lower sulfur fuel about $860 per ton removed. Since there is no existing SO_2 control technology in use in the plant, baseline emissions reflect uncontrolled SO_2 emissions.

While we consider it appropriate to use 40 percent control efficiency[86] for DSI, we are inviting comment on the control effectiveness of 23.3 percent for a lower sulfur fuel blend based on the ratio of coal (1.15 percent sulfur) to petroleum coke (5.64 percent sulfur). LNA estimates that the maximum coal-to-coke ratio to maintain overall fuel ash content below 6.5 percent is a 50 percent coal to 50 percent coke fuel mixture. A 50/50 mix corresponds to a fuel sulfur reduction of 1.13 percentage points, which represents a 23.3 percent reduction from the current fuel mixture. Based on a review of coal and coke properties along with historical fuel usage at the Nelson Plant, we agree with the use of a 50/50 coal-to-coke ratio and 23.3 percent control effectiveness. However, LNA cites operational issues with fuel ash content above 6.5 percent. Since ash is a contaminant that can adversely affect lime product quality, we are seeking comment regarding the extent to which it is appropriate to use fuel ash content of 6.5 percent as the upper bound for determining fuel mixture ratio. We may finalize a different fuel mixture ratio based upon the comments we receive.

In estimating the costs of compliance, LNA relied on a vendor quote for purchased equipment provided by Noltech dated May 22, 2013, with the remainder of the capital costs calculated using the cost methodology contained in EPA's Control Cost Manual.[87] While these capital costs are higher than those estimated by our contractor, we consider the use of the Noltech vendor quote for the Nelson Plant reasonable, and have incorporated it into our evaluation of the costs of compliance. With regard to annual operating & maintenance costs, LNA has asserted a confidential business information (CBI) claim regarding certain annual operating costs such as reagent usage. As a result, we have prepared our own independent estimate of annual operating costs based upon a combination of publicly available data and certain assumptions as described in the contractor's report. Detailed cost calculations can be found in the docket.[88]

TABLE 23—NELSON LIME PLANT: SO_2 CONTROL OPTION EMISSION ESTIMATES

SO_2 control technology	Control efficiency (%)	Emission factor (lb/ton lime)	Maximum emission rate		Removed (tpy)
			lb/day	Tpy	
Kiln 1:					
Baseline	.....	12.15	10,526	1,571	.....
Lower Sulfur Fuel Blend	23.30	9.32	8,073	1,205	366
Dry Sorbent Injection	40	7.29	6,316	943	628
Kiln 2:					
Baseline	.....	12.69	15,808	2,400	.....
Lower Sulfur Fuel Blend	23.30	9.73	12,125	1,841	559
Dry Sorbent Injection	40	7.61	9,485	1,440	960

[85] 40 CFR Part 51, Appendix Y, Section IV.D.1.5, "STEP 1: How do I identify all available retrofit emission control techniques?"

[86] While the control efficiency for DSI is much higher for cement kilns, LNA conducted onsite testing of DSI on the lime kilns at the Nelson Plant that demonstrated it is appropriate to use 40 percent control efficiency. The docket includes a comparison of LNA's tests of DSI to the analysis in our contractor's report.

[87] Vendor quote included as an attachment to *BART Five Factor Analysis, Lhoist North America Nelson Lime Plant;* (Public version dated September 27, 2013).

[88] See spreadsheet "Nelson Control Costs 2013–10–24.xlsx" in the docket.

TABLE 24—NELSON LIME PLANT: SO_2 CONTROL OPTION COST-EFFECTIVENESS

SO_2 control technology	Capital cost ($)	Annual direct costs ($/yr)	Annual indirect costs ($/yr)	Total annual cost ($/yr)	Emission reduction (tpy)	Cost-effectiveness ($/ton) Average	Cost-effectiveness ($/ton) Incremental
Kiln 1:							
Lower Sulfur Fuel Blend	.....	.....	.....	$313,096	366	$856	.....
Dry Sorbent Injection	$2,497,559	$371,174	$2,621,832	2,621,832	628	4,174	$8,803
Kiln 2:							
Lower Sulfur Fuel Blend	.....	.....	.....	458,179	559	819	.....
Dry Sorbent Injection	2,497,559	371,174	3,895,774	3,895,774	960	4,058	8,576

Pollution Control Equipment in use at the Source: The presence of existing pollution control technology at the Nelson Plant is reflected in the BART analysis in two ways: first, in the consideration of available control technologies, and second, in the development of baseline emission rates for use in cost calculations and visibility modeling. In the case of SO_2, the kilns at the Nelson Plant do not operate with any existing control technology. This is reflected in the baseline emission rates, which represent uncontrolled SO_2 emissions.

Energy and non-air quality environmental impacts: Regarding the first option, DSI systems require electricity for operation. The generation of the electricity needed to operate a DSI system will likely involve fuel combustion that will generate emissions. Emissions also are associated with the transport, handling, and storage of sorbent. Overall, while the use of DSI will cause emissions from select activities, the emissions should be low compared to the reduction in SO_2 that would be gained by operating a DSI system. Regarding the second option, using a lower sulfur fuel blend means LNA will obtain more of the energy for lime production from coal and less of the energy from coke. Since the heating value of coke is slightly higher than the heating value of coal, it is likely that LNA will burn more total mass of fuel as a result of substituting some coal for coke. While burning a lower sulfur fuel blend will likely result in a reduction in SO_2 emissions, it will involve the overall use of greater quantities of coal, which may result in a collateral increase of other pollutants such as NO_X and CO.

Remaining Useful Life of the Source: We are considering the "remaining useful life" of the kilns as one element of the overall cost analysis as allowed by the BART Guidelines. In the absence of any enforceable closure date, we have used a 20-year amortization period described in the EPA Cost Control Manual as the remaining useful life for the control options considered for the Nelson Plant kilns. Since there is no capital costs associated with using a lower sulfur fuel blend, the remaining useful life of the kilns is not a factor in the evaluation of this technology.

Degree of Visibility Improvement: As was the case for NO_X, EPA post-processed LNA's modeling results for SO_2 controls. The greatest improvement from DSI is 0.2 dv, occurring at the Grand Canyon, with improvements at other areas a third or less than this. The cumulative improvement is 0.6 dv. The maximum and cumulative improvements from switching to lower sulfur fuel are roughly half of these amounts. While visibility improvement by itself could support either DSI or lower sulfur fuel as BART, lower sulfur fuel is favored by its much lower average cost-effectiveness at $819–856/ton compared to over $4000 for DSI. Baseline and control option emission rates used in SO_2 control scenario modeling are summarized in Table 25 with the modeling results in Table 26.[89]

TABLE 25—NELSON LIME PLANT: SO_2 CONTROL MODEL EMISSION RATES

SO_2 control technology	Control efficiency %	Emission factor lb/ton lime	Maximum 24-hr model emission rate lb/day	lb/hr	g/s
Kiln 1:					
Baseline	.....	12.15	10,526	439	55
Lower Sulfur Fuel Blend	23.30	9.32	8,073	336	42
Dry Sorbent Injection (SBC)	40	7.29	6,315	263	33
Kiln 2:					
Baseline	.....	12.69	15,808	659	83
Lower Sulfur Fuel Blend	23.30	9.73	12,125	505	64
Dry Sorbent Injection (SBC)	40	7.61	9,489	395	50

TABLE 26—NELSON LIME PLANT: SO_2 CONTROL OPTION VISIBILITY MODELING RESULTS

Class I area	Distance (km)	Visibility impact Base case	Visibility improvement DSI (ctr2)	Visibility improvement Low-S fuel (ctr3)
Bryce Canyon NP	235	0.20	0.03	0.02

[89] These results are from EPA's post-processing of LNA's modeling. See the TSD for a discussion of the differences between EPA's results and the results reported by LNA in their BART analysis.

TABLE 26—NELSON LIME PLANT: SO_2 CONTROL OPTION VISIBILITY MODELING RESULTS—Continued

Class I area	Distance (km)	Visibility impact	Visibility improvement	
		Base case	DSI (ctr2)	Low-S fuel (ctr3)
Grand Canyon NP	24	1.79	0.21	0.10
Joshua Tree NP	238	0.23	0.07	0.04
Mazatzal WA	206	0.15	0.04	0.02
Pine Mountain WA	199	0.15	0.04	0.02
Sierra Ancha WA	289	0.11	0.04	0.02
Superstition WA	288	0.13	0.04	0.02
Sycamore Canyon WA	132	0.31	0.06	0.04
Zion NP	183	0.28	0.04	0.02
Cumulative (sum)	.....	3.34	0.57	0.29
Maximum	.....	1.79	0.21	0.10
# CIAs >= 0.5 dv	.....	1	0	0
Million $/dv (cumul. dv)	.....	.....	$11.5	$2.6
Million $/dv (max. dv)	.....	.....	$30.7	$8.1

c. Proposed BART Determination for SO_2

We propose to find that BART for SO_2 is the use of a lower sulfur fuel blend with an emission limit of 9.32 lb/ton for Kiln 1 and 9.73 lb/ton for Kiln 2 [90] on a rolling 30-day basis. In evaluating the costs of compliance, we note that we consider DSI and lower sulfur fuel to both be cost-effective control options, with average cost-effectiveness values of approximately $800/ton and $4,000/ton, respectively. In evaluating anticipated visibility benefit, while DSI is anticipated to achieve the greatest visibility improvement (0.21 dv at Grand Canyon), this amount of visibility improvement is not large, nor is the benefit anticipated for the next most stringent control option, lower sulfur fuel (0.10 dv at Grand Canyon). In considering the other factors, there is no significant effect on the outcome of the cost and visibility analyses. The lack of existing control technology is reflected in the baseline in the form of uncontrolled SO_2 emissions. In examining energy and non-air quality impacts, we note that there may be certain collateral increases in emissions, but that these increases are outweighed by the emission reductions achieved by implementing the control technology and do not warrant their elimination. The remaining useful life of the source is reflected in the evaluation of the cost of compliance. We consider both DSI and use of lower sulfur fuel to be cost-effective, but note that the most stringent option, DSI, is considerably less cost-effective than the use of lower sulfur fuel, with an incremental cost-effectiveness, relative to lower sulfur fuel, of approximately $9,000/ton. As a result, although DSI is the most stringent control option, the visibility benefit it achieves is not large, and is achieved at a very high incremental cost relative to the next most stringent control option. Based on this information, we propose to find that BART for SO_2 is the use of a lower sulfur fuel blend.

4. Proposed BART for PM_{10}

For our BART analysis, we identified fabric filter baghouses, the existing control technology for PM_{10} on Kilns 1 and 2, as the most stringent control available for this type of source.

a. Control Technology Analysis for PM_{10}

The Nelson Plant, as a major source of hazardous air pollutants (HAPs), is subject to the Maximum Achievable Control Technology (MACT) Standard for Lime Manufacturing Plants, and is required to meet an emission limit of 0.12 lbs PM/TSF (ton of stone feed).[91] The BART Guidelines provide that unless there are new technologies subsequent to the MACT standards that would lead to cost-effective increases in the level of control, one may rely on the MACT standards for purposes of BART.[92] Based on information developed as part of the Lime MACT, we estimate that existing fabric filter upgrades would result in annual costs of $94,500.[93] As noted in LNA's BART analysis, baseline PM emissions for the two kilns, based on PM filterable stack test data and annual lime production, are approximately 8 tpy and 15 tpy.[94] This would result in an average cost-effectiveness of about $6,300 to $12,000/ton.

b. BART Analysis for PM_{10}

The BART Guidelines provide that, in instances where a source already has the most stringent controls available (including all possible improvements), it is not necessary to complete each step of the BART analysis. Further, as long as the most stringent controls available are made federally enforceable for the purpose of implementing BART for that source, one may skip the remainder of the analysis, including the visibility analysis.[95]

c. Proposed BART Determination for PM_{10}

We propose a BART emission limit of 0.12 lb/TSF to control PM_{10} at Kilns 1 and 2 based on the use of the existing fabric filter baghouses and commensurate with the MACT standard that applies to this source. We seek comment on any cost-effective upgrades or improvements that may result in a lower emission limit. We propose to require compliance with this requirement within 6 months after the effective date of the final rule. We also propose regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this emission limit that is found at the end of this notice.

C. Hayden Smelter

Summary: EPA proposes to find that the ASARCO Hayden Smelter is subject to BART for NO_X in addition to SO_2 as

[90] The differing emission limits are due to the different baseline performance of the two kilns.

[91] 40 CFR Part 63, Subpart AAAAA, Table 1, Item 1 for existing lime kilns with no wet scrubber prior to 2005.

[92] 40 CFR Part 51, Appendix Y, Section IV.C.

[93] Annual costs as described in the Economic Impact Analysis for the Lime Manufacturing MACT Standard (EPA–452/R–03–013), Table 3–2, Model Kiln F. Adjusted from 1997 to 2013 dollars using the consumer price index, available at *ftp://ftp.bls.gov/pub/special.requests/cpi/cpiai.txt.*

[94] As described in the LNA Nelson BART Analysis, Table 4–5.

[95] 40 CFR Part 51, Appendix Y, Section IV.D.9.

determined by the State. ASARCO must capture and control SO_2 emissions from the converter units that are subject to BART. In the current method of operation, thousands of tons of SO_2 from these units are vented to the atmosphere with no pollution control. One method to control SO_2 emissions from the converter units is to install and operate a second double contact acid plant with a control efficiency of about 99.8 percent on a 30-day rolling average. We estimate the annual cost of constructing and operating a second acid plant to control SO_2 emissions is about $872 per ton of SO_2 removed. While we consider the cost of a new acid plant to be reasonable, we are proposing a performance standard as BART rather than prescribing a particular method of control. For NO_X, we propose to set an annual emission limit of 40 tpy from the BART-eligible units, based on our proposed determination that no NO_X controls are needed for BART at the Hayden Smelter. Finally, we are proposing an emission limit and associated compliance requirements for PM_{10}.

Affected Class I Areas: Twelve Class I areas are within 300 km of the Hayden Smelter. Their nearest borders range from 48 km to 239 km away. Galiuro WA and Superstition WA are the closest, followed by Saguaro NP and Sierra Ancha WA. The highest baseline 98th percentile visibility impact is 1.7 dv at Superstition, with impacts at Galiuro slightly lower. Baseline visibility impacts at each of the twelve areas exceed 0.5 dv. The cumulative sum of visibility impacts over all the Class I areas is 12.1 dv.

Facility Overview: ASARCO Hayden Smelter is a batch-process copper smelter in Gila County, Arizona. We previously approved ADEQ's determination that converters 1, 3, 4 and 5 and Anode Furnaces 1 and 2 at the facility are BART-eligible.[96] We also approved ADEQ's determination that these units are subject to BART for SO_2 and that BART for PM_{10} at ASARCO Hayden is no additional controls. However, we disapproved ADEQ's determination that existing controls constitute BART for SO_2 and that the units are not subject to BART for NO_X. In light of these disapprovals and our FIP duty for regional haze in Arizona, we are required to promulgate a FIP to address BART for SO_2 and NO_X.

Baseline Emissions Calculations: Since neither ASARCO nor ADEQ identified baseline emissions for the Hayden Smelter, we calculated baseline emissions for SO_2 and NO_X. For SO_2, we used as the baseline the average of the two highest emitting years from the last five years that ASARCO reported to ADEQ. For NO_X, we estimated emission rates based on the rated natural gas capacity of the burners in the four subject-to-BART converters and the two anode furnaces.[97] As indicated in Table 27, the majority of the source's SO_2 emissions (20,341 tpy of a total of 22,621 tpy) are process emissions from the converters. These process SO_2 emissions are collected through a secondary capture system, but are emitted uncontrolled through an annular stack that bypasses the existing double contact acid plant. While our BART analysis focuses on these uncontrolled SO_2 emissions from the converters, we also evaluated improved control of the SO_2 emissions from the existing acid plant and from the anode furnaces as well as controlling NO_X emissions from all the BART units.

TABLE 27—HAYDEN SMELTER: BART BASELINE EMISSIONS

[Tons per year]

	Converters			Anode furnaces	Total
	Existing acid plant (primary capture)	Annular stack (secondary capture)	Uncaptured		
SO_2	1,034	20,341	1,209	37	22,621
NO_X	31			19	50

Modeling Overview: EPA is relying on modeled baseline and post-control impacts of the ASARCO Hayden Smelter using stack parameters provided by ASARCO in response to a 2013 EPA information request.[98] We also modeled using stack parameters based on a 2012 stack test.[99] Stack exit temperatures were comparable for these two models, but the exit velocities from the 2012 stack test were far lower than those provided by ASARCO in 2013. The 2012 stack test parameters resulted in visibility impacts and control benefits about 10 percent higher than the model using the 2013 parameters. We are conservatively using the 2013 ASARCO parameters to evaluate controls, since using the 2012 parameters would yield even greater visibility improvements. For both sets of modeling runs, EPA used emission rates that were developed using information provided by ASARCO.

1. BART Analysis and Determination for SO_2 From Converters

a. Control Technology Availability, Technical Feasibility and Effectiveness

EPA identified two available technology options to control the 20,341 tons of SO_2 emissions from the annular stack that are captured by a secondary collection system, but are released uncontrolled through the annular stack. These options are to construct and operate a second double contact acid plant or install a wet scrubber on the annular portion of the existing stack. In addition, we found that ASARCO could add a tail stack scrubber to the existing acid plant to address the remaining emissions that are not converted and removed as sulfuric acid by the acid plant. Regarding technical feasibility, we note that ASARCO Hayden currently uses a double contact acid plant to control SO_2 emissions captured by the primary capture system. Wet scrubbing also is commonly used in many industries to control SO_2. Thus, we find

[96] 78 FR 46412 (July 30, 2013). Please refer to the TSD for a description of these units.

[97] ASARCO Hayden Title V permit.

[98] Letter from Jack Garrity, ASARCO to Thomas Webb, EPA, July 11, 2013; attached Memorandum from Ralph Morris and Lynsey Parker, ENVIRON, to Eric Hiser, Jorden, Bischoff and Hiser, PLC, March 4, 2013.

[99] ASARCO Hayden CEMS Test Report, Energy and Environmental Measurement Corporation, Test date: September, 2012.

that the double contact acid plant and wet scrubbing are technically feasible. In terms of control effectiveness, ASARCO indicated in a letter[100] to EPA that its double contact acid plant is capable of recovering 99.8 percent of the SO_2 vented to it.[101] In the same letter, ASARCO noted that the expected control effectiveness of wet scrubbing is 85 percent. We used these removal efficiencies in our five-factor analyses. These analyses are explained in the TSD and summarized below.

b. Option 1: Double Contact Acid Plant for Secondary Capture

Cost of Compliance: EPA determined the cost-effectiveness of a new double contact acid plant is $872 per ton of SO_2 removed as shown in Table 28. As explained in the TSD, we conservatively estimated the cost of construction of a double contact acid plant to be $81,621,297. The annualized capital costs are based on a 20-year lifespan and a seven percent interest rate. We applied a control efficiency of 99.8 percent, which the existing acid plant is currently achieving with limited cesium catalyst. The emission reduction was applied to the secondary capture system baseline emissions. This cost analysis does not include the offsetting value of any sulfuric acid produced and sold. It does assume full catalyst replacement every other year and air preheating with natural gas for 8,760 hours per year.

TABLE 28—HAYDEN SMELTER OPTION 1: SECOND DOUBLE CONTACT ACID PLANT

Capital cost	Annualized capital cost	Annual variable cost	Total annual cost	Tons SO_2 reduced	Control efficiency	$/ton SO_2 removed
$81,621,297	$7,704,573	$10,006,010	$17,710,483	20,341	99.8%	$872

Energy and Non-Air Quality Environmental Impacts: Controlling secondary capture with a sulfuric acid plant at the Hayden Smelter would require energy to heat inlet air from approximately 177 °F to 735 °F. This would require a heat input of approximately 114 MMBtu/hour and could require 1,200 MMscf of natural gas per year, resulting in up to 30 tpy of NO_X emissions.[102] This assumes 100 percent of the needed heat results from natural gas combustion. Non-air quality impacts from a second acid plant are not expected to be significant given that ASARCO already has the capacity to handle and store the much larger quantities of sulfuric acid produced by the primary acid plant.

Pollution Control Equipment in Use at the Source: As noted above and further described in the TSD, a portion of the emissions from the converters are controlled by a gas cleaning plant to remove particulate matter and a double contact sulfuric acid plant that converts SO_2 to sulfuric acid. We considered these controls as part of our analysis of available control technologies and in developing baseline emission rates for use in cost calculations and visibility modeling.

Remaining Useful Life of the Source: The BART-eligible converters have each been in place for about 40 years or longer. ASARCO has not indicated that any of the converters would need to be replaced during the 20-year capital cost recovery period.

Degree of Visibility Improvement: Controlling SO_2 emissions through a second double contact acid plant at a 98.8 percent efficiency results in visibility improvement in 12 Class I areas in Arizona and New Mexico as indicated in Table 29. Based on air quality modeling, visibility improvement from controlling SO_2 by constructing a new acid plant to control converter emissions from the secondary capture system is 1.5 dv at Superstition, and nearly the same at Galiuro. Eleven of the Class I areas improve by at least 0.5 dv. The cumulative improvement is 10.3 dv. The large visibility improvement at many Class I Areas supports the choice of a new acid plant as BART for SO_2.

TABLE 29—HAYDEN SMELTER OPTION 1: VISIBILITY IMPACT AND IMPROVEMENT FROM SO_2 CONTROLS

Class I area	Distance (km)	Visibility impact base case (base)	Visibility improvement new acid plant (ctrl2)
Chiricahua NM	170	1.05	0.89
Chiricahua WA	174	1.01	0.87
Galiuro WA	48	1.73	1.45
Gila WA	186	0.69	0.60
Mazatzal WA	121	0.88	0.75
Mount Baldy WA	151	0.66	0.56
Petrified Forest NP	215	0.70	0.61
Pine Mountain WA	168	0.67	0.57
Saguaro NP	82	1.38	1.18
Sierra Ancha WA	84	1.09	0.93
Superstition WA	50	1.74	1.47
Sycamore Canyon WA	239	0.51	0.44
Cumulative (sum)	.....	12.10	10.32
Maximum	.....	1.74	1.47
# CIAs >= 0.5 dv	.....	12	11
Million $/dv (cumul. dv)	.....	.....	$1.7
Million $/dv (max. dv)	.....	.....	$12.1

[100] Letter from Jack Garrity, ASARCO to Thomas Webb, EPA, July 11, 2013.

[101] *Ibid.*

[102] This is based on the AP 42 factor for low-NO_X burners.

c. Option 2: Wet Scrubber on Existing Stack for Secondary Capture

Cost of Compliance: EPA determined that the annual cost of using a wet scrubber to control SO_2 emissions from the secondary capture system is $972 per ton of SO_2 removed as displayed in Table 30. We calculated the costs of constructing and operating a wet scrubber based on information provided in ASARCO's letter[103] from which we used the highest operating cost estimates to demonstrate cost-effectiveness. We also included a sludge hauling fee of $60 per ton and assumed one ton of SO_2 controlled would result in five tons of sludge. According to ASARCO, these costs do not include the cost of a booster fan or a modified stack that may be needed, thereby somewhat increasing the cost over what is shown here. Although the calculation includes the cost of hauling sludge off site, it does not include the cost of treating or landfilling the sludge.

