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OFFICE OF THE FEDERAL REGISTER

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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2014–0016]

RIN 3170–ZA00

Application of Regulation Z's Ability-To-Repay Rule to Certain Situations Involving Successors-in-Interest

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing this interpretive rule to clarify that the Bureau's Ability-to-Repay Rule incorporates the existing definition of "assumption" under Regulation Z.

DATES: This clarification is effective July 17, 2014 and applicable beginning July 8, 2014.

FOR FURTHER INFORMATION CONTACT: William R. Corbett, Senior Counsel, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW., at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau is issuing this interpretive rule to clarify that where a successor-in-interest (successor) who has previously acquired title to a dwelling agrees to be added as obligor or substituted for the existing obligor on a consumer credit transaction secured by that dwelling, the creditor's written acknowledgement of the successor as obligor is not subject to the Bureau's Ability-to-Repay Rule (ATR Rule), § 1026.43, because such a transaction does not constitute an assumption as defined by Regulation Z § 1026.20(b).[1]

In the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010), (Dodd-Frank Act), Congress established the Bureau and generally consolidated the rulemaking authority for Federal consumer financial laws, including the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act, in the Bureau, effective July 21, 2011.[2] Historically, Regulation Z, which was issued by the Board of Governors of the Federal Reserve System (Board), 12 CFR part 226, had implemented TILA. On December 22, 2011, pursuant to the Dodd-Frank Act and TILA, as amended by the Dodd-Frank Act, the Bureau published an interim final rule establishing a new Regulation Z (Truth in Lending), 12 CFR part 1026, implementing TILA (except with respect to persons excluded from the Bureau's rulemaking authority by section 1029 of the Dodd-Frank Act). The interim final rule substantially duplicated the Board