TABLE 30—HAYDEN SMELTER OPTION 2: WET SCRUBBER ON EXISTING STACK

Capital cost	Annualized capital cost	Annual variable cost	Total annual cost	Tons SO_2 reduced	Control efficiency	$/ton SO_2 removed
$28,000,000	$2,643,002	$14,186,965	$16,829,967	17,290	85%	$972

Energy and Non-Air Quality Environmental Impacts: Operation of a wet scrubber would likely require operation of a booster fan and a gas re-heater to force emissions through the 305 meter stack. The addition of a wet scrubber could result in a detached visible plume as water vapor emitted from the scrubber condenses. Addition of a scrubber would result in sludge which would have to be shipped off site to be treated or landfilled. Because of metals in the sludge, it may need to be treated as hazardous waste.

Pollution Control Equipment in Use at the Source: This is the same as for Option 1.

Remaining Useful Life of the Source: This is the same as for Option 1.

Degree of Visibility Improvement: We did not conduct visibility modeling for this option. Because a scrubber is less efficient at removing SO_2 than a second acid plant, the emission rates would be higher and there would be less visibility improvement from a scrubber compared to an acid plant. Given that scrubbers are less cost-effective than a second acid plant, we deemed it unnecessary to model impacts.

d. Option 3: Wet Scrubber on Acid Tail Stack for Primary Capture

Cost of Compliance: EPA determined the annual cost of using a wet scrubber to control SO_2 emissions from the existing acid plant tail stack is $13,564 per ton of SO_2 removed as displayed in Table 31. We calculated the costs of constructing and operating a wet scrubber based on information provided by ASARCO.[104] In this case, we used the low-end estimate of operating costs because we are demonstrating that this option is not cost-effective. We also included a sludge hauling fee of $60 per ton and assumed one ton of SO_2 controlled would result in five tons of sludge. Again, these costs did not include the cost of a booster fan or a modified stack that may be needed. Although the calculation included the cost of hauling sludge off site, it did not include the cost of treating or disposing the sludge, which may be classified as hazardous waste depending on the metals content. In addition, we note that some of the SO_2 that passes through the acid plant is emitted by the flash furnace that is not BART-eligible.

TABLE 31—HAYDEN SMELTER OPTION 3: WET SCRUBBER ON ACID TAIL STACK

Capital cost	Annualized capital cost	Annual variable cost	Total annual cost	Control efficiency	Tons SO_2 reduced	$/ton SO_2 removed
$28,000,000	$2,643,002	$9,274,521	$11,917,523	85%	879	$13,564

Energy and Non-Air Quality Environmental Impacts: This is the same as for Option 2.

Pollution Control Equipment in Use at the Source: This is the same as for Options 1 and 2.

Remaining Useful Life of the Source: This is the same as for Options 1 and 2.

Degree of Visibility Improvement: We did not conduct visibility modeling for a tail stack scrubber because of the high control cost per ton of SO_2. However, because the scrubber would remove much less SO_2 than options 1 or 2 (second acid plant and wet scrubber on the secondary capture, respectively), the expected visibility improvement is far less than for options 1 and 2.

e. Proposed BART Determination for SO_2 From Converters

Based on the results of our BART analysis, we propose that BART for SO_2 from the converters is a level of control consistent with what ASARCO could achieve through the installation of a new double contact acid plant. This would control about 20,341 tpy of SO_2 emissions from the converter units at a cost of about $872 per ton of SO_2 removed, which we consider highly cost-effective. The expected visibility benefits of this option are substantial with a greater than 0.5 dv improvement in eleven Class I areas with a maximum benefit of 1.47 dv at Superstition WA. We propose to find that the energy and non-air quality environmental effects of this option are not sufficient to warrant elimination of this option.

Regarding the other options, a wet scrubber for the secondary capture (Option 2) is less effective at a similar annual cost but with greater non-air environmental impacts. Therefore, we do not propose to require this as BART. Adding a scrubber to the existing acid tail stack for the primary capture (Option 3) would result in a relatively small amount of additional emissions reductions at a relatively high cost ($13,564 per ton of SO_2 removed) and with potentially significant non-air environmental impacts. Therefore, we propose that the addition of a scrubber

[103] Letter from Jack Garrity, ASARCO to Thomas Webb, EPA (July 11, 2013).

[104] *Ibid.*

to the existing acid plant is not required as BART.

The specifics of our BART proposal for SO_2 from the converters are as follows:

- An SO_2 control efficiency of 99.8 percent, 30-day rolling average, on all SO_2 captured by the primary and secondary control systems. The control efficiency may be averaged between the two capture systems on a mass basis, if needed. (For every 30-day period the total mass of SO_2 exiting the two control systems must be no greater than 0.0019 percent of the SO_2 entering the control systems.)
- Compliance with the SO_2 BART limit may be verified either through the use of SO_2 CEMS before and after controls in each system or by using post-control CEMS and acid production rates. A limit of 2.49 lbs SO_2 emissions per tons of sulfuric acid production is equivalent to 99.8 percent control.
- Operation and maintenance of primary and secondary capture systems meeting the requirements of 40 CFR part 63, subpart QQQ.

We propose to require that these requirements be met within 3 years of promulgation of the final rule, consistent with the requirement of the CAA and the RHR that BART be installed "as expeditiously as practicable."

2. BART Analysis and Determination for SO_2 From Anode Furnaces

a. BART Analysis for SO_2 From Anode Furnaces

We identified the same two control technologies for the anode furnaces: a new double contact acid plant and a wet scrubber. In addition, we considered whether emissions from the anode furnaces might be vented to the existing acid plant.

Cost of Compliance: Based on our calculations, we estimated that the cost to control 37 tpy of SO_2 from the anode furnaces by construction of a new acid plant is over $28,000 per ton, not including the cost of inlet preheating,[105] as shown in Table 32. The estimated cost of installing and operating a wet scrubber is even more expensive at over $80,000 per ton[106] as shown in Table 33.

TABLE 32—HAYDEN SMELTER: NEW ACID PLANT FOR THE ANODE FURNACES

Capital cost	Annualized capital cost	Annual variable cost	Total annual cost	Tons SO_2 reduced	Control efficiency	$/ton SO_2 removed
$8,583,190	$810,192	$261,827	$1,071,920	37	99.8%	$28,616

TABLE 33—HAYDEN SMELTER: NEW WET SCRUBBER FOR THE ANODE FURNACES

Capital cost	Annualized capital cost	Annual variable cost	Total annual cost	Tons SO_2 reduced	Control efficiency	$/ton SO_2 removed
$7,000,000	$660,750	$2,009,570	$2,670,320	32	85%	$83,708

Energy and Non-Air Quality Environmental Impacts: This is the same as for the converters.

Pollution Control Equipment in Use at the Source: The anode furnaces currently have no SO_2 controls in place.

Remaining Useful Life of the Source: ASARCO has not indicated that any of the anode furnaces would need to be replaced during the 20-year capital cost recovery period.

Degree of Visibility Improvement: We did not conduct visibility modeling for the anode furnace emissions. However, since the emissions from these units are a small fraction of those from the converters, the expected visibility improvement would be far less than for any of the controls considered for the converters.

b. Proposed BART Determination for SO_2 From Anode Furnaces

Given the high cost of control, and the small potential for visibility improvement, we propose that controlling the 37 tpy of SO_2 emissions from the anode furnaces is not warranted as BART. Furthermore, while redirecting the anode furnace emissions to the existing acid plant might be technically feasible and cost-effective, the emission reductions and visibility benefit, although not calculated, would be much smaller than the calculated benefits from controlling additional emissions from the converters.

In order to ensure that emissions from anode furnaces do not increase substantially in the future, we are proposing to establish a work practice standard for these units. While BART determinations are generally promulgated in the form of numeric emission limitations, the RHR allows for use of equipment requirements or work practice standards in lieu of a numeric limit where "technological or economic limitations on the applicability of measurement methodology to a particular source would make the imposition of an emission standard infeasible."[107] In this case, we find that a numerical emission limitation for the anode furnaces would be infeasible because of the relatively small amount of emissions from these units, compared with the converters. Therefore, we are proposing to establish a work practice standard in the form of a requirement that the anode furnaces be charged with blister copper or higher purity copper. Because blister copper is generally 98 to 99 percent pure copper, this requirement will ensure that sulfur emission from the anode furnaces are minimized.

3. Subject-to-BART, BART Analysis and BART Determination for NO_X

a. Proposed Subject-to-BART Finding for NO_X

As explained in our final rule on the Arizona RH SIP, once a source is determined to be subject to BART, the RHR allows for the exemption of a specific pollutant from a BART analysis only if the potential to emit for that pollutant is below a specified de minimis level.[108] Neither the Hayden Smelter's current Title V permit nor the Arizona RH SIP contains any physical or operational limitations that would limit the PTE of the BART-eligible

[105] See the TSD for further discussion of this issue.

[106] See the TSD, Section III.D.4.

[107] 40 CFR 51.308(e)(1)(iii). See also 40 CFR 51.100(z) (defining "emission limitation" and "emission standard" to include "any requirements which . . . prescribe equipment . . . for a source to assure continuous emission reduction."

[108] 40 CFR 51.308(e)(1)(ii)(C).

source below the NO_X de minimis threshold of 40 tpy. Therefore, because the Hayden Smelter is subject to BART and has a PTE of more than 40 tons per year of NO_X, we have analyzed potential NO_X BART controls for the source.

b. BART Analysis for NO_X

The Hayden Smelter's NO_X emissions result from the combustion of natural gas to heat process equipment. LNB are an available, feasible and effective technical option for such process heaters, with an estimated control efficiency of 50 percent.[109]

Cost of Compliance: According to the Documentation Report accompanying AirControlNet, the cost to retrofit process heaters with LNB is $2,200 per ton.[110]

Energy and Non-Air Quality Environmental Impacts: No significant energy and non-air environmental impacts are expected to result from use of LNB.

Pollution Control Equipment in Use at the Source: No NO_X controls are currently employed at either the converters or the anode furnaces.

Remaining Useful Life of the Source: ASARCO has not indicated that any of the units would need to be replaced during the 20-year capital cost recovery period.

Degree of Visibility Improvement: The maximum modeled 98th percentile visibility impact resulting from baseline NO_X emissions from the Hayden Smelter is no higher than 0.01 dv[111] at any of the Class I areas. Thus, the maximum visibility benefit of controls is less than 0.01 dv.

c. Proposed BART Determination for NO_X

Given the small potential for visibility improvement, we propose that controlling these NO_X emissions is not warranted for purposes of BART. However, in order to ensure that NO_X emissions do not increase in the future, we propose to set a 12-month rolling limit of 40 tons of NO_X from the subject-to-BART units, which is equivalent to the de minimis level of emissions set out in the RHR.[112] This emission limit is slightly lower than the annual 50 tpy baseline emissions noted above. Nonetheless, we consider it to be a reasonable limit because the 50 tpy estimate assumes that all of the converters are all operating simultaneously, which is not how they typically operate. Therefore, we expect actual emissions to be well below 40 tpy, which is consistent with ASARCO's own estimate.[113]

4. Summary of EPA's Proposed BART Determinations

We propose that BART for SO_2 from the converters is a control efficiency of 99.8 percent, 30-day rolling average, on all SO_2 captured by the primary and secondary control systems. We propose to require compliance with this requirement within three years of promulgation of a final rule. We also are proposing monitoring, recordkeeping and reporting as well as operation and maintenance requirements, to ensure the enforceability of our proposed BART determination. We propose a work practice standard consistent with current practices for the anode furnaces. We also propose to set a 12-month rolling limit of 40 tons of NO_X from the subject-to-BART units.

We are seeking comment on all aspects of this proposal. In particular, we are seeking comment on the following elements of our BART analysis and determination for SO_2 from the converters:

- The cost of controls;
- the collection efficiency for the primary collection system;
- the collection efficiency for the secondary collection system;
- the control efficiency to be applied to the primary and secondary collections systems;
- the compliance methodology; and
- the compliance schedule.

If we receive additional information concerning these or other elements of our analysis, we may finalize a BART determination that differs in some respects from this proposal.

D. Miami Smelter

Summary: EPA proposes to find that the Miami Smelter is subject to BART for NO_X in addition to SO_2 and PM_{10}, as determined by the State. For SO_2 from the converters, we propose to require construction of a secondary capture system consistent with the requirements of MACT QQQ and an SO_2 control efficiency of 99.7 percent, 30-day rolling average, on all SO_2 captured by the primary and secondary capture systems. For SO_2 emissions from the electric furnace, we propose to prohibit active aeration of the electric furnace. For NO_X, we propose to find that controlling emissions from the converters and anode furnaces is cost-effective, but would not result in sufficient visibility improvement to warrant the cost. Therefore, we are proposing an annual emission limit of 40 tpy NO_X emissions from the BART-eligible units at the Miami Smelter, which is consistent with current emissions from these units. We previously approved Arizona's determination that BART for PM_{10} at the Miami Smelter is the NESHAP for Primary Copper Smelting. Please refer to the Long Term Strategy in Section VII below, regarding our proposal to ensure the enforceability of this determination.

Affected Class I Areas: Twelve Class I areas are within 300 km of the Miami Smelter with the nearest borders ranging from 55 km to 260 km away. The set of areas differs from the ones near the Hayden Smelter only in that Bosque Del Apache WA is included, and Sycamore Canyon WA is not. The baseline visibility impacts are 0.70 dv or less at all Class I areas except at Superstition where the visibility impact is 3.6 dv. The cumulative sum of visibility impacts at all areas within 300 km is 8.2 dv.

Facility Overview: The Miami Smelter is a batch-process copper smelter in Gila County, Arizona. We previously approved ADEQ's determination that Hoboken Converters 2, 3, 4 and 5 and the Electric Furnace at the facility are BART-eligible.[114] We also approved ADEQ's determination that these units are subject to BART for SO_2 and that BART for PM_{10} at the Miami Smelter is the Maximum Achievable Control Technology (MACT) Subpart QQQ under the National Emission Standards for Hazardous Air Pollutants (NESHAP) for primary copper smelting. However, we disapproved ADEQ's determination that existing controls constitute BART for SO_2 and that the units are not subject to BART for NO_X. In light of these disapprovals and our FIP duty for Regional Haze in Arizona, we are required to promulgate a FIP to address BART for both SO_2 and NO_X.

Baseline Emissions: Because neither FMMI nor ADEQ identified baseline emissions for the Miami Smelter, we selected emissions from 2010 as the baseline. We chose 2010 because ADEQ provided the most detailed emissions information from this year in its RH SIP and because FMMI used 2010 as a basis for calculating uncaptured emissions of SO_2 for 2011 and 2012. FMMI reports

[109] AirControlNet, Version 4.1, documentation report by E.H. Pechan and Associates, Inc. for U.S. EPA, Office of Air Quality, Planning, and Standards, May 2006, section III, page 445.

[110] *Id.*

[111] Summary of WRAP RMC BART Modeling for Arizona, Draft Number 5, May 25, 2007. Also, ASARCO response letter, July 11, 2013, ENVIRON memo attachment, March 4, 2012, ("H–09 2013–03–04 ENVIRON report-Asarco-Hayden-BART.pdf".

[112] 40 CFR 51.308(e)(1)(ii)(C).

[113] Letter from Krishna Parameswaran, ASARCO, to Gregory Nudd, EPA dated March 6, 2013, page 15.

[114] 78 FR 46412 (July 30, 2013). See also the TSD for a description of these units.

emissions of SO_2 to ADEQ by stack, and performs a mass-balance equation to determine uncaptured emissions. SO_2 emissions in tons per year are presented in Table 34 as reported by FMMI to ADEQ for the acid plant duct, acid plant bypass duct, and the vent fume duct.[115] Because each of these stacks vents emissions from both BART and non-BART emission units, EPA apportioned the emissions to BART and non-BART units for purposes of our analysis. The BART-eligible emissions from the acid plant were based on FMMI and ADEQ's estimate that 35 percent of SO_2 sent to the acid plant is emitted by the converters and 65 percent of SO_2 is emitted by the primary smelter (often called by a proprietary name, the IsaSmelt furnace) and electric furnace. Because it is not possible to differentiate which converter emissions are from the one converter that is not BART-eligible, we are treating all converter emissions as subject to BART. Subject-to-BART emissions from the vent fume duct were set at seven tons per year based on our estimate of the share of emissions originating from the electric furnace. Please refer to the TSD for an explanation for how the subject-to-BART uncaptured emissions are determined.

TABLE 34—MIAMI SMELTER: BART BASELINE EMISSIONS FOR SO_2 IN 2010

[Tons per year]

	Acid plant duct	Acid plant bypass	Vent fume duct	Uncaptured
Total SO_2 Emissions	1,415	93	331	8,472
Subject-to-BART SO_2 Emissions	495	33	7	3,231–8,078

FMMI also reports potentially BART-eligible NO_X emissions from the acid plant duct and from "natural gas combustion" to ADEQ as depicted in Table 35. FMMI estimates that 15 percent of NO_X emitted from the acid plant duct originates from the BART-eligible converters. While "natural gas emissions" includes emissions from the converter burners, it is not possible to separate the BART-eligible emissions from ineligible emissions. Thus, we are assuming that all these emissions are BART-eligible.

TABLE 35—MIAMI SMELTER: BART BASELINE EMISSIONS FOR NO_X IN 2010

[Tons per year]

	Acid plant duct	Natural gas combustion
Total NO_x Emissions	154	15
Subject-to-BART NO_X Emissions	23	15

Modeling Overview: Using the CALPUFF model, EPA estimated the visibility impacts of the Miami Smelter in its current (i.e., baseline) configuration, and with two different control options for SO_2 emissions. Model inputs were developed using work by the WRAP and updated stack and other information from FMMI. EPA made two different emissions calculations, incorporating high and low estimates of the amount of emissions that are not captured by the existing systems. Most of the discussion below focuses on modeling performed using the high estimate as shown in Table 37.

An additional complication for this facility is that most of the emissions occur via a "roofline," a long rectangular hole in the roof of the building containing the converters. Modeling the roofline as if it were a stack may be problematic, especially for nearby Class I areas. Modeling the roofline as a buoyant line source is a better characterization of the source. EPA performed sensitivity simulations, described in the TSD, and found that impacts do vary depending on whether it is modeled as a stack or a line source. Which modeling scenario resulted in higher impacts depended on the particular Class I area. EPA therefore modeled the main emissions from FMMI as a buoyant line source, despite the considerably longer model run times.

1. BART Analysis for SO_2 From Converters

a. Control Technology Availability, Technical Feasibility and Effectiveness

We identified two available and feasible technologies to control SO_2 emissions from the converters: a double contact acid plant and wet scrubbing. FMMI already uses these two technologies in series to control SO_2 emissions currently captured from the converters. Based on SO_2 acid plant emissions and sulfuric acid production data provided to EPA by FMMI, we calculated that the existing acid plant and tail gas scrubber system is controlling at least 99.7 percent of the SO_2 ducted to the acid plant,[116] which we consider effective. Because FMMI already uses both of the two available control technologies to control SO_2 emissions currently captured from the converters and achieves a high degree of control of these emissions, we did not further evaluate additional controls or upgrades to the existing controls as BART. Rather, we evaluated ways to improve the capture efficiency of the existing system so that additional emissions may be collected and controlled.

In order to analyze options for improved capture, we requested information from FMMI regarding potential design improvements, upgrades to existing equipment or new equipment that could increase the degree of capture of SO_2 emissions from the converters.[117] In response, FMMI reported that it planned to improve the

[115] The vent fume duct is the stack for a wet scrubber used to control emissions collected by the IsaSmelt secondary collection system, other collection systems associated with conveyors that are not BART-eligible, and emissions collected by the BART-eligible electric furnace secondary collection system.

[116] Letter from Derek Cooke, FMMI, to Thomas Webb, EPA, Appendices A and C, January 25, 2013.

[117] Letter from Thomas Webb, EPA, to Derek Cooke, FMMI (June 27, 2013).

converter mouth covers, reconfigure the roofline capture system and route the captured emissions to the existing acid plant.[118] Accordingly, we performed a five-factor BART analysis for these improvements, which we refer to collectively as a "secondary capture system."

b. Secondary Capture System

The purpose of the secondary capture system is to improve capture and control of SO_2 emissions from the converters that can then be directed to the existing double contact acid plant.

Cost of Compliance: FMMI claimed as confidential business information (CBI) the cost information for improvements in SO_2 capture, so we relied on other information to estimate the cost of controls. In particular, we considered cost estimates supplied by ASARCO for the Hayden Smelter, a similar facility, for a series of upgrades to its capture systems.[119] We estimated cost-effectiveness using a capital cost of $47,850,000, and annualized those costs assuming a 20-year lifespan and a 7 percent interest rate with an operation and maintenance cost of 50 percent of the capital cost. We applied a control efficiency of 99.7 percent, which the existing acid plant and tail stack scrubber system currently achieves using very limited cesium catalyst. The emission reduction was applied to 85 percent of the currently uncaptured SO_2 emissions from the converters.[120] Based on these calculations, we estimate the cost-effectiveness of installing and operating a secondary capture system would be $990 to $2,474 per ton of SO_2 removed, as shown in Table 36. This range reflects the uncertainty in the quantity of SO_2 emissions that are currently not captured.

TABLE 36—MIAMI SMELTER: COST OF SECONDARY CAPTURE OF SO_2 FROM CONVERTERS

Capital cost	Annualized capital cost	Annual variable cost	Total annual cost	Tons SO_2 reduced	Control efficiency	$/ton SO_2 removed
$47,850,000	$4,516,701	$2,258,351	$6,775,052	2,379–6,845	99.7%	$990–2,474

Energy and Non-Air Quality Environmental Impacts: We do not anticipate significant energy or other non-air quality environmental impacts resulting from capturing and ducting additional emissions to the existing SO_2 control system given that FMMI already has the capacity to handle and store the much larger quantities of sulfuric acid produced by emissions captured from the IsaSmelt and converter primary capture systems.

Pollution Control Equipment in Use at the Source: SO_2 emissions collected from the converters are ducted to the four-pass, double contact acid plant. There is a wet scrubber (the tailstack scrubber) located after the acid plant outlet, to which emissions may be vented during periods of elevated SO_2 concentrations.[121]

Remaining Useful Life: The BART-eligible converters have each been in place for about 40 years. FMMI has not indicated that any of them would be replaced during the 20-year capital cost recovery period.

Degree of Visibility Improvement: As shown in Table 37, installing a secondary capture system to collect and direct SO_2 emissions from the converters to the acid plant, the maximum 98th percentile baseline improvement ranges from a low of 0.41 dv to a high of 1.06 dv at Superstition WA. The cumulative improvement ranges from 1.7 to 4.3 dv. These are large visibility improvements that support using the existing acid plant with a new secondary capture system as BART for SO_2. The high and low visibility impacts and improvements in Table 37 correspond to the range of emissions that are not captured. The range is 3,231 (low) to 8,078 (high) tpy. For the low emission estimate, the maximum improvement from the secondary capture system is 0.41 dv, and the cumulative improvement is 1.7 dv. These are considerably less than for the high emission estimate, which has a maximum improvement of 1.06 dv and cumulative improvement of 4.3 dv, but is still substantial.

TABLE 37—MIAMI SMELTER: VISIBILITY IMPACT AND IMPROVEMENT FROM SECONDARY CAPTURE SYSTEM

Class I area	Distance (km)	Impact	Improvement from control	Impact	Improvement from control
		High base case (basehi)	Converter 85% capture (opt1hi)	Low base case (baselo)	Converter 85% capture (opt1lo)
Bosque del Apache WA	235	0.15	0.12	0.07	0.05
Chiricahua NM	113	0.36	0.27	0.16	0.10
Chiricahua WA	125	0.35	0.27	0.16	0.10
Galiuro WA	99	0.56	0.40	0.28	0.17
Gila WA	55	0.34	0.26	0.16	0.10
Mazatzal WA	220	0.64	0.44	0.32	0.17
Mount Baldy WA	95	0.27	0.20	0.13	0.08
Petrified Forest NP	197	0.33	0.25	0.16	0.10
Pine Mountain WA	260	0.43	0.32	0.20	0.12
Saguaro NP	143	0.45	0.34	0.21	0.13
Sierra Ancha WA	158	0.70	0.40	0.42	0.17
Superstition WA	163	3.61	1.06	2.86	0.41

[118] Letter from Derek Cooke, FMMI to Thomas Webb, EPA, Item 2 (July 12, 2013). FMMI indicated that "[t]hese proposed changes are in anticipation of measures that may be adopted by ADEQ as necessary to demonstrate compliance" with the 2012 SO_2 NAAQS." Regardless of their regulatory purpose of the changes, FMMI's proposal indicates that these changes are technically feasible.

[119] See the TSD, Section III.D.4.

[120] *Review of New Source Performonce Stondards for Primory Copper Smelters,* OAQPS, EPA 450/3–83–018a, March 1984. According to Section 4.7.6.3, the overall collection efficiency of secondary fixed hoods is approximately 90 percent.

[121] Letter from Derek Cooke, FMMI to Thomas Webb, EPA, Item 2 (July 12, 2013).

TABLE 37—MIAMI SMELTER: VISIBILITY IMPACT AND IMPROVEMENT FROM SECONDARY CAPTURE SYSTEM—Continued

Class I area	Distance (km)	Impact	Improvement from control	Impact	Improvement from control
		High base case (basehi)	Converter 85% capture (opt1hi)	Low base case (baselo)	Converter 85% capture (opt1lo)
Cumulative (sum)		8.2	4.3	5.1	1.7
Maximum		3.61	1.06	2.86	0.41
# CIAs >= 0.5 dv		4	1	1	0
Million $/dv (cumul. dv)			$1.6		$4.0
Million $/dv (max. dv)			$6.4		$16.7

c. Proposed BART Determination for SO_2 From Converters

Based on the results of our BART analysis, we propose that BART for SO_2 from the converters is construction of a secondary capture system (i.e., construction of hooding and ventilation systems to capture escaped SO_2 emissions) and ducting the emissions to existing controls. We have determined that these improvements are feasible and cost-effective, will result in significant visibility improvements, and should not result in significant adverse impacts. As noted above, the RHR allows for use of equipment requirements or work practice standards in lieu of a numeric limit where "technological or economic limitations on the applicability of measurement methodology to a particular source would make the imposition of an emission standard infeasible." [122] In this instance, we propose to find that technological limitations on the source's ability to measure accurately uncaptured SO_2 emissions make numeric capture efficiency infeasible. Therefore, we are proposing to prescribe specific equipment for capture of SO_2 emissions, in addition to numeric control efficiency and related compliance requirements. Specifically, we are proposing the following as BART for SO_2 from the converters:

- Construction of a secondary capture system consistent with the requirements of MACT QQQ as a work practice standard.
- An SO_2 control efficiency of 99.7 percent, 30-day rolling average, on all SO_2 captured by the primary and secondary capture systems.
- Compliance with the SO_2 BART limit may be verified either through the use of SO_2 CEMS before and after controls or by using post-control CEMS and acid production rates. A limit of 4.06 lbs SO_2 emissions per tons of sulfuric acid production is equivalent to 99.7 percent control.

d. Alternative Control Efficiency

We are also seeking comment on whether FMMI should be expected to meet a 99.8 percent control efficiency, 30-day rolling average, on all SO_2 captured by the primary and secondary capture systems. ASARCO Hayden has demonstrated that a control efficiency of 99.8 percent is achievable in practice at a batch copper smelter. FMMI could increase control efficiency by increasing its use of cesium promoted catalyst in the acid plant, increasing the volume of gas exiting the acid plant that is further controlled by the tail stack scrubber, and/or using sodium rather than magnesium in the scrubbing liquor. If we received comments establishing that a control efficiency greater than 99.7 percent is achievable at FMMI, we may finalize a control efficiency of up to 99.8 percent.

2. BART Analysis for SO_2 From Electric Furnace

a. Control Technology Availability, Technical Feasibility and Effectiveness

EPA identified two possible technologies to control SO_2 emissions from the electric furnace: Double contact acid plant and wet scrubbing. FMMI has indicated to EPA that emissions from the electric furnace are already controlled by the existing double contact acid plant and tail stack scrubber.[123] In addition, a secondary capture system ducts gases not captured by the primary capture system to the vent fume scrubber, which has a control efficiency of 80 percent. Because FMMI already uses both of the two available control technologies to control SO_2 emissions currently captured from the furnace, we did not evaluate the addition of new controls, nor did we evaluate upgrades to the acid plant system, which already achieves a high degree of control. The one improvement to controls that we identified was upgrading the scrubber, which currently uses magnesium oxide, to use sodium hydroxide, which could increase the control efficiency from 80 percent to 98 percent.

b. Existing Double Contact Acid Plant and Wet Scrubbing

Cost of Compliance: We estimated the emissions from the electric furnace by multiplying the relevant AP 42 emission factors for copper smelters [124] by the 2010 concentrate throughput provided by FMMI. This results in uncontrolled emissions of SO_2 from the electric furnace of 379 tons per year. Because the scrubber is a secondary control device, however, this would likely result in an emissions decrease of no more than 5 to 10 tons per year. Replacing magnesium oxide with sodium hydroxide would cost at least $2,000,000 per year, resulting in control costs of $200,000–$400,000 per ton of SO_2 removed, as shown in Table 38.

[122] 40 CFR 51.308(e)(1)(iii). See also 40 CFR 51.100(z)(defining "emission limitation" and "emission standard" to include "any requirements which . . . prescribe equipment . . . for a source to assure continuous emission reduction."

[123] ADEQ Class 1 Permit Number 53592, Application for a Significant Permit Revision, July, 2013.

[124] AP 42, Chapter 12.3, Primary Copper Smelters, Table 12.3–3 (cleaning furnace) and Table 12.3–11 (converter slag return).

TABLE 38—MIAMI SMELTER: COST OF UPGRADING VENT FUME SCRUBBER

Capital cost	Annualized capital cost	Annual variable cost	Total annual cost	Tons SO_2 reduced	Control efficiency	$/ton SO_2 removed
		$2,000,000	$2,000,000	5–10	98%	$200,000–$400,000

Energy and Non-Air Quality Environmental Impacts: We do not anticipate significant energy or non-air quality environmental impacts resulting from capturing and ducting additional emissions to the existing SO_2 control system. Non-air quality impacts from venting additional captured emissions to the existing scrubber are not expected to be significant given that FMMI is already controlling much larger quantities of SO_2 in the existing scrubber and managing the wastewater and sludge that result.

Pollution Control Equipment in Use at the Source: SO_2 emissions collected from the electric furnace are ducted to the four-pass, double contact acid plant. There is a wet scrubber (the tailstack scrubber) located after the acid plant outlet, to which emissions may be vented "if needed." In addition, gases collected from the secondary collection system are ducted to the vent fume scrubber, which is another wet scrubber. The vent fume scrubber also controls secondary emissions from the IsaSmelt and emissions collected from other equipment.

Remaining Useful Life: FMMI has not indicated any plans to remove the electric furnace from service.

Degree of Visibility Improvement: Our modeling results did not demonstrate even modest visibility improvements at any Class I areas from this option. Improvements were 0.004 dv or less at each Class I area, and only 0.008 dv for the cumulative sum over all areas. These are negligible visibility improvements over the baseline levels, as expected from the small emission reductions associated with this option.

c. BART Determination for Electric Furnace

Based on the high cost of compliance to upgrade the vent fume scrubber and low potential for visibility improvement, we are proposing that existing controls represent BART for SO_2 emissions from the electric furnace. While we would prefer to set a numeric emission limit in order to ensure that SO_2 emissions from the electric furnace do not increase in the future, such a limit is impracticable because emissions from the electric furnace are commingled with emissions from non-BART eligible units in the vent fume stack. Therefore, consistent with 40 CFR 51.308(e)(1), we propose a work practice standard prohibiting active aeration of the electric furnace.

3. BART Analysis for NO_X From Process Heaters

NO_X emissions from the FMMI smelter result from the combustion of natural gas to heat process equipment. According to the Documentation Report accompanying AirControlNet, the cost to retrofit process heaters with low NO_X burners, which can reduce NO_X emissions by 50 percent, is $2,200 per ton.[125] Although this is not necessarily cost-prohibitive, there is relatively little potential for visibility improvement from installation of any NO_X controls at FMMI. In particular, the maximum modeled 98th percentile visibility impact resulting from baseline NO_X emissions from FMMI is 0.11 dv.[126] In addition, the WRAP estimated the annual BART-eligible NO_X emissions from the facility as 159 tons per year,[127] whereas we estimate annual BART-eligible NO_X baseline emissions as 38 tons per year. Therefore, the baseline visibility impact attributable to NO_X, and thus, the potential for visibility improvement due to NO_X reductions, is, in fact, significantly less than 0.11 dv. Given the small potential for visibility improvement, we propose that NO_X controls are not warranted for purposes of BART. However, in order to ensure that NO_X emissions do not increase in the future, we propose to set a 12-month rolling cap of 40 tons of NO_X from the subject-to-BART units, which is equivalent to the de minimis level of emissions set out in the RHR and is roughly equivalent to current annual emissions from these units.[128]

VI. EPA's Proposed Reasonable Progress Analyses and Determinations

Summary: In this section, EPA addresses point sources for NO_X, area sources for NO_X and SO_2, the reasonable progress goals for the Class I areas, and a demonstration that the rate of progress is reasonable compared to the URP. In our previous actions on the Arizona RH SIP, EPA narrowed the focus of the RP analysis to point sources of NO_X and area sources of NO_X and SO_2. Based on our analysis, we propose to require emissions reductions consistent with SNCR on Kiln 4 at the Phoenix Cement Clarkdale Plant and on Kiln 4 at the CalPortland Cement Rillito Plant. EPA proposes to find that it is not reasonable to require additional controls on area sources of NO_X and SO_2 at this time. We are also proposing RPGs consistent with a combination of control measures that include the approved Arizona RH SIP measures as well as the finalized and proposed Arizona RH FIP measures. Finally, we propose to find that it is not reasonable for any of Arizona's Class I areas to meet the URP during this planning period, and demonstrate that rate of progress is reasonable based on our RP analysis.

Background: The RHR requires the State, or EPA in the case of a FIP, to set RPGs by considering four factors: "the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources" (collectively "the RP factors").[129] The RPGs must provide for an improvement in visibility on the worst days and ensure no degradation in visibility on the best days during the planning period. Furthermore, if the projected progress for the worst days is less than the Uniform Rate of Progress (URP), then the state or EPA must demonstrate, based on the factors above, that it is not reasonable to provide for a rate of progress consistent with the URP.[130]

In our final rule on the Arizona RH SIP published on July 30, 2013, we partially approved and partially disapproved the State's RP analysis.[131] In particular, we approved the State's decision to focus on NO_X and SO_2 sources and its decision not to require additional controls on non-BART point sources of SO_2 for this planning period. However, we disapproved the State's RPGs for the worst days and best days, as well as its RP analyses and determinations for point sources of NO_X

[125] AirControlNet, Version 4.1, Documentation Report. Prepared by E.H. Pechan and Associates, Inc. for U.S. EPA, Office of Air Quality, Planning, and Standards. May, 2006, section III, page 445.

[126] Summary of WRAP RMC BART Modeling for Arizona, Draft Number 5, May 25, 2007, page 23.

[127] *Id.*

[128] 40 CFR 51.308(e)(1)(ii)(C).

[129] 40 CFR 51.308(d)(1)(i)(A).

[130] 40 CFR 51.308(d)(1)(ii).

[131] See 78 FR 46173 (codified at 40 CFR 52.145(g)).

as well as area sources of SO_2 and NO_X. Accordingly, we have analyzed these remaining source categories to determine whether additional controls are reasonable based on an evaluation of the RP factors.

A. Reasonable Progress Analysis of Point Sources for NO_X

EPA conducted an extensive statewide analysis of NO_X point sources to determine whether cost-effective controls on sources near Class I areas would contribute to visibility improvements. In this section, we describe the process to identify and analyze these potentially affected NO_X point sources for reasonable progress. Of the nine point sources evaluated for reasonable progress, EPA is proposing to require Phoenix Cement Clarkdale Plant and CalPortland Cement Rillito Plant to comply with new emissions limits for NO_X based on the analysis presented below and in the TSD available in the docket. We are seeking comment on our analyses and proposed determinations for all the identified sources.

1. Identification of NO_X Point Sources

To identify point sources in Arizona that potentially affect visibility in Class I areas, EPA examined the annual emissions data from the WRAP 2002 planning inventory and identified those sources with facility-wide actual emissions that exceed 250 tpy of NO_X or SO_2. For these sources, we calculated the total actual emission rate (Q) in tpy of NO_X and SO_2 and determined the distance (D) in kilometers of each source to its closest Class I area.[132] We employed a contractor to prepare an initial spreadsheet calculating these Q and D values.[133] We used a Q divided by D value of ten as a threshold for further evaluation of RP controls. We selected this value based on guidance contained in the BART Guidelines, which state:

> Based on our analyses, we believe that a State that has established 0.5 deciviews as a contribution threshold could reasonably exempt from the BART review process sources that emit less than 500 tpy of NO_X or SO_2 (or combined NO_X and SO_2), as long as these sources are located more than 50 kilometers from any Class I area; and sources that emit less than 1000 tpy of NO_X or SO_2 (or combined NO_X and SO_2) that are located more than 100 kilometers from any Class I area.[134]

The approach described above corresponds to a Q/D threshold of ten. In addition, the use of a Q/D threshold of ten or greater is recommended by the Federal Land Managers' Air Quality Related Values Work Group (FLAG) as a screening threshold, as described in the FLAG 2010 Phase I Report.[135] A summary of sources with a Q/D value greater than 10 is included in Table 39.

TABLE 39—SOURCES OF NO_X WITH Q/D VALUE GREATER THAN 10

Owner/operator	Facility name	Q (tpy)	D (km)	Q/D
Arizona Public Service	West Phoenix Plant	992	73.10	14
CalPortland Cement Co	Rillito Plant	5,075	6.99	726
Arizona Electric Power Coop	Apache Generating Station	11,840	44.86	264
Arizona Public Service	Cholla Power Plant	33,588	31.75	1058
Lhoist North America	Douglas Lime Plant	755	55.16	14
El Paso Natural Gas Co	Tucson Compressor Station	336	14.72	23
El Paso Natural Gas Co	Flagstaff Compressor Station	1,010	34.94	29
Tucson Electric Power	Sundt Generating Station	5,659	15.84	357
Lhoist North America	Nelson Lime Plant	2,556	24.56	104
Freeport-McMoRan	Miami Smelter	5,996	15.58	385
Phoenix Cement	Clarkdale Plant	2,744	12.65	217
Pima County	Ina Road Sewage Plant	258	12.56	21
ASARCO	Smelter and Mill	18,486	47.22	392
Salt River Project	Coronado Generating Station	29,674	48.53	611
Salt River Project	San Tan Generating Station	335	28.13	12
Catalyst Paper Abitibi	Snowflake Pulp Mill	5,143	39.36	131
Salt River Project	Aqua Fria Generating Station	994	68.87	14
Tucson Electric Power	Springerville Generating Station	32,434	60.46	536
El Paso Natural Gas Co	Williams Compressor Station	1,373	19.12	72

Of the sources listed in Table 39, we eliminated several sources from further consideration by calculating updated Q/D values based on 2008–2010 emission data.[136] As a result, APS West Phoenix Plant, Lhoist Douglas Plant, SRP San Tan Generating Station, and SRP Agua Fria Generating Station have Q/D values less than or equal to ten. Thus, we eliminated these sources from further consideration for this planning period. However, if any of these sources resume operations at levels sufficient to increase their Q/D value to ten or greater, Arizona should consider them for potential RP controls in the next planning period.

Finally, we eliminated from further consideration those sources (or units at sources) that were evaluated under BART. These include the Apache Generating Station, Coronado Generating Station, Cholla Power Plant (except Unit 1), Sundt Generating Station (except for Units 1–3), Snowflake Pulp and Paper Mill, and Nelson Lime Plant. Because the BART analysis examines many of the same factors as those evaluated for reasonable progress, we propose that the BART determinations for these facilities satisfy the requirement for reasonable progress from these facilities during this planning period. The final list of sources considered for reasonable progress NO_X controls is summarized in Table 40.

[132] The analysis included NO_X, SO_2, and particulate matter pollutants because we had not yet approved ADEQ's determination to focus on NO_X and SO_2, nor had we approved its conclusion regarding non-BART SO_2 point sources, at the time this screening analysis was performed.

[133] "EP–D–07–102 WA5–12 Task4 Deliverable (AZ–BART-QbyD-Screening-report)-final.xlsx".

[134] See 40 CFR part 51, app. Y, § III (How to Identify Sources "Subject to BART").

[135] Section 3.2, Initial Screening Criteria (New), Federal Land Managers' Air Quality Related Values Work Group (FLAG) Phase I Report—Revised (2010).

[136] See spreadsheet "10D Screening Update—2008–10 Emission Data.xlsx" in the docket.

TABLE 40—SOURCES OF NO_X FOR REASONABLE PROGRESS ANALYSES

Owner/operator	Facility name	Notes
CalPortland Cement Co	Rillito Plant.	
Arizona Public Service	Cholla Power Plant (Unit 1)	Units 2–4 subject to BART.
El Paso Natural Gas Co	Tucson Compressor Station.	
El Paso Natural Gas Co	Flagstaff Compressor Station.	
Tucson Electric Power	Sundt Generating Station (Units 1–3)	Unit 4 subject to BART.
Phoenix Cement	Clarkdale Plant.	
Pima County	Ina Road Sewage Plant.	
Tucson Electric Power	Springerville Generating Station (Units 1–2)	Units 3–4 have SCR.
El Paso Natural Gas Co	Williams Compressor Station.	

2. Analysis of Potentially Affected NO_X Point Sources

EPA contracted with the University of North Carolina (UNC) and their subcontractor, Andover Technology Partners (ATP), to perform RP analyses for the nine sources listed in Table 40. EPA considered the four RP factors for each of these sources based on the work from UNC. In addition, for the larger point sources (EGUs and cement kilns), we conducted CALPUFF modeling to assess the potential visibility benefits of controls.[137] These analyses are set out in the TSD and are summarized in the following sections.

a. Phoenix Cement Clarkdale Plant Kiln 4

Costs of Compliance: This facility consists of one precalciner kiln, which currently uses LNB for NO_X control. Our estimate of costs of compliance is based primarily on estimates provided by PCC in their March 6, 2013 comment letter, with revisions to certain cost items we considered to be unreasonable or not allowed by EPA's Control Cost Manual.[138] As explained in further detail in the TSD, we estimated a total annual cost for SNCR of approximately $940,000 per year. SNCR is estimated to reduce emissions at the kiln by 810 tpy at a cost of $1,142/ton, based on baseline emissions of 1620 tpy and a 50 percent SNCR control efficiency. As explained in the TSD, we are seeking comment on whether a different SNCR control efficiency is appropriate for this kiln. If we receive technical information demonstrating that a different SNCR control efficiency is appropriate for Kiln 4, we will incorporate this change into our analysis.

Time Necessary for Compliance: We expect that SNCR could be installed in approximately 3 years from the final date of this action. The Institute of Clean Air Companies estimates that the installation time for SNCR on industrial sources is 10–13 months.[139] CPCC estimates that it would require approximately three years to install SNCR on their similar technology kiln. Given these two pieces of information, a 3-year timeframe appears to be reasonable.

Energy and Non-Air Quality Environmental Impacts of Compliance: The installation and operation of SNCR at the plant would require a small increase in energy usage. The cost of this additional energy usage is included in the cost analysis. Non-air quality environmental impacts associated with SNCR include the hazards of transporting and storing urea or ammonia, especially if anhydrous ammonia is used. However, since the handling of anhydrous ammonia will involve the development of a risk management plan (RMP), we consider the associated safety issues to be manageable as long as established safety procedures are followed. Therefore, we find that these impacts are not sufficient to warrant eliminating SNCR as a control option.

Remaining Useful Life: EPA presumes that the kiln would continue operating for 20 years and fully amortize the cost of controls.

Degree of Improvement in Visibility: There are twelve Class I areas within 300 km of the Clarkdale Plant. As shown in Table 41, the highest 98th percentile baseline visibility impact of Phoenix Cement is 5.2 dv at Sycamore. Pine Mountain, Mazatzal, and the Grand Canyon all have visibility impacts over 0.5 dv, and other areas are at 0.1 dv or less. The cumulative sum of visibility impacts over all the Class I areas is 7.5 dv. The maximum visibility improvement due to SNCR is 1.9 dv at Sycamore, 0.3 dv at Pine Mountain, and slightly less at Mazatzal and the Grand Canyon. The cumulative improvement from SNCR is 3.0 dv.

TABLE 41—PHOENIX CEMENT KILN 4: VISIBILITY IMPACT AND IMPROVEMENT FROM NO_X CONTROLS

Class I Area	Distance (km)	Visibility impact	Visibility improvement
		Base case (base)	SNCR −50% NO_X (ctrl2)
Bryce Canyon NP	296	0.09	0.04
Galiuro WA	278	0.03	0.01
Grand Canyon NP	133	0.51	0.25
Mazatzal WA	59	0.51	0.24
Mount Baldy WA	249	0.05	0.02
Petrified Forest NP	200	0.21	0.10
Pine Mountain WA	56	0.66	0.32

[137] While visibility is not an explicitly listed factor to consider when determining whether additional controls are reasonable, the purpose of the four-factor analysis is to determine what degree of progress toward natural visibility conditions is reasonable. Therefore, it is appropriate to consider the projected visibility benefit of the controls when determining if the controls are needed to make reasonable progress.

[138] Comments submitted on EPA's December 21, 2012 proposed rulemaking partially approving and disapproving Arizona's Regional Haze Plan. 77 FR 75704.

[139] Typical Installation Timelines for NO_X Emissions Control Technologies on Industrial Sources, Institute of Clean Air Companies, December 4, 2006.

TABLE 41—PHOENIX CEMENT KILN 4: VISIBILITY IMPACT AND IMPROVEMENT FROM NO_X CONTROLS—Continued

Class I Area	Distance (km)	Visibility impact	Visibility improvement
		Base case (base)	SNCR −50% NO_X (ctrl2)
Saguaro NP	284	0.03	0.01
Sierra Ancha WA	142	0.09	0.04
Superstition WA	151	0.10	0.05
Sycamore Canyon WA	10	5.15	1.85
Zion NP	272	0.09	0.05
Cumulative (sum)	.....	7.5	3.0
Maximum	.....	5.15	1.85
# CIAs >= 0.5 dv	.....	4	1
Million $/dv (cumul. dv)	.....	.....	$0.3
Million $/dv (max. dv)	.....	.....	$0.5

Phoenix Cement is only 10.5 km away from the Sycamore Canyon Wilderness. Therefore NO_X emitted by the Plant may not be fully converted to NO_2 by the time it reaches Sycamore Canyon and may not be fully available to form visibility-degrading particulate nitrate. However, the CALPUFF model assumes 100 percent conversion. EPA explored this issue by scaling back the visibility extinction due to NO_2 and nitrate to reflect lower NO-to-NO_2 conversion rates, described further in the TSD. As shown in Table 42, EPA found that visibility impacts and the improvement due to SNCR decrease along with the percent conversion assumed. However, the benefit of SNCR is 0.52 dv when NO conversion is reduced to 25 percent. Even for an unrealistically low assumption of 10 percent (i.e., no conversion of NO to NO_2 after the plume leaves the stack), the benefit of SNCR is 0.25 dv at Sycamore Canyon alone. Because the other Class I Areas are far enough away for NO_X emitted by the Plant to be fully converted to NO_2, the benefits at the other Class I areas would remain the same.

TABLE 42—BENEFIT OF SNCR ON PHOENIX CEMENT AT SYCAMORE CANYON FOR VARIOUS NO-TO-NO_2 CONVERSION RATES

NO % Conversion	100%	75%	50%	25%	10%
Base case	5.14	4.19	3.13	1.94	1.17
SNCR	3.30	2.68	2.07	1.42	0.92
Benefit	1.85	1.51	1.06	0.52	0.25

Proposed RP Determination: Based on our analysis of the four RP factors, as well as the expected degree visibility improvement, EPA proposes to require compliance with an emission limit of 2.12 lb/ton on Kiln 4 based on a 30-day rolling average basis.[140] We propose to find that this emissions limit, equivalent to SNCR control, is cost-effective at $1,142/ton and would result in significant visibility benefits at Sycamore Canyon Wilderness Area. We are proposing to require compliance with the 2.12 lb/ton limit by December 31, 2018.

We are also soliciting comment on the possibility of establishing an annual cap on NO_X emissions from Kiln 4 in lieu of a lb/ton emission limit. Such a cap would provide additional flexibility to PCC by allowing them to comply either by installing controls or by limiting production. In particular, we are seeking comment on an annual NO_X emission cap for Kiln 4 of 810 tpy established on a rolling 12-month basis, effective December 31, 2018. If production remains at current levels, PCC could meet this cap without installing any additional controls. However, if production increases to pre-2008 levels, we expect that PCC would need to install SNCR on Kiln 4 to comply with the cap.

b. CalPortland Cement Rillito Plant Kilns 1–4

The facility consists of three long dry kilns (Kilns 1–3) and one precalciner kiln (Kiln 4). Due to the significant differences between long dry kilns and precalciner kilns, we have separately analyzed Kilns 1–3 and Kiln 4.

1. Rillito Plant Kilns 1–3

Kilns 1–3 have not operated since 2008 due to economic conditions. However, CPCC retains the ability to start using these kilns again at any time. Therefore, we conducted an analysis of the kilns using pre-2008 emission levels.

[140] The basis for this specific emission rate is described in the TSD.

Costs of Compliance: Our estimate of the costs of compliance is based primarily on estimates provided by CalPortland in its RP analysis, with revisions to certain cost items we considered to be unreasonable or not allowed by EPA's Control Cost Manual.[141] Our analysis identified SNCR with Mixing Air Technology (MAT) as the most cost-effective control technology. Installation of SNCR with MAT on Kilns 1–3 is estimated to reduce emissions at each kiln by 182 tpy at a cost of $5,603/ton reduced, based on an annualized cost of approximately $1 million per year and 30-percent control efficiency for SNCR.[142]

Time Necessary for Compliance: CPCC estimates that the time needed to install the control equipment is about 3 years.

Energy and Non-Air Quality Environmental Impacts of Compliance: The installation and operation of SNCR at the plant would require a small increase in energy usage. The cost of this additional energy usage is included in the cost analysis. Non-air quality environmental impacts associated with SNCR include the hazards of transporting and storing urea or ammonia, especially if anhydrous ammonia is used. However, since the handling of anhydrous ammonia will involve the development of an RMP, we consider the associated safety issues to be manageable as long as established safety procedures are followed. Therefore, we find that these impacts are not sufficient to warrant eliminating SNCR as a control option.

Remaining Useful Life: The plant's owner intends to shut down all four kilns and replace them with a new kiln that would be subject to Best Available Control Technology and a visibility impact analysis.[143] This project has been on hold while the economy in Arizona recovers. As a result, it is unclear whether these kilns will be in service long enough to fully amortize the cost of controls. However, because there is no enforceable shutdown date at this time, we assume that the kilns will remain in service for a 20-year amortization period.

Degree of Improvement in Visibility: The maximum visibility improvement due to SNCR on Kilns 1–3 is 0.22 dv at the eastern unit of Saguaro NP, 0.18 dv at Galiuro WA, and smaller for other areas. The cumulative visibility improvement is 0.7 dv.

TABLE 43—CALPORTLAND CEMENT KILNS 1–3 AND KILN 4: VISIBILITY IMPACT AND IMPROVEMENT FROM NO_X CONTROLS

Class I area	Distance (km)	Visibility impact	Visibility improvement	
		Base case (c0)	SNCR on Kilns 1, 2, 3 (c22)	SNCR on Kiln 4 (c24)
Chiricahua NM	171	0.25	0.05	0.06
Chiricahua WA	170	0.23	0.05	0.05
Galiuro WA	73	1.02	0.18	0.19
Gila WA	240	0.12	0.02	0.03
Mazatzal WA	171	0.13	0.02	0.03
Mount Baldy WA	223	0.11	0.03	0.03
Petrified Forest NP	290	0.11	0.02	0.03
Pine Mountain WA	213	0.11	0.02	0.02
Saguaro NP	8	1.26	0.22	0.24
Sierra Ancha WA	153	0.13	0.02	0.03
Superstition WA	108	0.30	0.06	0.06
Sycamore Canyon WA	287	0.09	0.02	0.02
Cumulative (sum)	.....	3.9	0.7	0.8
Maximum	.....	1.26	0.22	0.24
# CIAs >= 0.5 dv	.....	2	0	0
Million $/dv (cumul. dv)	.....	.....	$1.5	$1.4
Million $/dv (max. dv)	.....	.....	$4.8	$4.6

The Saguaro NP results in this table are for the eastern unit of the park only.

Proposed RP Determination: Given the lack of emissions from Kilns 1–3 over the last five years and the relatively high cost of controls ($5,603/ton), EPA proposes to find that requiring controls for these units is not reasonable at this time.

2. Rillito Plant Kiln 4

Costs of Compliance: Our estimate of the costs of compliance is based primarily on estimates provided by CalPortland in its RP analysis, with revisions to certain cost items we considered to be unreasonable or not allowed by EPA's Control Cost Manual.[144] Our analysis identified the addition of SNCR to the existing LNB as the most cost-effective available control technology. As explained in further detail in the TSD, we estimated a total annual cost for SNCR of approximately $1.1 million per year. SNCR is estimated to reduce emissions by 1,041 tpy at a cost of $1,047/ton reduced, based on baseline emissions of 2,082 tons per year and a 50 percent SNCR control-efficiency. As explained in the TSD, we are seeking comment on whether a different SNCR control efficiency is appropriate for Kiln 4. If we receive technical information demonstrating that a different SNCR control efficiency is appropriate for Kiln 4, we will incorporate this change into our analysis.

Energy and Non-Air Quality Environmental Impacts of Compliance: The installation and operation of SNCR at the plant would require a small increase in energy usage. The cost of this additional energy usage is included in the cost analysis. Non-air quality environmental impacts associated with SNCR include the hazards of

[141] "Reasonable Progress Analysis for CalPortland Company Rillito Cement Plant Kiln, prepared by CalPortland Company." Submitted to EPA May 9, 2013.

[142] See TSD for an analysis of all control options and associated control efficiencies and control costs.

[143] See Arizona RH SIP supplement, page 32.

[144] "Reasonable Progress Analysis for CalPortland Company Rillito Cement Plant Kiln, prepared by CalPortland Company." Submitted to EPA May 9, 2013.

transporting and storing urea or ammonia, especially if anhydrous ammonia is used. However, since the handling of anhydrous ammonia will involve the development of an RMP, we consider the associated safety issues to be manageable as long as established safety procedures are followed. Therefore, we find that these impacts are not sufficient to warrant eliminating SNCR as a control option.

Existing Pollution Control Equipment: Kiln 4 is a precalciner kiln that currently uses LNB for NO_X control.

Remaining Useful Life: The plant's owner intends to shut down all four kilns and replace them with a new kiln that would be subject to Best Available Control Technology and a visibility impact analysis.[145] This project has been on hold while the economy in Arizona recovers. As a result, it is unclear whether these kilns will be in service long enough to fully amortize the cost of controls. However, because there is no enforceable shutdown date at this time, we assume that the kilns will remain in service for a 20-year amortization period.

Degree of Improvement in Visibility: As shown in Table 43, the maximum visibility improvement due to SNCR on Kiln 4 is 0.24 dv at the eastern unit of Saguaro NP, 0.19 dv at Galiuro WA, and smaller for other areas. The cumulative visibility improvement is 0.8 dv. The cumulative visibility improvement from SNCR on all four kilns would be about 1.5 dv.

As discussed above in the section covering visibility improvements for TEP Sundt, EPA remodeled impacts at Saguaro NP to address both the eastern and western units of the park. The modeled visibility impact at the western unit of Saguaro, not shown in the table, is 6.04 dv, far greater than at the eastern unit. The modeled improvement there due to SNCR is 0.30 dv, still rather modest but 25 percent greater than for the eastern unit. However, CalPortland is only 7.8 km away from the western unit, so its emitted NO_X may not be fully converted to NO_2 by the time it reaches there, as is assumed in the CALPUFF model. It thus may not be fully available to form visibility-degrading particulate nitrate. EPA explored this issue by scaling back the visibility extinction due to NO_2 and nitrate to reflect lower NO-to-NO_2 conversion rates, described further in the TSD. EPA found that visibility impacts and the improvement due to SNCR decrease along with the percent conversion assumed, so much so that at a 25 percent conversion rate, the SNCR benefit was only 0.05 dv. Therefore, EPA is relying on impacts and improvements for the more distant eastern unit of Saguaro NP.

Proposed RP Determination: EPA finds that SNCR is cost-effective for Kiln 4 at $1,047/ton, would not result in undue non-air quality environmental impacts, and would result in modest visibility benefits at Saguaro NP and Galiuro WA. Therefore, we propose to determine that it is reasonable to require SNCR at Kiln 4. In particular, EPA proposes to require compliance with an emissions limit of 2.67 lb/ton at Kiln 4 based on a 30-day rolling average by December 31, 2018.[146] We are also soliciting comment on the possibility of requiring an annual cap on NO_X emissions in lieu of a lb/ton emission limit. In order to avoid a shift in production from Kiln 4 to Kilns 1–3, we are proposing that the cap would apply to all four kilns. In particular, we are seeking comment on an annual NO_X emission cap for Kilns 1–4 of 2,082 tpy, established on a rolling 12-month basis. CPCC could meet this cap either by retaining production at current levels, or by increasing production and installing SNCR on Kiln 4. We are proposing to require compliance with this rolling 12-month limit by December 31, 2018.

c. APS Cholla Unit 1

Costs of Compliance: Unit 1 is a 1,246 MMBtu/hr tangential coal-fired boiler, which currently employs LNB with separated overfire air (SOFA) for NO_X control. EPA identified two feasible additional controls: SNCR and SCR. The estimated emission reductions and costs for these two options are summarized in Tables 44 and 45.

TABLE 44—CHOLLA UNIT 1: NO_X EMISSION ESTIMATES

Control option	NO_X emissions			Emission reduction
	(lb/MMBtu)	(lb/hr)	(tpy)	(tpy)
Baseline (LNB+OFA)	0.22	274	1,032	
SNCR	0.15	192	723	310
SCR	0.05	62	235	798

TABLE 45—CHOLLA UNIT 1: NO_X CONTROL COST ESTIMATES

Control option	Total capital cost	Annualized capital cost	Annual O&M costs	Total annual cost	Cost-effectiveness ($/ton)	
	($)	($)	($)	($)	Ave	Incr
Baseline (LNB+OFA)						
SNCR	$2,272,000	$241,725	$918,875	$1,160,599	$3,748	
SCR	26,437,190	2,812,730	1,425,137	4,237,867	5,313	$6,307

[145] See Arizona RH SIP supplement, page 32.

[146] See TSD for a discussion of how this emission limit was calculated.

Time Necessary for Compliance: Given the estimate from the Institute of Clean Air Companies[147] that about a year is required to install SNCR, and the estimate of three years for installing SNCR on a cement kiln discussed previously in this notice, EPA estimates that SNCR could be installed in less than three years. In our previous Arizona FIP action, EPA estimated that 5 years would be required to install SCR on coal-fired boilers.[148] That estimate also holds for this source.

Energy and Non-Air Quality Environmental Impacts of Compliance: SCR and SNCR can result in additional ammonia emissions. There is also increased truck traffic bringing the reagent on site. SCR will also slightly reduce the efficiency of the plant, resulting in increased fuel usage.

Remaining Useful Life: EPA assumes that this plant would continue operating for 20 years and fully amortize the cost of controls.

Degree of Improvement in Visibility: CALPUFF modeling indicates that installation of SNCR at Unit 1 would provide a 0.10 dv visibility benefit at the most affected Class I area, Petrified Forest NP, while installation of SCR would provide a 0.20 dv benefit at the same area as shown in Table 46. Note that all of these results, including the base case, assume that SCR has been applied to Units 2, 3 and 4, consistent with EPA's previous BART determination for those units.

TABLE 46—CHOLLA UNIT 1: VISIBILITY IMPACT AND IMPROVEMENT FROM NO_X CONTROLS

Class I area	Distance (km)	Visibility impact	Visibility improvement from control	
		Base case (ctrl0/ctrl2_r2)	SNCR on Unit 1 (ctrl2–1)	SCR on Unit 1 (ctrl2–2)
Capitol Reef NP	300	0.71	0.04	0.09
Galiuro WA	249	0.30	0.01	0.01
Gila WA	222	0.48	0.01	0.01
Grand Canyon NP	179	1.14	0.05	0.12
Mazatzal WA	128	0.79	0.02	0.04
Mesa Verde NP	292	0.65	0.03	0.06
Mount Baldy WA	128	0.71	0.01	0.02
Petrified Forest NP	39	3.38	0.10	0.20
Pine Mountain WA	149	0.55	0.01	0.03
Saguaro NP	300	0.23	0.00	0.00
Sierra Ancha WA	126	0.87	0.02	0.06
Superstition WA	166	0.81	0.03	0.06
Sycamore Canyon WA	147	0.76	0.03	0.07
Cumulative (sum)	.....	11.4	0.3	0.7
Maximum	.....	3.38	0.10	0.20
# CIAs >= 0.5 dv	.....	10	0	0
Million $/dv (cumul. dv)	.....	.....	$3.0	$5.7
Million $/dv (max. dv)	.....	.....	$10.3	$21.7

Proposed Determination: EPA proposes to determine that it is not reasonable to require additional controls on this facility at this time. The costs for both SNCR and SCR are relatively high in light of the relatively small anticipated visibility benefits of the controls. However, this decision should be revisited in future planning periods.

d. El Paso Natural Gas Company's Tucson Compressor Station

Costs of Compliance: This site includes seventeen 1,071 hp compressor engines. EPA's analysis indicates that the most cost-effective control would be an air/fuel ratio controller that would reduce emissions by 578 tpy at a cost of $792/ton.[149]

The site also includes four 370 hp engines. EPA's analysis indicates that the most cost-effective control would be a three-way catalyst that would reduce emissions by 96 tons per year at a cost of $290/ton.

Time Necessary for Compliance: The Institute of Clean Air Companies estimates that 8 to 14 weeks would be required to install these kinds of controls.[150]

Energy and Non-Air Quality Environmental Impacts of Compliance: Both controls may increase fuel usage by reducing the thermal efficiency of the engines.

Remaining Useful Life: EPA assumes that the engines would continue operating for 20 years and fully amortize the cost of controls.

Proposed Determination: EPA proposes to find that it is not reasonable to require additional controls on this facility at this time. Natural gas engines similar to those at the Tucson Compressor Station are found in various locations throughout Arizona. EPA's assessment indicates that a state-wide or regional approach to controlling this source category could result in significant emissions reductions. Given the dispersed nature of these engines, it is not practical for EPA to control these sources. Therefore, EPA proposes to find that it is not reasonable to require additional controls on this particular source at this time. This source category should be given serious consideration for future planning periods, as it would be more appropriately controlled by the State.

e. El Paso Natural Gas Company's Flagstaff Compressor Station

Costs of Compliance: This site includes two 5,500 hp compressor engines. EPA's analysis indicates that the most cost-effective control would be an air/fuel ratio controller that would

[147] Typical Installation Timelines for NO_X Emissions Control Technologies on Industrial Sources, Institute of Clean Air Companies, December 4, 2006.

[148] See 77 FR 42834 at 42865 for more details.

[149] See spreadsheet "Non EGU_RP_Ch5.xlsx" in the docket.

[150] Typical Installation Timelines for NO_X Emissions Control Technologies on Industrial Sources, Institute of Clean Air Companies, December 4, 2006.

reduce emissions by 398 tpy at a cost of $432/ton.[151]

Time Necessary for Compliance: The Institute of Clean Air Companies estimates that 8 to 14 weeks would be required to install these kinds of controls.[152]

Energy and Non-Air Quality Environmental Impacts of Compliance: The controls may increase fuel usage by reducing the thermal efficiency of the engines.

Remaining Useful Life: EPA assumes that the engines would continue operating for 20 years and fully amortize the cost of controls.

Proposed RP Determination: EPA proposes to find that it is not reasonable to require additional controls on this facility at this time. Natural gas engines similar to those comprising the Flagstaff Compressor Station are found in various locations throughout Arizona. EPA's assessment indicates that a state-wide or regional approach to controlling this source category could result in significant emissions reductions. Given the dispersed nature of these engines, many of which may fall into the area source category discussed above, it is not practical for EPA to control these sources. Therefore, EPA proposes to find that it is not reasonable to require additional controls on this particular source at this time. This source category should be given serious consideration for future planning periods.

f. Tucson Electric Power Sundt Station (Units 1–3)

Costs of Compliance: TEP Sundt has three natural gas-fired boilers rated at approximately 1,220 MMBTU/hr each. EPA's analysis indicates that the most cost-effective control would be ultra-low NO_X burners (ULNB). This retrofit would reduce emissions from Unit 1 by 46 tpy at a cost of $8,300/ton. It would reduce emissions from Unit 2 by 55 tpy at a cost of $7,000/ton. The retrofit would reduce emissions from Unit 3 by 90 tpy at a cost of $4,400/ton. As shown in Table 47, modeling indicates that these controls would provide a 0.40 dv visibility benefit at the most improved Class I area.

Time Necessary for Compliance: The Institute of Clean Air Companies estimates that 6 to 8 months would be required to install these kinds of controls.[153]

Energy and Non-Air Quality Environmental Impacts of Compliance: The ultra-low-NO_X burners may reduce the thermodynamic efficiency of the boilers and require an increase in fuel consumption.

Remaining Useful Life: EPA assumes that the boilers would continue operating for 20 years and fully amortize the cost of controls.

Proposed RP Determination: EPA proposes to find that it is not reasonable to require additional controls on this facility at this time. As noted above, ULNB has cost-effectiveness values for Sundt Units 1–3 in the range of $4,000 to 7,000 per ton. These costs are relatively high in light of the anticipated visibility benefits of the controls. However, this decision should be revisited in future planning periods, particularly if these units operate at a higher capacity factor in the future.

Degree of Improvement in Visibility: Modeling indicates that installation of ULNB on all three units would provide a 0.40 dv visibility benefit at the most improved Class I area, Saguaro National Park, as shown in Table 47. Note that all of these results assume that SNCR has been applied to Sundt Unit 4, consistent with EPA's previous BART determination for that unit. The visibility cost-effectiveness values are based on an annualized cost of $1.2 million per year, based on the analysis by UNC, contractor to EPA.[154]

TABLE 47—SUNDT UNIT 1, 2 AND 3: VISIBILITY IMPACT AND IMPROVEMENT FROM NO_X CONTROLS

Class I area	Distance (km)	Visibility impact	Visibility improvement from control
		Base case (SNCR on Unit 4)	ULNB
Chiricahua NM	144	0.43	0.08
Chiricahua WA	141	0.51	0.07
Galiuro WA	64	1.10	0.22
Gila WA	232	0.17	0.02
Mazatzal WA	203	0.19	0.02
Mount Baldy WA	232	0.15	0.02
Pine Mountain WA	247	0.15	0.01
Saguaro NP	17	3.40	0.40
Sierra Ancha WA	178	0.19	0.02
Superstition WA	137	0.32	0.04
Cumulative (sum)	.....	6.6	0.9
Maximum	.....	3.40	0.40
# CIAs >= 0.5 dv	.....	3	0
Million $/dv (cumul. dv)	.....	.....	$1.3
Million $/dv (max. dv)	.....	.....	$2.9

[151] See spreadsheet "Non EGU_RP_Ch5.xlsx" in the docket.

[152] Typical Installation Timelines for NO_X Emissions Control Technologies on Industrial Sources, Institute of Clean Air Companies, December 4, 2006.

[153] Typical Installation Timelines for NO_X Emissions Control Technologies on Industrial Sources, Institute of Clean Air Companies, December 4, 2006.

[154] Technical Analysis for Arizona and Hawaii Regional Haze FIPs: Task 9: Five-Factor RP Analyses for TEP Springerville, APS Cholla, TEP Sundt, CalPortland Cement and Phoenix Cement Plants, Contract No. EP–D–07–102, Work Assignment 5–12; Prepared for EPA Region 9 by University of North Carolina at Chapel Hill, ICF International, and Andover Technology Partners; October 3, 2012, Table 20.

g. Ina Road Sewage Plant

Costs of Compliance: This site has seven 1,000 hp natural gas-fired internal combustion engines. EPA's analysis indicates that the most cost-effective control is non-selective catalytic reduction (NSCR). Installation of this control would reduce emissions by 1,029 tpy at a cost of $210/ton.[155]

Time Necessary for Compliance: The Institute of Clean Air Companies estimates that 8 to 14 weeks would be required to install these kinds of controls.[156]

Energy and Non-Air Quality Environmental Impacts of Compliance: The control measure may decrease the thermodynamic efficiency of the engines and increase fuel usage.

Remaining Useful Life: EPA assumes that the engines would continue operating for 20 years and fully amortize the cost of controls.

Proposed RP Determination: EPA proposes to find that it is not reasonable to require additional controls on this facility at this time. Natural gas engines similar to those at the Ina Road Sewage Plant are found in many locations throughout Arizona. EPA's assessment indicates that a state-wide or regional approach to controlling this source category could result in significant emissions reductions. Given the dispersed nature of these engines, many of which may fall into the area source category discussed above, it is not practical for EPA to control these sources. Therefore, EPA proposes to find that it is not reasonable to require additional controls on this particular source at this time. This source category should be given serious consideration for future planning periods, as it would be more appropriately controlled by the State.

h. Tucson Electric Power Springerville Plant

Costs of Compliance: TEP Springerville Plant Units 1 and 2 are 4,700 MMBtu/hr tangential coal-fired boilers, which currently employ LNB with OFA for NO_X control. EPA identified two feasible additional controls: SNCR and SCR. The estimated emission reductions and costs for these two options are summarized in Tables 48 and 49.

TABLE 48—TEP SPRINGERVILLE 1 AND 2: NO_X EMISSION ESTIMATES

Control option	NO_X emissions			Emission reduction
	lb/MMBtu	lb/hr	tpy	tpy
Springerville 1:				
Baseline (LNB+OFA)	0.18	769	2,189	
SNCR	0.13	538	1532	657
SCR	0.05	212	605	1,584
Springerville 2:				
Baseline (LNB+OFA)	0.19	798	2,448	
SNCR	0.13	559	1714	734
SCR	0.05	210	644	1,804

TABLE 49—TEP SPRINGERVILLE 1 AND 2: NO_X CONTROL COST ESTIMATES

Control option	Total capital cost	Annualized capital cost	Annual O&M costs	Total annual cost	Cost-effectiveness ($/ton)	
	$	$/yr	$/yr	$/yr	Ave	Incr
Springerville 1:						
Baseline (LNB+OFA)						
SNCR	$8,496,000	$903,914	$1,933,059	$2,836,973	$4,320	
SCR	71,796,257	7,638,614	3,181,809	10,820,423	6,829	$8,606
Springerville 2:						
Baseline (LNB+OFA)						
SNCR	8,496,000	903,914	2,141,291	3,045,205	4,146	
SCR	71,402,351	7,596,705	3,379,514	10,976,219	6,085	7,416

Time Necessary for Compliance: Given the estimate from the Institute of Clean Air Companies[157] that approximately a year is required to install SNCR and the estimate of three years for installing SNCR on a cement kiln discussed previously in this notice. EPA estimates that SNCR could be installed in less than three years. In our previous Arizona FIP action, EPA estimated that 5 years would be required to install SCR on coal-fired boilers.[158] That estimate also holds for this source.

Energy and Non-Air Quality Environmental Impacts of Compliance: SCR and SNCR can result in additional ammonia emissions. There is also increased truck traffic bringing the reagent on site. SCR will also slightly reduce the efficiency of the plant, resulting in increased fuel usage.

Remaining Useful Life: EPA assumes that this plant would continue operating for 20 years and fully amortize the cost of controls.

Degree of Improvement in Visibility: As shown in Table 50, CALPUFF modeling indicates that SNCR at Units 1 and 2 would provide a 0.18 dv visibility benefit at the most affected Class I area and a cumulative 0.8 dv benefit across all affected areas. SCR would provide a 0.41 dv benefit at the most affected Class I area and

[155] See spreadsheet "Non EGU_RP_Ch5.xlsx" in the docket.

[156] Typical Installation Timelines for NO_X Emissions Control Technologies on Industrial Sources, Institute of Clean Air Companies, December 4, 2006.

[157] Typical Installation Timelines for NO_X Emissions Control Technologies on Industrial Sources, Institute of Clean Air Companies, December 4, 2006.

[158] See 77 FR 42834 at 42865 for more details.

cumulative 1.7 dv across all affected areas.

TABLE 50—SPRINGERVILLE UNITS 1 & 2: VISIBILITY IMPACT AND IMPROVEMENT FROM NO_X CONTROLS

Class I area	Distance (km)	Impact	Improvement from control	
		Base case	SNC (ctrl-1)	SCR (ctrl-2)
Bandelier NM	298	1.08	0.07	0.13
Chiricahua NM	253	0.85	0.07	0.14
Chiricahua WA	264	0.88	0.00	0.01
Galiuro WA	211	0.95	0.03	0.08
Gila WA	111	4.39	0.18	0.41
Grand Canyon NP	302	0.79	0.07	0.07
Mazatzal WA	209	0.86	0.01	0.01
Mount Baldy WA	51	3.63	0.13	0.32
Petrified Forest NP	79	2.46	0.06	0.09
Pine Mountain WA	236	0.67	0.02	0.06
Saguaro NP	263	0.57	0.01	0.04
San Pedro Parks WA	281	1.53	0.05	0.23
Sierra Ancha WA	165	1.01	0.02	0.05
Superstition WA	194	0.52	0.03	0.06
Sycamore Canyon WA	263	0.65	0.02	0.04
Cumulative (sum)	.....	20.8	0.8	1.7
Maximum	.....	4.39	0.18	0.41
# CIAs >= 0.5 dv	.....	15	0	0
Million $/dv (cumul. dv)	.....	.....	$7.3	$12.6
Million $/dv (max. dv)	.....	.....	$32.2	$53.4

Proposed RP Determination: EPA proposes to determine that it is not reasonable to require additional controls at Springerville Units 1 and 2 at this time. While the cost per ton for SNCR may be reasonable, the projected visibility benefits are relatively small (0.18 dv at the most affected area). The projected visibility benefits of SCR are larger (0.41 dv at the most affected area), but we do not consider them sufficient to warrant the relatively high cost of controls for purposes of RP in this planning period. However, these units should be considered for additional NO_X controls in future planning periods.

i. El Paso Natural Gas Williams Compressor Station

Costs of Compliance: This site consists of five 2,500 hp engines, one 3,400 hp engine, and one 32,200 hp gas turbine. EPA's analysis indicates that air/fuel ratio controllers are the most cost-effective controls for the five 2,500 hp engines and would reduce emissions by 288 tpy at a cost of $547/ton. Our analysis indicates that an air/fuel ratio controller is also the most cost-effective control for the 3,400 hp engine and would reduce emissions from that engine by 131 tpy at a cost of $444/ton. Our analysis further indicates that water injection would be the most cost-effective control for the gas turbine and would reduce emissions from that engine by 505 tpy at a cost of $854/ton.[159]

Time Necessary for Compliance: The Institute of Clean Air Companies estimates that 8 to 14 weeks would be required to install these kinds of controls.[160]

Energy and Non-Air Quality Environmental Impacts of Compliance: These controls may increase fuel usage by reducing the thermal efficiency of the engines.

Remaining Useful Life: EPA assumes that the engines would continue operating for 20 years and fully amortize the cost of controls.

Proposed RP Determination: EPA proposes to find that it is not reasonable to require additional controls on this facility at this time. Natural gas engines similar to those comprising the Williams Compressor Station are found in various locations throughout Arizona. EPA's assessment indicates that a statewide or regional approach to controlling this source could result in significant emissions reductions. Given the dispersed nature of these engines, many of which may fall into the area source category discussed above, it is not practical for EPA to control these sources. Therefore, EPA proposes to find that it is not reasonable to require additional controls on this particular source at this time. This source category should be given serious consideration for future planning periods, as it would be more appropriately controlled by the State.

B. Reasonable Progress Analysis of Area Sources for NO_X and SO_2

1. Identification of Area Sources for NO_X and SO_2.

The initial step in our area source RP analysis was the identification of specific SO_2 and NO_X area source categories to evaluate for potential controls. To that end, we examined data from the 2008 National Emissions Inventory (NEI) to determine the most significant area sources of SO_2 and NO_X. This analysis is described in the TSD, and the results are summarized in Tables 51 and 52. As discussed in the TSD, there are significant uncertainties in the area source emissions inventory for Arizona. In spite of the uncertainty, it is evident that the primary area source categories of most concern are Industrial and Commercial Boilers and Internal Combustion Engines burning distillate fuel oil. A third category, Residential Natural Gas Combustion, also comprises a significant portion of NO_X emissions. EPA has therefore identified these categories as "potentially affected sources." EPA proposes to find that the remaining source categories comprise too small of a percentage contribution to

[159] See spreadsheet "Non EGU_RP_Ch5.xlsx" in the docket.

[160] Typical Installation Timelines for NO_X Emissions Control Technologies on Industrial Sources, Institute of Clean Air Companies, December 4, 2006.

overall emissions to justify consideration for additional controls in this initial planning period.

TABLE 51—SIGNIFICANT AREA SOURCES OF NO_X IN ARIZONA

Source type	Source classification code	Tons per year (2008)	Portion of total area source emissions (%)	Cumulative portion (%)
Industrial Boilers and Internal Combustion Engines (burning distillate fuel oil)	2102004000	2,300	29.3	29.3
Residential Natural Gas Combustion	2104006000	1,645.7	20.2	49.5
Industrial Natural Gas Combustion	2102006000	765.4	9.4	58.8
Open Burning, Land Clearing Debris		727.0	8.9	67.7

TABLE 52—SIGNIFICANT AREA SOURCES OF SO_2 IN ARIZONA

Source type	Source classification code	Tons per year (2008)	Portion of total area source emissions (%)	Cumulative portion (%)
Industrial Boilers and Internal Combustion Engines (burning distillate fuel oil)	2102004000	1652.1	65.3	65.3
Commercial and Institutional Boilers and Internal Combustion Engines (burning distillate fuel oil)	2103004000	483.5	19.1	84.5
Industrial processes not elsewhere classified	2399000000	110.4	4.4	88.8

2. Analysis of Significant Area Source Categories

a. Approach to Area Source Analysis

In conducting an RP analysis for area source, EPA encountered significant limitations on the availability and accuracy of data concerning the relevant source categories. For purposes of emission inventory development, an area source is not a single facility, but a category of polluting sources known to exist within a certain geographic area (such as a county), whose actual number, age, and design is not known. The emissions from area sources are usually estimated based on a "top-down" method, where a surrogate piece of information, such as the number of people living in a county or the gallons of diesel fuel sold there in a given year, is used to estimate emissions. Each of the source categories analyzed has an emissions estimate derived from Federal, state, or local databases of fuel consumption. In the aggregate, these numbers are sufficiently accurate for most analyses. However, they do not provide adequate detail for EPA to precisely estimate the actual costs and benefits of controlling the existing population of sources.

Given these limitations in available data, EPA's analyses of area sources are limited in scope. For each category we have developed ranges for the estimated cost of compliance and general information about each of the other factors, based largely on data from three sources: the WRAP Four-Factor Analysis report, [161] EPA's Control Strategy Tool, and the documentation for EPA's AirControlNet tool.[162] The WRAP report lists several possible NO_X and SO_2 controls for industrial boilers and internal combustion engines, depending on their size and pre-existing controls. The WRAP report also addresses the other mandatory factors for an RP analysis. The Control Strategy Tool is EPA's most current tool for assessing the cost-effectiveness of control strategies for various source categories. EPA used this tool to confirm that the cost estimates in the WRAP report are still reasonable.[163] We also consulted the AirControlNet documentation report that contains the most current data on the cost-effectiveness of NO_X controls for residential natural gas combustion. Finally, while we lacked sufficient data to conduct visibility modeling for particular categories of area sources, we have analyzed the overall contribution of area sources to nitrate and sulfate-caused visibility impairment in Arizona's Class I areas in order to estimate the potential benefits of controls. The results of this analysis are provided below, following the results of the four-factor analyses for all of the source categories.

[161] "Supplementary Information for Four Factor Analyses by WRAP States," EC/R Incorporated, corrected version, April 20, 2010.

[162] "AirControlNet, Version 4.1," May 2006, E.H. Pechan and Associates.

[163] See spreadsheet titled "AZ FIP Cost Analysis_ for Greg Nudd Rg 9_2013–08–13.xls".

b. RP Analysis of Industrial, Commercial, and Institutional Boilers Burning Distillate Fuel Oil

Cost of Compliance: The estimated cost-effectiveness values for NO_X control options are:

- LNB: $400–7,000/ton;
- LNB/OFA: $400–7,000/ton;
- SNCR: $400–6,900/ton;
- SCR: $1,000–8,000/ton.

The estimated cost-effectiveness values for SO_2 control options for this category are:

- DSI: $5,000–11,000/ton;
- Wet FGD: $6,000–13,000/ton.

Time Necessary for Compliance: Installation of the control devices, in most cases, should take no more than 2–3 years. The only possible exception may be for installation of SCR, which may take as long as 5 years.

Energy and Non-Air Quality Environmental Impacts of Compliance: LNB may reduce combustion efficiency and slightly increase fuel consumption; SNCR and SCR would require some electricity use and environmental impacts from ammonia slip and transport and storage of the reagent. Wet FGD requires large quantities of water and requires disposal of wet ash.

Remaining Useful Life: It is reasonable to assume that the units would remain in use long enough to fully recover the costs of controls.

c. RP Analysis of Industrial, Commercial, and Institutional Internal Combustion Engines Burning Distillate Fuel Oil

Costs of Compliance: We estimate the following cost-effectiveness values for NO_X control options:

- Ignition timing retard: $1,000–2,200/ton;
- Exhaust Gas Recirculation: $780–2,000/ton;
- SCR: $3,000–7,700/ton;
- Replacement with Tier 4 engines: $900–2,400/ton.

We did not identify any technically feasible options for SO_2 control other than lower sulfur fuel.

Time Necessary for Compliance: Installation of the control devices, in most cases, should take no more than 2–3 years. The only possible exception may be for installation of SCR, which may take as long as 5 years.

Energy and Non-Air Quality Environmental Impacts of Compliance: SCR would require some electricity use and there may also be environmental impacts from ammonia slip and transport and storage of the reagent. The other options would not have negative energy or non-air quality environmental impacts.

Remaining Useful Life: It is reasonable to assume that the units would remain in use long enough to fully recover the costs of controls.

d. RP Analysis of Residential Natural Gas Combustion

Costs of Compliance: We estimate the following cost-effectiveness values for NO_X control options:

- Replace space heaters with Low NO_X equivalent: $1,600/ton;
- Replace water heaters with Low NO_X equivalent: $1,230/ton.[164]

SO_2 controls are not needed for this category due to low sulfur content of pipeline natural gas.

Time Necessary for Compliance: Installation of the new devices, in most cases, should take no more than 2–3 years.

Energy and Non-Air Quality Environmental Impacts of Compliance: We did not identify any energy or non-air quality environmental impacts.

Remaining Useful Life: This factor is not applicable for a unit replacement.

Visibility Significance of Area Sources: As explained above, we do not have sufficient information to assess the likely visibility benefits of requiring controls on particular categories of area sources. However, in order to estimate the total potential visibility benefits that might result from controlling NO_X and SO_2 emissions from area sources, we have analyzed the overall contribution of area sources to nitrate- or sulfate-caused visibility impairment in Arizona's Class I areas. The relative contribution can be estimated by reviewing the results of the Particulate Source Apportionment Technology (PSAT) modeling conducted by the WRAP. This method and our evaluation of it are described in the WRAP TSD prepared by EPA.[165] Tables 53 and 54 below compare the contribution of Arizona area sources to visibility impairment in Arizona's Class I areas with the contributions from point and mobile sources.[166] Table 53 shows the relative contribution of these Arizona source categories to the 2018 predicted total nitrate impairment at the Class I areas. Table 54 shows the same data for 2018 predicted total sulfate impairment. Nitrate and sulfate comprise a subset of the total visibility impairment at these Class I areas. To calculate the source category's total contribution to visibility impairment, one would have to account for the other pollutants (such as coarse mass, black carbon, etc.). EPA has not made that calculation here, as we are looking specifically at nitrate and sulfate impairment for this RP analysis.

TABLE 53—2018 PROJECTED NITRATE IMPAIRMENT: COMPARISON OF ARIZONA SOURCE CATEGORIES

Class I area	Arizona area sources (%)	Arizona point sources (%)	Arizona mobile sources
CHIR1	0.7	5.1	5.1
GRCA2	2.9	7.4	18.3
IKBA1	4.1	12.3	23.6
BALD1	0.8	18.1	8.7
PEFO1	1.7	26.7	14.2
SAGU1	5.2	19.3	27.5
SAWE1	4.3	18.4	23.5
SIAN1	4.1	5.0	20.7
TONT1	5.4	12.7	30.2
SYCA1	2.7	14.0	19.3

TABLE 54—2018 PROJECTED SULFATE IMPAIRMENT: COMPARISON OF ARIZONA SOURCE CATEGORIES

Class I area	Arizona area sources	Arizona point sources	Arizona mobile sources
CHIR1	0.4	4.7	0.5
GRCA2	0.4	4.3	1.0
IKBA1	1.0	6.7	1.2
BALD1	0.7	11.3	0.7
PEFO1	0.7	19.6	0.9
SAGU1	2.1	10.2	1.7
SAWE1	1.7	9.6	1.4
SIAN1	0.8	7.8	1.1
TONT1	1.3	7.8	2.8
SYCA1	1.0	3.5	0.8

As indicated in Tables 53 and 54, area sources in Arizona currently comprise a relatively small portion of the visibility impairment due to nitrate and sulfate, so the potential visibility benefits of NO_X or SO_2 controls on these sources would be relatively small at this point in time. However, the relative contribution of area sources to visibility impairment at Arizona's Class I areas may increase over time, as additional point source and mobile source controls are implemented. Therefore, additional analysis of these sources will be necessary in future planning periods.

f. Proposed RP Determination for Area Sources

EPA proposes to find that it is not reasonable to require additional controls on area sources of NO_X and SO_2 at this time. There are significant uncertainties about the costs and potential benefits of such rules at this time. Furthermore, the visibility benefits due to area source controls are likely to be much smaller than the significant reductions in SO_2 and NO_X emissions from point sources achieved during this planning period. We also note that no other Regional Haze SIP or FIP has imposed controls on such sources primarily to ensure reasonable progress.[167] EPA will work with the State and the relevant regional planning organizations to improve our understanding of the nature of these area source emissions, the costs and methods of controlling them, and their impact on visibility at Class I areas. Based on the results of these efforts,

[164] Both estimates from AirControlNet Manual p. III–90 and are in 1990 dollars.

[165] "Technical Support Document for Technical Products Prepared by the Western Regional Air Partnership (WRAP) in Support of Western Regional Haze Plans," February 28, 2011.

[166] See *http://vista.cira.colostate.edu/tss/Results/HazePlanning.aspx*, select "Emissions and Source Apportionment" and the 2018 Base Case (base 18b) emissions scenario.

[167] The Colorado Regional Haze SIP includes rules limiting emissions from certain Reciprocating Internal Combustion Engines. 77 FR 18052, 18089. However these rules are part of a State regulation intended to control ozone rather than regional haze. Colorado Air Quality Control Commission, Regulation Number 7, 5 CCR 1001–9, Control of Ozone via Ozone Precursors, Section XVII, Statewide Control for Oil and Gas Operations and Natural Gas-Fired Reciprocating Internal Combustion Engines, subsection E.3.a, (Regional Haze SIP) Rich Burn Reciprocating Internal Combustion Engines.

these source categories should be carefully considered in future Regional Haze SIPs.

C. Reasonable Progress Goals

We are proposing reasonable progress goals (RPGs) that are consistent with the combination of control measures included in the Arizona RH SIP measures that we previously approved;[168] the partial RH FIP that we promulgated on December 5, 2012;[169] and the partial RH FIP we are proposing today. In total, these final and proposed controls to meet the BART and RP requirements will result in higher emissions reductions and commensurate visibility improvements beyond what was in the State's plan. As a result, we expect that the visibility levels at Arizona Class I areas will be substantially better than predicted in the WRAP modeling that served as the basis for the State's RPGs. In addition, our final BART FIP for the Four Corners Power Plant on the Navajo Nation is expected to result in tens of thousands of tons per year of additional NO_X reductions that will benefit some of Arizona's Class I areas. Likewise, our proposed BART FIP for the Navajo Generating Station, if finalized, will result in substantial visibility benefit for Class I areas.

While we would prefer to quantify these proposed RPGs for each of Arizona's 12 Class I areas based on the new state and federal plans, we lack sufficient time and resources to conduct the type of regional-scale modeling required to develop such numerical RPGs.[170] Nonetheless, we anticipate that the additional controls required in EPA's Regional Haze FIPs will result in an increase in visibility improvement during the 20 percent worst days and the 20 percent best days in all of Arizona's Class 1 Areas.

D. Meeting the Uniform Rate of Progress

As explained in our proposed and final rules on the Arizona RH SIP, the State set RPGs that provide for slower rates of improvement in visibility than the URP for each of the State's twelve Class I areas.[171] Given the variety and location of the sources contributing to visibility impairment in Arizona, EPA considers it unlikely that all of Arizona's Class I areas will meet the URP during this planning period, even with the additional controls required in EPA's Regional Haze FIPs. Therefore, EPA must demonstrate that it is not reasonable to provide for rates of progress consistent with the URP for this planning period, based upon the four RP factors.[172] Given that this demonstration must be based on the same four factors as the initial RP analysis, EPA proposes to find that the extensive reasonable progress analysis underlying our actions on the Arizona SIP, and the reasonable progress analysis found in this proposal are sufficient to make this demonstration. In particular, for the reasons explained in our proposed and final rules on the Arizona RH SIP, we have approved Arizona's determinations that it is not reasonable to require additional controls to address organic carbon, elemental carbon, coarse mass and fine soil during this planning period.[173] We also approved the State's decision not to require additional controls on non-BART point sources of SO_2.[174] Moreover, based on the analyses set out in the preceding sections of this document, we are now proposing to find that it is not reasonable to require additional controls on most point sources of NO_X or area sources of NO_X and SO_2 during this planning period. However, we are proposing to require additional NO_X controls on two cement kilns. Based on all of these analyses, we propose to find that it is not reasonable for any of Arizona's Class I areas to meet the URP during this planning period.

VII. EPA's Proposed Long-Term Strategy Supplement

In our final rule on the Arizona RH SIP published on July 30, 2013, we disapproved portions of the State's LTS related to three RHR requirements. These requirements were for measures needed to achieve emission reductions for out-of-state Class I areas, emissions limitations and schedules for compliance to achieve the reasonable progress goals, and enforceability of emissions limitations and control measures.[175] These RHR requirements are found in 40 CFR 51.308(d)(3)(ii), (v)(C) and (v)(F). We now are obligated to address these requirements through a FIP under CAA section 110(c). In this section, we describe each of these requirements, our rationale for disapproving these elements in the Arizona RH SIP, and propose how to address these requirements in our FIP.

A. Emission Reductions for Out-of-State Class I Areas

Under the RHR, where a state has participated in a regional planning process, the state's LTS must include all measures needed to achieve that state's apportionment of emission reduction obligations agreed upon through that process.[176] Arizona participated in a regional planning process through the WRAP and incorporated the WRAP-developed visibility modeling into the Arizona RH SIP. However, the Arizona RH SIP did not include all measures needed to achieve the State's apportionment of emission reductions that were included in the WRAP modeling. In particular, Arizona's BART determinations lacked the necessary compliance schedules and requirements for operation and maintenance of control equipment and monitoring, recordkeeping and reporting to ensure that the assumed reductions at Arizona's BART sources are achieved. Therefore, we disapproved this element of the Arizona RH SIP.

B. Emissions Limitations and Schedules for Compliance To Achieve RPGs

One of the factors a state must consider in developing its LTS is emissions limitations and schedules for compliance to achieve the State's RPGs for its own Class I areas.[177] As explained in the preceding section, the Arizona RH SIP did not contain any enforceable emission limitations or schedules for compliance to achieve the State's RPGs. Therefore, we found that the Arizona RH SIP did not meet this requirement.

C. Enforceability of Emissions Limitations and Control Measures

Another factor a state must consider in developing its LTS is the enforceability of emissions limitations and control measures.[178] As explained in the preceding sections, Arizona's BART determinations lack provisions to ensure their enforceability. Therefore, we disapproved the Arizona RH SIP with respect to this requirement.

D. Proposed Partial LTS FIP

The primary flaw in Arizona's LTS is the lack of enforceable emission limitations for BART controls. We propose to remedy this deficiency by promulgating BART emission limitations and compliance schedules as

[168] 77 FR 72512, 78 FR 46142.

[169] 77 FR 72512.

[170] The regional-scale modeling that formed the basis for Arizona's RPGs was developed by the WRAP's Regional Modeling Center over the course of several years with input from numerous sources.

[171] See 77 FR 75728, 78 FR 29298 and 78 FR 46160.

[172] 40 CFR 51.308(d)(1)(ii).

[173] See 77 FR 75728 for a discussion on sources of organic carbon and elemental carbon (fires), and 78 FR 29297–29299 for a discussion of coarse mass and fine soil.

[174] See 78 FR 46172.

[175] See 78 FR 46173 (codified at 40 CFR 52.145(e)(ii)).

[176] 40 CFR 51.308(d)(3)(ii).

[177] 40 CFR 51.308(d)(3)(v)(C).

[178] 40 CFR 51.308(d)(3)(v)(F).

well as monitoring, recordkeeping and reporting requirements, to ensure the enforceability of these limits.

1. Enforceability Requirements for Arizona and EPA's Phase 1 BART Determinations

As part of our final rule published on December 5, 2012, regarding BART for Apache Generating Station, Cholla Power Plant and Coronado Generating Station, we promulgated compliance deadlines and requirements for equipment maintenance and operation including monitoring, recordkeeping and reporting, to ensure the enforceability of both Arizona's and EPA's BART determinations.

2. Enforceability Requirements for EPA's Proposed Phase 3 BART and RP Determinations

As described above, today, we are proposing to promulgate similar requirements for the remaining subject-to-BART sources and pollutants in Arizona. We are also proposing emission limitations and compliance requirements for two RP sources: the Phoenix Cement Clarkdale Plant and the CalPortland Rillito Plant.

3. Enforceability Requirements for Arizona's Phase 2 BART Determinations

The final element of our proposed LTS consists of enforceable emission limitations and associated requirements for PM_{10} at the Hayden and Miami Copper Smelters. While we previously approved the State's determination that existing controls constitute BART for PM_{10} at each of these facilities, the Arizona RH SIP lacked any emission limitation or associated requirements to ensure the enforceability of these determinations, as required under the CAA and EPA's regulations.[179] Therefore, we are proposing to promulgate such limits and associated compliance requirements for these BART determinations, as necessary to ensure their enforceability.

a. Hayden Smelter PM_{10}

In its BART analysis for PM_{10}, ASARCO relied on the particulate limits established in National Emission Standard for Hazardous Air Pollutants (NESHAP) Subpart QQQ, Primary Copper Smelting at 40 CFR 63.1444(d)(5) and (6).[180] These limits and associated monitoring requirements formed the basis for ASARCO's BART determination, which ADEQ incorporated in its Regional Haze SIP.[181] We are now proposing to incorporate these requirements into the FIP. In particular, we propose to set a limit of 6.2 mg/dscm non-sulfuric acid particulate matter from the primary capture system, and a limit of 23 mg/dscm particulate matter from the secondary capture system, as measured using the test methods specified in 40 CFR 63.1450(b). We propose to require demonstration of compliance with these limits through the applicable procedures in 40 CFR 63.1451 and 1453.

b. Miami Smelter PM_{10}

In the Arizona Regional Haze SIP, ADEQ determined that the NESHAP for Primary Copper Smelting constitutes BART for PM emissions from the Miami Smelter. Because the FMMI smelter is a major source of Hazardous Air Pollutants (HAPs), and therefore subject to the requirements of the NESHAP, these requirements are already incorporated into the facility's Title V permit.[182] We propose to find that these existing, federally enforceable requirements are sufficient to ensure the enforceability of ADEQ's PM_{10} BART determination for the Miami Smelter.

VIII. EPA's Proposal for Interstate Transport

We propose that a combination of SIP and FIP measures will satisfy the FIP obligation for the visibility requirement of CAA section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS. As discussed in section II.B ("Overview of Proposed Actions; Interstate Transport of Pollutants that affect Visibility") of this proposed rule, EPA disapproved Arizona's 2007 and 2009 Transport SIPs as well as its Regional Haze SIP for the interstate transport visibility protection requirement of CAA section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS. As noted in our proposed SIP action,[183] we interpret the visibility requirement of section 110(a)(D)(i)(II) as requiring states to include in their SIPs either measures to prohibit emissions that would interfere with attaining RPGs of Class I areas in other states, or a demonstration that emissions from the state's sources and activities will not have the prohibited impacts under the existing SIP. Arizona's 2007 and 2009 Transport SIP revisions indicated that the interstate transport visibility requirement should be assessed in conjunction with the Arizona RH SIP, but did not specify which parts of the RH SIP should be considered as meeting the visibility requirement of section 110(a)(2)(D)(i)(II). Therefore we have considered the Arizona RH SIP as a whole in assessing whether Arizona has met this visibility requirement.

As a result of the partial disapprovals of the Arizona RH SIP, we found that the Arizona SIP did not contain adequate provisions to prohibit emissions that may interfere with SIP measures required of other states to protect visibility. Therefore, we disapproved Arizona's submittals with respect to the interstate transport visibility requirement for the 1997 8-hour ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS, which triggered the obligation for EPA to promulgate a FIP under CAA section 110(c)(1). We anticipated that this FIP obligation could be satisfied by a combination of the State's measures that we previously approved and EPA's promulgation of FIPs for the disapproved elements of the Arizona RH SIP.[184]

We propose to find that the combination of elements in the applicable RH SIPs and FIPs will contain adequate provisions to prohibit emissions from Arizona that would interfere with SIP measures required of other states to protect visibility. These elements are the Arizona RH SIP measures that we previously approved;[185] the partial RH FIP that we promulgated on December 5, 2012;[186] and the partial RH FIP we are proposing today. As explained in the LTS section, the combination of all of these measures will ensure that the applicable implementation plan (i.e., the combination of SIP and FIP measures) will include all of the measures needed to achieve Arizona's allotment of emission reductions agreed upon through the WRAP process. We propose that this combination of SIP and FIP measures will satisfy the FIP obligation for the visibility requirement of CAA section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS.

IX. Summary of EPA's Proposed Actions

A. Regional Haze

EPA is proposing a FIP to address the remaining portions of the Arizona's RH SIP that we disapproved on July 30, 2013, which includes requirements for Best Available Retrofit Technology, Reasonable Progress, and the Long-term

[179] See CAA section 110(a)(2)(F) and 40 CFR 51.212(c), 51.308(d)(3)(v)(C) and (F).

[180] Letter from Eric Hiser, Counsel for ASARCO, to Balaji Vaidyanathan, ADEQ dated March 20, 2013, page 5.

[181] Arizona RH SIP Supplement (May 3, 2013), Appendix D, page 23, and Section XII.

[182] ADEQ Air Quality Class I Permit Number 53592 issued November 26, 2012, attachment B.

[183] 77 FR 75704 at 75709.

[184] 77 FR 75704 at 75736.

[185] 77 FR 72512, 78 FR 46142.

[186] 77 FR 72512.

Strategy. We are proposing more stringent emission limits on six sources that impact visibility in 17 Class I areas inside and outside the State. We welcome comments on all of our proposals and indicate specific issues or areas where feedback would be particularly useful. Our proposal includes compliance dates and specific requirements for monitoring, recordkeeping, reporting and equipment operation and maintenance for all of the units covered by this action as described in Part 52 attached to this notice. Today's proposed FIP, once finalized, along with previously approved SIPs and a finalized FIP, will constitute Arizona's regional haze program for the first planning period that ends in 2018.

B. Interstate Visibility Transport

We propose that the interstate transport visibility requirement of section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS is satisfied by a combination of SIP and FIP elements. These elements are the Arizona RH SIP measures that we previously approved; the partial RH FIP that we promulgated on December 5, 2012; and the partial RH FIP we are proposing today.

X. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This proposed action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). The proposed FIP applies to only six facilities. It is therefore not a rule of general applicability.

B. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Under the Paperwork Reduction Act, a "collection of information" is defined as a requirement for "answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *." 44 U.S.C. 3502(3)(A). Because the proposed FIP applies to just six facilities, the Paperwork Reduction Act does not apply. See 5 CFR 1320(c). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control numbers for our regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed action on small entities, I certify that this proposed action will not have a significant economic impact on a substantial number of small entities. None of the facilities subject to this proposed rule is owned by a small entity.[187] We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more (adjusted for inflation) in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 of UMRA do not apply when they are inconsistent with applicable law. Moreover, section 205 of UMRA allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Under Title II of UMRA, EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures that exceed the inflation-adjusted UMRA threshold of $100 million by State, local, or Tribal governments or the private sector in any 1 year. In addition, this proposed rule does not contain a significant Federal intergovernmental mandate as described by section 203 of UMRA nor does it contain any regulatory requirements that might significantly or uniquely affect small governments.[188]

[187] See Regulatory Flexibility Act Screening Analysis for Proposed Arizona Regional Haze Federal Implementation Plan (EPA–R09–OAR–2013–0588).

[188] See "Summary of EPA BART Cost Estimates" in the docket.

E. Executive Order 13132: Federalism

Executive Order 13132 Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. In this action, EPA is fulfilling our statutory duty under CAA Section 110(c) to promulgate a partial Regional Haze FIP. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

Subject to the Executive Order 13175 (65 FR 67249, November 9, 2000) EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

EPA has concluded that this action, if finalized, will have tribal implications, because it will impose substantial direct compliance costs on tribal governments, and the Federal government will not provide the funds necessary to pay those costs. PCC is a division of Salt River Pima Maricopa Indian Community (SRPMIC or the Community) and profits from the Phoenix Cement Clarkdale Plant are used to provide government services to SRPMIC's members. Therefore, EPA is providing the following tribal summary impact statement as required by section 5(b).

EPA consulted with tribal officials early in the process of developing this regulation to permit them to have meaningful and timely input into its development. In November 2012, we shared our initial analyses with SRPMIC and PCC to ensure that the tribe had an early opportunity to provide feedback on potential controls at the Clarkdale Plant. PCC submitted comments on this initial analysis as part of the rulemaking on the Arizona Regional Haze SIP and we revised our initial analysis based on these comments. On November 6, 2013, the EPA Region 9 Regional Administrator met with the President and other representatives of SRPMIC to discuss the potential impacts of the FIP on SRPMIC. Following this meeting, staff from EPA, SPRMIC and PCC shared further information regarding the Plant and potential impacts of the FIP on SRPMIC.[189]

During these consultations, SRPMIC expressed its concern regarding the potential financial impacts of any new controls that might be required at the Clarkdale Plant. In particular, SRPMIC requested that EPA provide PCC with an extended compliance schedule for any controls in order to enable PCC and SRPMIC to plan for such controls in their long-term budgets and thus mitigate the potential impacts to the Community.[190] However, SRPMIC provided only limited information documenting the potential for such impacts and claimed all such information as CBI.

As explained above, EPA is proposing to determine that it is reasonable to require installation of SNCR at Kiln 4 at the Clarkdale Plant by December 31, 2018. EPA is also seeking comment on the possibility of establishing an annual cap on NO_X emissions from Kiln 4 in lieu of a lb/ton emission limit. An annual cap would allow SRPMIC to delay installation of controls until the Plant's production returns to pre-recession levels and would thus help to address the Community's concerns about the budgetary impacts of control requirements. EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. EPA interprets EO 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it implements specific standards established by Congress in statutes. However, to the extent this proposed rule will limit emissions of NO_X, SO_2 and PM, the rule will have a beneficial effect on children's health by reducing air pollution.

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

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

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. EPA believes that VCS are inapplicable to this action. Today's action does not

[189] See Memorandum to Docket: Summary of Communications and Consultation between EPA, PCC and SRPMIC (January 27, 2014).

require the public to perform activities conducive to the use of VCS.

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

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

We have determined that this proposed rule, if finalized, will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This proposed federal rule limits emissions of NO_X and SO_2 from six facilities in Arizona.

List of Subjects in 40 CFR Part 52

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

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

Dated: January 27, 2014.

Jared Blumenfeld,

Regional Administrator, Region 9.

Part 52, chapter I, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart D—Arizona

■ 2. Amend § 52.145 by adding paragraphs (i), (j), (k), (l) and (m) to read as follow:

§ 52.145 Visibility protection.

* * * * *

(i) *Source-specific federal implementation plan for regional haze at Nelson Lime Plant*—(1) *Applicability.* This paragraph (i) applies to the owner/operator of the lime kilns designated as Kiln 1 and Kiln 2 at the Nelson Lime Plant located in Yavapai County, Arizona.

(2) *Definitions.* Terms not defined in this paragraph (i)(2) shall have the meaning given them in the Clean Air Act or EPA's regulations implementing the Clean Air Act. For purposes of this paragraph (i):

Ammonia injection shall include any of the following: anhydrous ammonia, aqueous ammonia or urea injection.

Continuous emission monitoring system or CEMS means the equipment required by this section to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of NO_X emissions, SO_2 emissions, diluent, or stack gas volumetric flow rate.

Kiln 1 means rotary kiln 1, as identified in paragraph (i)(1) of this section.

Kiln 2 means rotary kiln 2, as identified in paragraph (i)(1) of this section.

Kiln operating day means a 24-hour period between 12 midnight and the following midnight during which the kiln operates.

Lime product means the product of the lime kiln calcination process including calcitic lime, dolomitic lime, and dead-burned dolomite.

NO_X means nitrogen oxides.

Owner/operator means any person who owns or who operates, controls, or supervises a kiln identified in paragraph (i)(1) of this section.

SO_2 means sulfur dioxide.

Unit means any of the kilns identified in paragraph (i)(1) of this section.

(3) *Emission limitations.* The owner/operator of each kiln identified in paragraph (i)(1) of this section shall not emit or cause to be emitted pollutants in excess of the following limitations, in pounds of pollutant per ton of lime product (lb/ton), from any kiln. Each emission limit shall be based on a rolling 30 kiln-operating day basis.

Kiln ID	Pollutant emission limit	
	NO_X	SO_2
Kiln 1	3.80	9.32
Kiln 2	2.61	9.73

(4) *Compliance dates.* (i) The owner/operator of each unit shall comply with the NO_X emissions limitations and other NO_X-related requirements of this paragraph (i) no later than (three years after date of publication of the final rule in the **Federal Register**).

(ii) The owner/operator of each unit shall comply with the SO_2 emissions limitations and other SO_2-related requirements of this paragraph (i) no later than (six months after date of publication of the final rule in the **Federal Register**).

(5) *Compliance determination*—(i) *Continuous emission monitoring system.* At all times after the compliance dates specified in paragraph (i)(4) of this section, the owner/operator of Kiln 1 and 2 shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR 60.13 and 40 CFR Part 60, Appendices B and F, to accurately measure the mass emission rate of NO_X and SO_2, in pounds per hour, from Kiln 1 and 2. The CEMS shall be used by the owner/operator to determine compliance with the emission limitations in paragraph (i)(3) of this section, in combination with data on actual lime production. The owner/operator must operate the monitoring system and collect data at all required intervals at all times that an affected unit is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

(ii) *Ammonia consumption monitoring.* Upon and after the completion of installation of ammonia injection on a unit, the owner or operator shall install, and thereafter maintain and operate, instrumentation to continuously monitor and record levels of ammonia consumption for that unit.

(iii) *Compliance determination for NO_X.* Compliance with the NO_X emission limit described in paragraph (i)(3) of this section shall be determined based on a rolling 30 kiln-operating day basis. The 30-day rolling NO_X emission rate for each kiln shall be calculated for each kiln operating day in accordance with the following procedure: Step one, sum the hourly pounds of NO_X emitted for the current kiln operating day and the preceding twenty-nine (29) kiln operating days, to calculate the total pounds of NO_X emitted over the most recent thirty (30) kiln operating day period for that kiln; Step two, sum the total lime product, in tons, produced during the current kiln operating day and the preceding twenty-nine (29) kiln operating days, to calculate the total lime product produced over the most

recent thirty (30) kiln operating day period for that kiln; Step three, divide the total amount of NO_X calculated from Step one by the total lime product calculated from Step two to calculate the 30-day rolling NO_X emission rate for that kiln. Each 30-day rolling NO_X emission rate shall include all emissions and all lime product that occur during all periods within any kiln operating day, including emissions from startup, shutdown and malfunction.

(iv) *Compliance determination for SO_2.* Compliance with the SO_2 emission limit described in paragraph (i)(3) of this section shall be determined based on a rolling 30 kiln-operating day basis. The 30-day rolling SO_2 emission rate for each kiln shall be calculated for each kiln operating day in accordance with the following procedure: Step one, sum the hourly pounds of SO_2 emitted for the current kiln operating day and the preceding twenty-nine (29) kiln operating days, to calculate the total pounds of SO_2 emitted over the most recent thirty (30) kiln operating day period for that kiln; Step two, sum the total lime product, in tons, produced during the current kiln operating day and the preceding twenty-nine (29) kiln operating days, to calculate the total lime product produced over the most recent thirty (30) kiln operating day period for that kiln; Step three, divide the total amount of SO_2 calculated from Step one by the total lime product calculated from Step two to calculate the 30-day rolling SO_2 emission rate for that kiln. Each 30-day rolling SO_2 emission rate shall include all emissions and all lime product that occur during all periods within any kiln operating day, including emissions from startup, shutdown and malfunction.

(6) *Recordkeeping.* The owner/operator shall maintain the following records for at least five years:

(i) All CEMS data, including the date, place, and time of sampling or measurement; parameters sampled or measured; and results.

(ii) All records of lime production.

(iii) Daily 30-day rolling emission rates of NO_X and SO_2, when applicable, calculated in accordance with paragraphs (i)(5)(iii) and (iv) of this section.

(iv) Records of quality assurance and quality control activities for emissions measuring systems including, but not limited to, any records required by 40 CFR part 60, appendix F, Procedure 1.

(v) Records of ammonia consumption, as recorded by the instrumentation required in paragraph (i)(5)(ii) of this section.

(vi) Records of all major maintenance activities conducted on emission units, air pollution control equipment, CEMS and clinker production measurement devices.

(vii) Any other records required by 40 CFR part 60, Subpart F, or 40 CFR part 60, Appendix F, Procedure 1.

(7) *Reporting.* All reports required under this section shall be submitted by the owner/operator to the Director, Enforcement Division (Mail Code ENF–2–1), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901. All reports required under this section shall be submitted within 30 days after the applicable compliance date(s) in paragraph (i)(4) of this section and at least semiannually thereafter, within 30 days after the end of a semiannual period. The owner/operator may submit reports more frequently than semiannually for the purposes of synchronizing reports required under this section with other reporting requirements, such as the title V monitoring report required by 40 CFR 70.6(a)(3)(iii)(A), but at no point shall the duration of a semiannual period exceed six months.

(i) The owner/operator shall submit a report that lists the daily 30-day rolling emission rates for NO_X and SO_2.

(ii) The owner/operator shall submit excess emissions reports for NO_X and SO_2 limits. Excess emissions means emissions that exceed the emissions limits specified in paragraph (i)(3) of this section. The reports shall include the magnitude, date(s), and duration of each period of excess emissions, specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted.

(iii) The owner/operator shall submit CEMS performance reports, to include dates and duration of each period during which the CEMS was inoperative (except for zero and span adjustments and calibration checks), reason(s) why the CEMS was inoperative and steps taken to prevent recurrence, and any CEMS repairs or adjustments.

(iv) The owner/operator shall also submit results of any CEMS performance tests required by 40 CFR part 60, appendix F, Procedure 1 (Relative Accuracy Test Audits, Relative Accuracy Audits, and Cylinder Gas Audits).

(v) When no excess emissions have occurred or the CEMS has not been inoperative, repaired, or adjusted during the reporting period, the owner/operator shall state such information in the semiannual report.

(8) *Notifications.* (i) The owner/operator shall notify EPA of commencement of construction of any equipment which is being constructed to comply with the NO_X emission limits in paragraph (i)(3) of this section.

(ii) The owner/operator shall submit semiannual progress reports on construction of any such equipment.

(iii) The owner/operator shall submit notification of initial startup of any such equipment.

(9) *Equipment operations.* (i) At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the unit including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Pollution control equipment shall be designed and capable of operating properly to minimize emissions during all expected operating conditions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the kiln.

(ii) After completion of installation of ammonia injection on a unit, the owner or operator shall inject sufficient ammonia to achieve compliance with NO_X emission limits from paragraph (i)(3) for that unit while preventing excessive ammonia emissions.

(10) *Enforcement.* Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant as to whether the unit would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard or applicable emission limit in the plan.

(11) *Affirmative defense for malfunctions.* The following provisions of the Arizona Administrative Code are incorporated by reference and made part of this Federal implementation plan:

(i) R–18–2–101, paragraph 65;

(ii) R18–2–310, sections (A), (B), (D) and (E) only; and

(iii) R18–2–310.01.

(j) *Source-specific federal implementation plan for regional haze at H. Wilson Sundt Generating Station—*

(1) *Applicability.* This paragraph (j) applies to the owner and operator of the electricity generating unit (EGU) designated as Unit I4 at the H. Wilson

Sundt Generating Station located in Tucson, Pima County, Arizona.

(2) *Definitions.* Terms not defined in this paragraph (j)(2) shall have the meaning given them in the Clean Air Act or EPA's regulations implementing the Clean Air Act. For purposes of this paragraph (j):

Ammonia injection shall include any of the following: anhydrous ammonia, aqueous ammonia or urea injection.

Boiler operating day means a 24-hour period between 12 midnight and the following midnight during which any fuel is combusted at any time in the unit.

Continuous emission monitoring system or CEMS means the equipment required by 40 CFR Part 75 and this paragraph (j).

MMBtu means one million British thermal units.

NO_X means nitrogen oxides.

Owner/operator means any person who owns or who operates, controls, or supervises the EGU identified in paragraph (j)(1) of this section.

Pipeline natural gas means a naturally occurring fluid mixture of hydrocarbons as defined in 40 CFR 72.2.

PM means total filterable particulate matter.

PM_{10} means total particulate matter less than 10 microns in diameter.

SO_2 means sulfur dioxide.

Unit means the EGU identified paragraph (j)(1) of this section.

(3) *Emission limitations.* The owner/operator of the unit shall not emit or cause to be emitted pollutants in excess of the following limitations, in pounds of pollutant per million british thermal units (lb/MMBtu), from the subject unit.

Pollutant	Pollutant emission limit
NO_X	0.36
PM	0.030
SO_2	0.23

(4) *Alternative emission limitations.* The owner/operator of the unit may choose to comply with the following limitations in lieu of the emission limitations listed in paragraph (j)(3).

(i) The owner/operator of the unit shall combust only pipeline natural gas in the subject unit.

(ii) The owner/operator of the unit shall not emit or cause to be emitted pollutants in excess of the following limitations, in pounds of pollutant per million british thermal units (lb/MMBtu), from the subject unit.

Pollutant	Pollutant emission limit
NO_X	0.25
PM_{10}	0.010
SO_2	0.00064

(5) *Compliance dates.* (i) The owner/operator of the unit subject to this paragraph shall comply with the NO_X and SO_2 emissions limitations of paragraph (j)(3) of this section no later than (three years after date of publication of the final rule in the **Federal Register**).

(ii) The owner/operator of the unit subject to this paragraph shall comply with the PM emissions limitations of paragraph (j)(3) of this section no later than April 16, 2015.

(6) *Alternative compliance dates.* If the owner/operator chooses to comply with the emission limits of paragraph (j)(4) of this section in lieu of paragraph (j)(3) of this section, the owner/operator of the unit shall comply with the NO_X, SO_2 and PM_{10} emissions limitations of paragraph (j)(4) no later than December 31, 2017.

(7) *Compliance determination*—(i) *Continuous emission monitoring system.* (A) At all times after the compliance date specified in paragraph (j)(5)(i) of this section, the owner/operator of the unit shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR Part 75, to accurately measure SO_2, NO_X, diluent, and stack gas volumetric flow rate from the unit. All valid CEMS hourly data shall be used to determine compliance with the emission limitations for NO_X and SO_2 in paragraph (j)(3) of this section. When the CEMS is out-of-control as defined by Part 75, that CEMs data shall be treated as missing data and not used to calculate the emission average. Each required CEMS must obtain valid data for at least 90 percent of the unit operating hours, on an annual basis.

(B) The owner/operator of the unit shall comply with the quality assurance procedures for CEMS found in 40 CFR Part 75. In addition to these Part 75 requirements, relative accuracy test audits shall be calculated for both the NO_X and SO_2 pounds per hour measurement and the heat input measurement. The CEMs monitoring data shall not be bias adjusted. Calculations of relative accuracy for lb/hr of NO_X, SO_2 and heat input shall be performed each time the Part 75 CEMS undergo relative accuracy testing.

(ii) *Ammonia consumption monitoring.* Upon and after the completion of installation of ammonia injection on the unit, the owner or operator shall install, and thereafter maintain and operate, instrumentation to continuously monitor and record levels of ammonia consumption for that unit.

(iii) *Compliance determination for NO_X.* Compliance with the NO_X emission limit described in paragraph (j)(3) of this section shall be determined based on a rolling 30 boiler-operating-day basis. The 30-day rolling NO_X emission rate for the unit shall be calculated for each boiler operating day in accordance with the following procedure: Step one, sum the hourly pounds of NO_X emitted for the current boiler operating day and the preceding twenty-nine (29) boiler operating days, to calculate the total pounds of NO_X emitted over the most recent thirty (30) boiler operating day period for that unit; Step two, sum the total heat input, in millions of BTU, during the current boiler operating day and the preceding twenty-nine (29) boiler operating days, to calculate the total heat input over the most recent thirty (30) boiler operating day period for that unit; Step three, divide the total amount of NO_X calculated from Step one by the total heat input calculated from Step two to calculate the 30-day rolling NO_X emission rate, in pounds per million BTU for that unit. Each 30-day rolling NO_X emission rate shall include all emissions and all heat input that occur during all periods within any boiler operating day, including emissions from startup, shutdown and malfunction. If a valid NO_X pounds per hour or heat input is not available for any hour for the unit, that heat input and NO_X pounds per hour shall not be used in the calculation of the 30-day rolling emission rate.

(iv) *Compliance determination for SO_2.* Compliance with the SO_2 emission limit described in paragraph (j)(3) of this section shall be determined based on a rolling 30 boiler-operating-day basis. The 30-day rolling SO_2 emission rate for the unit shall be calculated for each boiler operating day in accordance with the following procedure: Step one, sum the hourly pounds of SO_2 emitted for the current boiler operating day and the preceding twenty-nine (29) boiler operating days, to calculate the total pounds of SO_2 emitted over the most recent thirty (30) boiler operating day period for that unit; Step two, sum the total heat input, in millions of BTU, during the current boiler operating day and the preceding twenty-nine (29) boiler operating days, to calculate the total heat input over the most recent thirty (30) boiler operating day period for that unit; Step three, divide the total amount of SO_2 calculated from Step one by the total heat input calculated from

Step two to calculate the 30-day rolling SO_2 emission rate, in pounds per million BTU for that unit. Each 30-day rolling SO_2 emission rate shall include all emissions and all heat input that occur during all periods within any boiler operating day, including emissions from startup, shutdown and malfunction. If a valid SO_2 pounds per hour or heat input is not available for any hour for the unit, that heat input and SO_2 pounds per hour shall not be used in the calculation of the 30-day rolling emission rate.

(v) *Compliance determination for PM.* Compliance with the PM emission limit described in paragraph (j)(3) shall be determined from annual performance stack tests. Within sixty (60) days either preceding or following the compliance deadline specified in paragraph (j)(5)(ii) of this section, and on at least an annual basis thereafter, the owner/operator of the unit shall conduct a stack test on the unit to measure PM using EPA Method 5, in 40 CFR part 60, Appendix A. Each test shall consist of three runs, with each run at least 120 minutes in duration and each run collecting a minimum sample of 60 dry standard cubic feet. Results shall be reported in lb/MMBtu using the calculation in 40 CFR Part 60 Appendix A, Method 19.

(8) *Alternative compliance determination.* If the owner/operator chooses to comply with the emission limits of paragraph (j)(4) of this section, this paragraph may be used in lieu of paragraph (j)(7) of this section to demonstrate compliance with the emission limits in paragraph (j)(4).

(i) *Continuous emission monitoring system.* (A) At all times after the compliance date specified in paragraph (j)(6) of this section, the owner/operator of the unit shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR part 75, to accurately measure NO_X, diluent, and stack gas volumetric flow rate from the unit. All valid CEMS hourly data shall be used to determine compliance with the emission limitations for NO_X in paragraph (j)(4) of this section. When the CEMS is out-of-control as defined by Part 75, that CEMS data shall be treated as missing data and not used to calculate the emission average. Each required CEMS must obtain valid data for at least 90 percent of the unit operating hours, on an annual basis.

(B) The owner/operator of the unit shall comply with the quality assurance procedures for CEMS found in 40 CFR part 75. In addition to these part 75 requirements, relative accuracy test audits shall be calculated for both the NO_X pounds per hour measurement and the heat input measurement. The CEMS monitoring data shall not be bias adjusted. Calculations of relative accuracy for lb/hr of NO_X and heat input shall be performed each time the Part 75 CEMS undergo relative accuracy testing.

(ii) *Compliance determination for NO_X.* Compliance with the NO_X emission limit described in paragraph (j)(4) of this section shall be determined based on a rolling 30 boiler-operating-day basis. The 30-day rolling NO_X emission rate for the unit shall be calculated for each boiler operating day in accordance with the following procedure: Step one, sum the hourly pounds of NO_X emitted for the current boiler operating day and the preceding twenty-nine (29) boiler operating days, to calculate the total pounds of NO_X emitted over the most recent thirty (30) boiler operating day period for that unit; Step two, sum the total heat input, in millions of BTU, during the current boiler operating day and the preceding twenty-nine (29) boiler operating days, to calculate the total heat input over the most recent thirty (30) boiler operating day period for that unit; Step three, divide the total amount of NO_X calculated from Step one by the total heat input calculated from Step two to calculate the 30-day rolling NO_X emission rate, in pounds per million BTU for that unit. Each 30-day rolling NO_X emission rate shall include all emissions and all heat input that occur during all periods within any boiler operating day, including emissions from startup and shutdown. If a valid NO_X pounds per hour or heat input is not available for any hour for the unit, that heat input and NO_X pounds per hour shall not be used in the calculation of the 30-day rolling emission rate.

(iii) *Compliance determination for SO_2.* Compliance with the SO_2 emission limit for the unit shall be determined from fuel sulfur documentation demonstrating the use of pipeline natural gas.

(iv) *Compliance determination for PM_{10}.* Compliance with the PM_{10} emission limit for the unit shall be determined from performance stack tests. Within sixty (60) days following the compliance deadline specified in paragraph (j)(6) of this section, and at the request of the Regional Administrator thereafter, the owner/operator of the unit shall conduct a stack test on the unit to measure PM_{10} using EPA Method 201A and Method 202, per 40 CFR part 51, Appendix M. Each test shall consist of three runs, with each run at least 120 minutes in duration and each run collecting a minimum sample of 60 dry standard cubic feet. Results shall be reported in lb/MMBtu using the calculation in 40 CFR part 60 Appendix A, Method 19.

(9) *Recordkeeping.* The owner or operator shall maintain the following records for at least five years:

(i) CEMS data measuring NO_X in lb/hr, SO_2 in lb/hr, and heat input rate per hour.

(ii) Daily 30-day rolling emission rates of NO_X and SO_2 calculated in accordance with paragraphs (j)(7)(iii) and (iv) of this section.

(iii) Records of the relative accuracy test for NO_X lb/hr and SO_2 lb/hr measurement, and hourly heat input measurement.

(iv) Records of quality assurance and quality control activities for emissions systems including, but not limited to, any records required by 40 CFR part 75.

(v) Records of all major maintenance activities conducted on emission units, air pollution control equipment, and CEMS.

(vi) Any other records required by 40 CFR part 75.

(vii) Records of ammonia consumption for the unit, as recorded by the instrumentation required in paragraph (j)(7)(ii) of this section.

(viii) All PM stack test results.

(10) *Alternative recordkeeping requirements.* If the owner/operator chooses to comply with the emission limits of paragraph (j)(4) of this section, the owner/operator shall maintain the records listed in this paragraph in lieu of the records contained in paragraph (j)(9) of this section. The owner or operator shall maintain the following records for at least five years:

(i) CEMS data measuring NO_X in lb/hr and heat input rate per hour.

(ii) Daily 30-day rolling emission rates of NO_X calculated in accordance with paragraph (j)(8)(ii) of this section.

(iii) Records of the relative accuracy test for NO_X lb/hr measurement and hourly heat input measurement.

(iv) Records of quality assurance and quality control activities for emissions systems including, but not limited to, any records required by 40 CFR part 75.

(v) Records of all major maintenance activities conducted on emission units, air pollution control equipment, and CEMS.

(vi) Any other records required by 40 CFR part 75.

(vii) Records sufficient to demonstrate that the fuel for the unit is pipeline natural gas.

(viii) All PM_{10} stack test results.

(11) *Notifications.* (i) By July 31, 2015, the owner/operator shall notify the Regional Administrator by letter whether it will comply with the emission limits in paragraph (j)(3) of this section or whether it will comply

with the emission limits in paragraph (j)(4) of this section.

(ii) The owner/operator shall notify EPA of commencement of construction of any equipment which is being constructed to comply with either the NO_X or SO_2 emission limits in paragraph (j)(3) of this section.

(iii) The owner/operator shall submit semiannual progress reports on construction of any such equipment.

(iv) The owner/operator shall submit notification of initial startup of any such equipment.

(12) *Reporting.* All reports required under this section shall be submitted by the owner/operator to the Director, Enforcement Division (Mail Code ENF–2–1), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901. All reports required under this section shall be submitted within 30 days after the applicable compliance date(s) in paragraph (j)(5) of this section and at least semiannually thereafter, within 30 days after the end of a semiannual period. The owner/operator may submit reports more frequently than semiannually for the purposes of synchronizing reports required under this section with other reporting requirements, such as the title V monitoring report required by 40 CFR 70.6(a)(3)(iii)(A), but at no point shall the duration of a semiannual period exceed six months.

(i) The owner/operator shall submit a report that lists the daily 30-day rolling emission rates for NO_X and SO_2.

(ii) The owner/operator shall submit excess emission reports for NO_X and SO_2 limits. Excess emissions means emissions that exceed the emissions limits specified in paragraph (j)(3) of this section. Excess emission reports shall include the magnitude, date(s), and duration of each period of excess emissions, specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted.

(iii) The owner/operator shall submit CEMS performance reports, to include dates and duration of each period during which the CEMS was inoperative (except for zero and span adjustments and calibration checks), reason(s) why the CEMS was inoperative and steps taken to prevent recurrence, and any CEMS repairs or adjustments.

(iv) The owner/operator shall submit the results of any relative accuracy test audits performed during the two preceding calendar quarters.

(v) When no excess emissions have occurred or the CEMS has not been inoperative, repaired, or adjusted during the reporting period, the owner/operator shall state such information in the semiannual report.

(vi) The owner/operator shall submit results of any PM stack tests conducted for demonstrating compliance with the PM limit specified in paragraph (j)(3).

(13) *Alternative reporting requirements.* If the owner/operator chooses to comply with the emission limits of paragraph (j)(4) of this section, the owner/operator shall submit the reports listed in this paragraph in lieu of the reports contained in paragraph (j)(12) of this section. All reports required under this paragraph shall be submitted by the owner/operator to the Director, Enforcement Division (Mail Code ENF–2–1), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901. All reports required under this paragraph shall be submitted within 30 days after the applicable compliance date(s) in paragraph (j)(6) of this section and at least semiannually thereafter, within 30 days after the end of a semiannual period. The owner/operator may submit reports more frequently than semiannually for the purposes of synchronizing reports required under this section with other reporting requirements, such as the title V monitoring report required by 40 CFR 70.6(a)(3)(iii)(A), but at no point shall the duration of a semiannual period exceed six months.

(i) The owner/operator shall submit a report that lists the daily 30-day rolling emission rates for NO_X.

(ii) The owner/operator shall submit excess emissions reports for NO_X limits. Excess emissions means emissions that exceed the emissions limits specified in paragraph (j)(4) of this section. The reports shall include the magnitude, date(s), and duration of each period of excess emissions, specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted.

(iii) The owner/operator shall submit CEMS performance reports, to include dates and duration of each period during which the CEMS was inoperative (except for zero and span adjustments and calibration checks), reason(s) why the CEMS was inoperative and steps taken to prevent recurrence, and any CEMS repairs or adjustments.

(iv) The owner/operator shall submit the results of any relative accuracy test audits performed during the two preceding calendar quarters.

(v) When no excess emissions have occurred or the CEMS has not been inoperative, repaired, or adjusted during the reporting period, the owner/operator shall state such information in the semiannual report.

(vi) The owner/operator shall submit results of any PM_{10} stack tests conducted for demonstrating compliance with the PM_{10} limit specified in paragraph (j)(4) of this section.

(14) *Equipment operations.* (i) At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the unit including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Pollution control equipment shall be designed and capable of operating properly to minimize emissions during all expected operating conditions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the unit.

(ii) After completion of installation of ammonia injection on a unit, the owner or operator shall inject sufficient ammonia to achieve compliance with NO_X emission limits contained in paragraph (j)(3) of this section for that unit while preventing excessive ammonia emissions.

(15) *Enforcement.* Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant as to whether the unit would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard or applicable emission limit in the plan.

(16) *Affirmative defense for malfunctions.* The following provisions of the Arizona Administrative Code are incorporated by reference and made part of this federal implementation plan:

(i) R–18–2–101, paragraph 65;

(ii) R18–2–310, sections (A), (B), (D) and (E) only; and

(iii) R18–2–310.01.

(k) *Source-specific federal implementation plan for regional haze at Clarkdale Cement Plant and Rillito Cement Plant*—(1) *Applicability.* This

paragraph (k) applies to each owner/operator of the following cement kilns in the state of Arizona: Kiln 4 located at the cement plant in Clarkdale, Arizona, and Kiln 4 located at the cement plant in Rillito, Arizona.

(2) *Definitions.* Terms not defined in this paragraph (k)(2) shall have the meaning given them in the Clean Air Act or EPA's regulations implementing the Clean Air Act. For purposes of this paragraph (k):

Ammonia injection shall include any of the following: Anhydrous ammonia, aqueous ammonia or urea injection.

Continuous emission monitoring system or CEMS means the equipment required by this section to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of NO_X emissions, diluent, or stack gas volumetric flow rate.

Kiln operating day means a 24-hour period between 12 midnight and the following midnight during which the kiln operates.

NO_X means nitrogen oxides.

Owner/operator means any person who owns or who operates, controls, or supervises a cement kiln identified in paragraph (k)(1) of this section.

Unit means a cement kiln identified in paragraph (k)(1) of this section.

(3) *Emissions limitations.* The owner/operator of each unit identified in paragraph (k)(1) of this section shall not emit or cause to be emitted NO_X in excess of the following limitations, in pounds per ton of clinker produced, based on a rolling 30-kiln operating day basis.

Cement Kiln	NO_X emission limitation
Clarkdale Plant, Kiln 4	2.12
Rillito Plant, Kiln 4	2.67

(4) *Compliance date.* The owner/operator of each unit identified in paragraph (k)(i) of this section shall comply with the NO_X emissions limitations and other NO_X-related requirements of this paragraph (k) no later than (three years after date of publication of the final rule in the **Federal Register**).

(5) *Compliance determination*—(i) *Continuous emission monitoring system.* (A) At all times after the compliance date specified in paragraph (k)(4) of this section, the owner/operator of the unit at the Clarkdale Plant shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR 60.63(f) and (g), to accurately measure concentration by volume of NO_X, diluent, and stack gas volumetric flow rate from the in-line/raw mill stack, as well as the stack gas volumetric flow rate from the coal mill stack. The CEMS shall be used by the owner/operator to determine compliance with the emission limitation in paragraph (k)(3) of this section, in combination with data on actual clinker production. The owner/operator must operate the monitoring system and collect data at all required intervals at all times the affected unit is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

(B) At all times after the compliance date specified in paragraph (k)(4) of this section, the owner/operator of the unit at the Rillito Plant shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR 60.63(f) and (g), to accurately measure concentration by volume of NO_X, diluent, and stack gas volumetric flow rate from the unit. The CEMS shall be used by the owner/operator to determine compliance with the emission limitation in paragraph (k)(3) of this section, in combination with data on actual clinker production. The owner/operator must operate the monitoring system and collect data at all required intervals at all times the affected unit is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

(ii) *Methods.* (A) The owner/operator of each unit shall record the daily clinker production rates.

(B)(*1*) The owner/operator of each unit shall calculate and record the 30-kiln operating day average emission rate of NO_X, in lb/ton of clinker produced, as the total of all hourly emissions data for the cement kiln in the preceding 30-kiln operating days, divided by the total tons of clinker produced in that kiln during the same 30-day operating period, using the following equation:

$$E_D = k\frac{1}{(n)}\sum_{i=1}^{n}\frac{C_i Q_i}{P_i}$$

Where:

E_D = 30 kiln operating day average emission rate of NO_X, lb/ton of clinker;
C_i = Concentration of NO_X for hour i, ppm;
Q_i = volumetric flow rate of effluent gas for hour i, where C_i and Q_i are on the same basis (either wet or dry), scf/hr;
P_i = total kiln clinker produced during production hour i, ton/hr;
k = conversion factor, 1.194×10^{-7} for NO_X; and,
n = number of kiln operating hours over 30 kiln operating days, n = 1 to 720.

(*2*) For each kiln operating hour for which the owner/operator does not have at least one valid 15-minute CEMS data value, the owner/operator must use the average emissions rate (lb/hr) from the most recent previous hour for which valid data are available. Hourly clinker production shall be determined by the owner/operator in accordance with the requirements found at 40 CFR 60.63(b).

(C) At the end of each kiln operating day, the owner/operator shall calculate and record a new 30-day rolling average emission rate in lb/ton clinker from the arithmetic average of all valid hourly emission rates for the current kiln operating day and the previous 29 successive kiln operating days.

(D) Upon and after the completion of installation of ammonia injection on a unit, the owner/operator shall install, and thereafter maintain and operate, instrumentation to continuously monitor and record levels of ammonia consumption that unit.

(6) *Recordkeeping.* The owner/operator of each unit shall maintain the following records for at least five years:

(i) All CEMS data, including the date, place, and time of sampling or measurement; parameters sampled or measured; and results.

(ii) All records of clinker production.

(iii) Daily 30-day rolling emission rates of NO_X, calculated in accordance with paragraph (k)(5)(ii) of this section.

(iv) Records of quality assurance and quality control activities for emissions measuring systems including, but not limited to, any records required by 40 CFR part 60, appendix F, Procedure 1.

(v) Records of ammonia consumption, as recorded by the instrumentation required in paragraph (k)(5)(ii)(D) of this section.

(vi) Records of all major maintenance activities conducted on emission units, air pollution control equipment, CEMS and clinker production measurement devices.

(vii) Any other records required by 40 CFR part 60, Subpart F, or 40 CFR part 60, Appendix F, Procedure 1.

(7) *Reporting.* All reports required under this section shall be submitted by the owner/operator to the Director, Enforcement Division (Mailcode ENF–

2–1), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901. All reports required under this section shall be submitted within 30 days after the applicable compliance date in paragraph (k)(4) of this section and at least semiannually thereafter, within 30 days after the end of a semiannual period. The owner/operator may submit reports more frequently than semiannually for the purposes of synchronizing reports required under this section with other reporting requirements, such as the title V monitoring report required by 40 CFR 70.6(a)(3)(iii)(A), but at no point shall the duration of a semiannual period exceed six months.

(i) The owner/operator shall submit a report that lists the daily 30-day rolling emission rates for NO_X.

(ii) The owner/operator shall submit excess emissions reports for NO_X limits. Excess emissions means emissions that exceed the emissions limits specified in paragraph (k)(3) of this section. The reports shall include the magnitude, date(s), and duration of each period of excess emissions, specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted.

(iii) The owner/operator shall submit CEMS performance reports, to include dates and duration of each period during which the CEMS was inoperative (except for zero and span adjustments and calibration checks), reason(s) why the CEMS was inoperative and steps taken to prevent recurrence, and any CEMS repairs or adjustments.

(iv) The owner/operator shall also submit results of any CEMS performance tests required by 40 CFR part 60, appendix F, Procedure 1 (Relative Accuracy Test Audits, Relative Accuracy Audits, and Cylinder Gas Audits).

(v) When no excess emissions have occurred or the CEMS has not been inoperative, repaired, or adjusted during the reporting period, the owner/operator shall state such information in the reports required by paragraph (k)(7)(ii) of this section.

(8) *Notifications.* (i) The owner/operator shall submit notification of commencement of construction of any equipment which is being constructed to comply with the NO_X emission limits in paragraph (k)(3) of this section.

(ii) The owner/operator shall submit semiannual progress reports on construction of any such equipment.

(iii) The owner/operator shall submit notification of initial startup of any such equipment.

(9) *Equipment operation.* (i) At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the unit including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Pollution control equipment shall be designed and capable of operating properly to minimize emissions during all expected operating conditions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the unit.

(ii) After completion of installation of ammonia injection on a unit, the owner or operator shall inject sufficient ammonia to achieve compliance with NO_X emission limits from paragraph (k)(3) for that unit while preventing excessive ammonia emissions.

(10) *Enforcement.* Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant as to whether the unit would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard or applicable emission limit in the plan.

(11) *Affirmative defense for malfunctions.* The following provisions of the Arizona Administrative Code are incorporated by reference and made part of this Federal implementation plan:

(i) R–18–2–101, paragraph 65;

(ii) R18–2–310, sections (A), (B), (D) and (E) only; and

(iii) R18–2–310.01.

(l) *Source-specific federal implementation plan for regional haze at Hayden Copper Smelter*—(1) *Applicability.* This paragraph (l) applies to each owner/operator of each batch copper converter and anode furnaces #1 and #2 at the copper smelting plant located in Hayden, Gila County, Arizona.

(2) *Definitions.* Terms not defined in this paragraph (l)(2) shall have the meaning given them in the Clean Air Act or EPA's regulations implementing the Clean Air Act. For purposes of this paragraph (l):

Anode furnace means a furnace in which molten blister copper is refined through introduction of a reducing agent such as natural gas.

Batch copper converter means a Pierce-Smith converter or Hoboken converter in which copper matte is oxidized to form blister copper by a process that is performed in discrete batches using a sequence of charging, blowing, skimming, and pouring.

Blister copper means an impure form of copper, typically between 98 and 99 percent pure copper that is the output of the converters.

Calendar day means a 24 hour period that begins and ends at midnight, local standard time.

Continuous emission monitoring system or CEMS means the equipment required by this section to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of SO_2 emissions, other pollutant emissions, diluent, or stack gas volumetric flow rate.

Copper matte means a material predominately composed of copper and iron sulfides produced by smelting copper ore concentrates.

NO_X means nitrogen oxides.

Owner/operator means any person who owns or who operates, controls, or supervises the equipment identified in paragraph (l)(1) of this section.

SO_2 means sulfur dioxide.

(3) *Emission capture.* (i) The owner/operator of the batch copper converters identified in paragraph (l)(1) of this section must operate a capture system that has been designed to maximize collection of process off gases vented from each converter. At all times when one or more converters are blowing, you must operate the capture system consistent with a written operation and maintenance plan that has been prepared according to the requirements in 40 CFR 63.1447(b) and approved by EPA within 180 days of the compliance date in paragraph (l)(5) of this section. The capture system must include a primary capture system as described in 40 CFR 63.1444(d)(2) and a secondary hood as described in 40 CFR 63.1444(d)(2). (ii) The operation of the batch copper converters and secondary hood shall be optimized to capture the maximum amount of process off gases vented from each converter at all times.

(4) *Emission limitations and work practice standards.* (i) SO_2 emissions collected by the capture system required by paragraph (l)(3) of this section must be controlled by one or more control devices and reduced by at least 99.81

percent, based on a 30-day rolling average.

(ii) The owner/operator must not cause or allow to be discharged to the atmosphere from any primary capture system required by paragraph (l)(3) off-gas that contains nonsulfuric acid particulate matter in excess of 6.2 mg/dscm as measured using the test methods specified in 40 CFR 63.1450(b).

(iii) The owner/operator must not cause or allow to be discharged to the atmosphere from any secondary capture system required by paragraph (l)(3) of this section off-gas that contains particulate matter in excess of 23 mg/dscm as measured using the test methods specified in 40 CFR 63.1450(a).

(iv) Total NO_X emissions from anode furnaces #1 and #2 and the batch copper converters shall not exceed 40 tons per 12-continuous month period.

(v) Anode furnaces #1 and #2 shall only be charged with blister copper or higher purity copper.

(5) *Compliance dates.* The owner/operator of each batch copper converter identified in paragraph (l)(1) of this section shall comply with the emissions limitations and other requirements of this section no later than (three years after date of publication of the final rule in the **Federal Register**).

(6) *Compliance determination*—(i) *Continuous emission monitoring system.* At all times after the compliance date specified in paragraph (e) of this section, the owner/operator of each batch copper converter identified in paragraph (l)(1) of this section shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR 60.13 and 40 CFR part 60, Appendices B and F, to accurately measure the mass emission rate in pounds per hour of SO_2 emissions entering each control device used to control emissions from the converters, and venting from the converters to the atmosphere after passing through a control device or an uncontrolled bypass stack. The CEMS shall be used by the owner/operator to determine compliance with the emission limitation in paragraph (l)(4) of this plan. The owner/operator must operate the monitoring system and collect data at all required intervals at all times that an affected unit is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

(ii) *Compliance determination for SO_2.* The 30-day rolling SO_2 emission control efficiency for the converters shall be calculated for each calendar day in accordance with the following procedure: Step one, sum the hourly pounds of SO_2 vented to each uncontrolled bypass stack and to each control device used to control emissions from the converters for the current calendar day and the preceding twenty-nine (29) calendar days, to calculate the total pounds of pre-control SO_2 emissions over the most recent thirty (30) calendar day period; Step two, sum the hourly pounds of SO_2 vented to each uncontrolled bypass stack and emitted from the release point of each control device used to control emissions from the converters for the current calendar day and the preceding twenty-nine (29) calendar days, to calculate the total pounds of post-control SO_2 emissions over the most recent thirty (30) calendar day period; Step three, divide the total amount of post-control SO_2 emissions calculated from Step two by the total amount of pre-control SO_2 emissions calculated from Step one, subtract the resulting quotient from one, and multiply the difference by 100 percent to calculate the 30-day rolling SO_2 emission control efficiency as a percentage.

(iii) *Compliance determination for nonsulfuric acid particulate matter.* Compliance with the emission limit for nonsulfuric acid particulate matter in paragraph (l)(4)(ii) of this section shall be demonstrated by the procedures in 40 CFR 63.1451(b) and 40 CFR 63.1453(a)(2).

(iv) *Compliance determination for particulate matter.* Compliance with the emission limit for particulate matter in paragraph (l)(4)(iii) of this section shall be demonstrated by the procedures in 40 CFR 63.1451(a) and 40 CFR 63.1453(a)(1).

(v) *Compliance determination for NO_X.* Compliance with the emission limit for NO_X in paragraph (l)(4)(iv) of this section shall be demonstrated by monitoring natural gas consumption in each of the units identified in paragraph (l)(1) of this section for each calendar day. At the end of each calendar month, the owner/operator shall calculate 12-consecutive month NO_X emissions by multiplying the daily natural gas consumption rates for each unit by an approved emission factor and adding the sums for all units over the previous 12-consecutive month period.

(7) *Alternative compliance determination for sulfuric acid plants.* If the owner/operator uses one or more double contact acid plants to control SO_2 from the batch copper converters identified in paragraph (l)(1) of this section, this paragraph may be used to demonstrate compliance with the emission limit in paragraph (l)(4)(i) of this section.

(i) *Continuous emission monitoring system.* At all times after the compliance date specified in paragraph (l)(5) of this section, the owner/operator of each batch copper converter identified in paragraph (l)(1) of this section shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR 60.13 and 40 CFR part 60, Appendices B and F, to accurately measure the mass emission rate in pounds per hour of SO_2 emissions venting from the converters to the atmosphere after passing through a control device or an uncontrolled bypass stack. The CEMS shall be used by the owner/operator to determine compliance with the emission limitation in paragraph (l)(4) of this section. The owner/operator must operate the monitoring system and collect data at all required intervals at all times that an affected unit is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

(ii) *Daily sulfuric acid production monitoring.* At all times after the compliance date specified in paragraph (l)(5) of this section, the owner/operator of each batch copper converter subject to this section shall monitor and maintain records of sulfuric acid production for each calendar day.

(iii) *Compliance determination for SO_2.* The 30-day rolling SO_2 emission rate for the converters shall be calculated for each calendar day in accordance with the following procedure: Step one, sum the hourly pounds of SO_2 vented to each uncontrolled bypass stack and emitted from the release point of each double contact acid plant used to control emissions from the converters for the current calendar day and the preceding twenty-nine (29) calendar days, to calculate the total pounds of SO_2 emissions over the most recent thirty (30) calendar day period; Step two, sum the total sulfuric acid production in tons of pure sulfuric acid for the current calendar day and the preceding twenty-nine (29) calendar days, to calculate the total tons of sulfuric acid production over the most recent thirty (30) calendar day period; Step three, divide the total amount of SO_2 emissions calculated from Step one by the total tons of sulfuric acid production calculated from Step one to calculate the 30-day rolling

SO_2 emission rate in lbs-SO_2 per ton of sulfuric acid. An emission rate of 4.06 or lower shall be deemed to be in compliance with the emission limit in paragraph (i)(4) of this section.

(8) *Capture system monitoring.* For each operating limit established under the capture system operation and maintenance plan required by paragraph (l)(4) of this section, the owner/operator must install, operate, and maintain an appropriate monitoring device according to the requirements in 40 CFR 63.1452(a)(1) though (6) to measure and record the operating limit value or setting at all times the required capture system is operating. Dampers that are manually set and remain in the same position at all times the capture system is operating are exempted from these monitoring requirements.

(9) *Recordkeeping.* The owner/operator shall maintain the following records for at least five years:

(i) All CEMS data, including the date, place, and time of sampling or measurement; parameters sampled or measured; and results.

(ii) Records of quality assurance and quality control activities for emissions measuring systems including, but not limited to, any records required by 40 CFR part 60, appendix F, Procedure 1.

(iii) Records of all major maintenance activities conducted on emission units, air pollution control equipment, and CEMS.

(iv) Any other records required by 40 CFR part 60, Subpart F, or 40 CFR part 60, Appendix F, Procedure 1.

(v) Records of all monitoring required by paragraph (l)(8) of this section.

(vi) Records of daily sulfuric acid production in tons per day of pure sulfuric acid if the owner/operator chooses to use the alternative compliance determination method in paragraph (l)(7) of this section.

(vii) Records of daily natural gas consumption in each units identified in paragraph (l)(1) and all calculations performed to demonstrate compliance with the limit in paragraph (l)(4)(iv).

(10) *Reporting.* All reports required under this section shall be submitted by the owner/operator to the Director, Enforcement Division (Mail Code ENF–2–1), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901. All reports required under this section shall be submitted within 30 days after the applicable compliance date in paragraph (l)(5) of this section and at least semiannually thereafter, within 30 days after the end of a semiannual period. The owner/operator may submit reports more frequently than semiannually for the purposes of synchronizing reports required under this section with other reporting requirements, such as the title V monitoring report required by 40 CFR 70.6(a)(3)(iii)(A), but at no point shall the duration of a semiannual period exceed six months.

(i) The owner/operator shall promptly submit excess emissions reports for the SO_2 limit. Excess emissions means emissions that exceed the emissions limit specified in paragraph (d) of this section. The reports shall include the magnitude, date(s), and duration of each period of excess emissions, specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted. For the purpose of this paragraph, promptly shall mean within 30 days after the end of the month in which the excess emissions were discovered.

(ii) The owner/operator shall submit CEMS performance reports, to include dates and duration of each period during which the CEMS was inoperative (except for zero and span adjustments and calibration checks), reason(s) why the CEMS was inoperative and steps taken to prevent recurrence, and any CEMS repairs or adjustments. The owner/operator shall submit reports semiannually.

(iii) The owner/operator shall also submit results of any CEMS performance tests required by 40 CFR part 60, appendix F, Procedure 1 (Relative Accuracy Test Audits, Relative Accuracy Audits, and Cylinder Gas Audits).

(iv) When no excess emissions have occurred or the CEMS has not been inoperative, repaired, or adjusted during the reporting period, the owner/operator shall state such information in the semiannual report.

(v) When performance testing is required to determine compliance with an emission limit in paragraph (l)(4) of this section, the owner/operator shall submit test reports as specified in 40 CFR part 63, subpart A.

(11) *Notifications.* (i) The owner/operator shall notify EPA of commencement of construction of any equipment which is being constructed to comply with the capture or emission limits in paragraph (l)(3) or (4) of this section.

(ii) The owner/operator shall submit semiannual progress reports on construction of any such equipment.

(iii) The owner/operator shall submit notification of initial startup of any such equipment.

(12) *Equipment operations.* At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the unit including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Pollution control equipment shall be designed and capable of operating properly to minimize emissions during all expected operating conditions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the unit.

(13) *Enforcement.* Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant as to whether the unit would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard or applicable emission limit in the plan.

(14) *Affirmative defense for malfunctions.* The following provisions of the Arizona Administrative Code are incorporated by reference and made part of this Federal implementation plan:

(i) R–18–2–101, paragraph 65;

(ii) R18–2–310, sections (A), (B), (D) and (E) only; and

(iii) R18–2–310.01.

(m) *Source-specific federal implementation plan for regional haze at Miami Copper Smelter*—(1) *Applicability.* This paragraph (m) applies to each owner/operator of each batch copper converter and the electric furnace at the copper smelting plant located in Hayden, Gila County, Arizona.

(2) *Definitions.* Terms not defined in this paragraph (m)(2) shall have the meaning given them in the Clean Air Act or EPA's regulations implementing the Clean Air Act. For purposes of this paragraph (m):

Batch copper converter means a Pierce-Smith converter or Hoboken converter in which copper matte is oxidized to form blister copper by a process that is performed in discrete batches using a sequence of charging, blowing, skimming, and pouring.

Calendar day means a 24 hour period that begins and ends at midnight, local standard time.

Continuous emission monitoring system or CEMS means the equipment required by this section to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of SO_2 emissions, other pollutant emissions, diluent, or stack gas volumetric flow rate.

Copper matte means a material predominately composed of copper and iron sulfides produced by smelting copper ore concentrates.

Electric furnace means a furnace in which copper matte and slag are heated by electrical resistance without the mechanical introduction of air or oxygen.

NO_X means nitrogen oxides.

Owner/operator means any person who owns or who operates, controls, or supervises the equipment identified in paragraph (m)(1) of this section.

Slag means the waste material consisting primarily of iron sulfides separated from copper matte during the smelting and refining of copper ore concentrates.

SO_2 means sulfur dioxide.

(3) *Emission capture.* (i)The owner/operator of the batch copper converters identified in paragraph (m)(1) of this section must operate a capture system that has been designed to maximize collection of process off gases vented from each converter. At all times when one or more converters are blowing, you must operate the capture system consistent with a written operation and maintenance plan that has been prepared according to the requirements in 40 CFR 63.1447(b) and approved by EPA within 180 days of the compliance date in paragraph (m)(5) of this section. The capture system must include a primary capture system as described in 40 CFR 63.1444(d)(3) and a secondary hood as described in 40 CFR 63.1444(d)(2). (ii) The operation of the batch copper converters and secondary hood shall be optimized to capture the maximum amount of process off gases vented from each converter at all times.

(4) *Emission limitations and work practice standards.* (i) SO_2 emissions collected by the capture system required by paragraph (m)(3) of this section must be controlled by one or more control devices and reduced by at least 99.7 percent, based on a 30-day rolling average.

(ii) Total NO_X emissions the electric furnace and the batch copper converters shall not exceed 40 tons per 12-continuous month period.

(iii) The owner/operator shall not actively aerate the electric furnace.

(5) *Compliance dates.* The owner/operator of each batch copper converter identified in paragraph (m)(1) of this section shall comply with the emissions limitations and other requirements of this section no later than (three years after date of publication of the final rule in the **Federal Register**).

(6) *Compliance determination*—(i) *Continuous emission monitoring system.* At all times after the compliance date specified in paragraph (e) of this section, the owner/operator of each batch copper converter identified in paragraph (m)(1) of this section shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR 60.13 and 40 CFR part 60, Appendices B and F, to accurately measure the mass emission rate in pounds per hour of SO_2 emissions entering each control device used to control emissions from the converters, and venting from the converters to the atmosphere after passing through a control device or an uncontrolled bypass stack. The CEMS shall be used by the owner/operator to determine compliance with the emission limitation in paragraph (m)(4) of this section. The owner/operator must operate the monitoring system and collect data at all required intervals at all times that an affected unit is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

(ii) *Compliance determination for SO_2.* The 30-day rolling SO_2 emission control efficiency for the converters shall be calculated for each calendar day in accordance with the following procedure: Step one, sum the hourly pounds of SO_2 vented to each uncontrolled bypass stack and to each control device used to control emissions from the converters for the current calendar day and the preceding twenty-nine (29) calendar days, to calculate the total pounds of pre-control SO_2 emissions over the most recent thirty (30) calendar day period; Step two, sum the hourly pounds of SO_2 vented to each uncontrolled bypass stack and emitted from the release point of each control device used to control emissions from the converters for the current calendar day and the preceding twenty-nine (29) calendar days, to calculate the total pounds of post-control SO_2 emissions over the most recent thirty (30) calendar day period; Step three, divide the total amount of post-control SO_2 emissions calculated from Step two by the total amount of pre-control SO_2 emissions calculated from Step one, subtract the resulting quotient from one, and multiply the difference by 100 percent to calculate the 30-day rolling SO_2 emission control efficiency as a percentage.

(iii) *Compliance determination for NO_X.* Compliance with the emission limit for NO_X in paragraph (m)(4)(ii) of this section shall be demonstrated by monitoring natural gas consumption in each of the units identified in paragraph (m)(1) of this section for each calendar day. At the end of each calendar month, the owner/operator shall calculate monthly and 12-consecutive month NO_X emissions by multiplying the daily natural gas consumption rates for each unit by an approved emission factor and adding the sums for all units over the previous 12-consecutive month period.

(7) *Alternative compliance determination for sulfuric acid plants.* If the owner/operator uses one or more double contact acid plants to control SO_2 from the batch copper converters identified in paragraph (m)(1) of this section, this paragraph may be used to demonstrate compliance with the emission limit in paragraph (m)(4)(i) of this section.

(i) *Continuous emission monitoring system.* At all times after the compliance date specified in paragraph (m)(5) of this section, the owner/operator of each batch copper converter identified in paragraph (m)(1) of this section shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR 60.13 and 40 CFR part 60, Appendices B and F, to accurately measure the mass emission rate in pounds per hour of SO_2 emissions venting from the converters to the atmosphere after passing through a control device or an uncontrolled bypass stack. The CEMS shall be used by the owner/operator to determine compliance with the emission limitation in paragraph (m)(4) of this section. The owner/operator must operate the monitoring system and collect data at all required intervals at all times that an affected unit is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

(ii) *Daily sulfuric acid production monitoring.* At all times after the compliance date specified in paragraph (m)(5) of this section, the owner/operator of each batch copper converter subject to this section shall monitor and

maintain records of sulfuric acid production for each calendar day.

(iii) *Compliance determination for SO_2.* The 30-day rolling SO_2 emission rate for the converters shall be calculated for each calendar day in accordance with the following procedure: Step one, sum the hourly pounds of SO_2 vented to each uncontrolled bypass stack and emitted from the release point of each double contact acid plant used to control emissions from the converters for the current calendar day and the preceding twenty-nine (29) calendar days, to calculate the total pounds of SO_2 emissions over the most recent thirty (30) calendar day period; Step two, sum the total sulfuric acid production in tons of pure sulfuric acid for the current calendar day and the preceding twenty-nine (29) calendar days, to calculate the total tons of sulfuric acid production over the most recent thirty (30) calendar day period; Step three, divide the total amount of SO_2 emissions calculated from Step one by the total tons of sulfuric acid production calculated from Step one to calculate the 30-day rolling SO_2 emission rate in lbs-SO_2 per ton of sulfuric acid. An emission rate of 4.06 or lower shall be deemed to be in compliance with the emission limit in paragraph (i)(4) of this section.

(8) *Capture system monitoring.* For each operating limit established under the capture system operation and maintenance plan required by paragraph (m)(4) of this section, the owner/operator must install, operate, and maintain an appropriate monitoring device according to the requirements in 40 CFR 63.1452(a)(1) though (6) to measure and record the operating limit value or setting at all times the required capture system is operating. Dampers that are manually set and remain in the same position at all times the capture system is operating are exempted from these monitoring requirements.

(9) *Recordkeeping.* The owner/operator shall maintain the following records for at least five years:

(i) All CEMS data, including the date, place, and time of sampling or measurement; parameters sampled or measured; and results.

(ii) Records of quality assurance and quality control activities for emissions measuring systems including, but not limited to, any records required by 40 CFR part 60, appendix F, Procedure 1.

(iii) Records of all major maintenance activities conducted on emission units, air pollution control equipment, and CEMS.

(iv) Any other records required by 40 CFR part 60, Subpart F, or 40 CFR part 60, Appendix F, Procedure 1.

(v) Records of all monitoring required by paragraph (m)(8) of this section.

(vi) Records of daily sulfuric acid production in tons per day of pure sulfuric acid if the owner/operator chooses to use the alternative compliance determination method in paragraph (m)(7) of this section.

(vii) Records of daily natural gas consumption in each units identified in paragraph (m)(1) and all calculations performed to demonstrate compliance with the limit in paragraph (m)(4)(iv).

(10) *Reporting.* All reports required under this section shall be submitted by the owner/operator to the Director, Enforcement Division (Mail Code ENF–2–1), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901. All reports required under this section shall be submitted within 30 days after the applicable compliance date in paragraph (m)(5) of this section and at least semiannually thereafter, within 30 days after the end of a semiannual period. The owner/operator may submit reports more frequently than semiannually for the purposes of synchronizing reports required under this section with other reporting requirements, such as the title V monitoring report required by 40 CFR 70.6(a)(3)(iii)(A), but at no point shall the duration of a semiannual period exceed six months.

(i) The owner/operator shall promptly submit excess emissions reports for the SO_2 limit. Excess emissions means emissions that exceed the emissions limit specified in paragraph (d) of this section. The reports shall include the magnitude, date(s), and duration of each period of excess emissions, specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted. For the purpose of this paragraph, promptly shall mean within 30 days after the end of the month in which the excess emissions were discovered.

(ii) The owner/operator shall submit CEMS performance reports, to include dates and duration of each period during which the CEMS was inoperative (except for zero and span adjustments and calibration checks), reason(s) why the CEMS was inoperative and steps taken to prevent recurrence, and any CEMS repairs or adjustments. The owner/operator shall submit reports semiannually.

(iii) The owner/operator shall also submit results of any CEMS performance tests required by 40 CFR part 60, appendix F, Procedure 1 (Relative Accuracy Test Audits, Relative Accuracy Audits, and Cylinder Gas Audits).

(iv) When no excess emissions have occurred or the CEMS has not been inoperative, repaired, or adjusted during the reporting period, the owner/operator shall state such information in the semiannual report.

(v) When performance testing is required to determine compliance with an emission limit in paragraph (m)(4) of this section, the owner/operator shall submit test reports as specified in 40 CFR part 63, subpart A.

(11) *Notifications.* (i) The owner/operator shall notify EPA of commencement of construction of any equipment which is being constructed to comply with the capture or emission limits in paragraph (m)(3) or (4) of this section.

(ii) The owner/operator shall submit semiannual progress reports on construction of any such equipment.

(iii) The owner/operator shall submit notification of initial startup of any such equipment.

(12) *Equipment operations.* At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the unit including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Pollution control equipment shall be designed and capable of operating properly to minimize emissions during all expected operating conditions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the unit.

(13) *Enforcement.* Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant as to whether the unit would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard or applicable emission limit in the plan.

(14) *Affirmative defense for malfunctions.* The following provisions of the Arizona Administrative Code are incorporated by reference and made part of this federal implementation plan:

(i) R–18–2–101, paragraph 65;

(ii) R18–2–310, sections (A), (B), (D) and (E) only; and

(iii) R18–2–310.01.

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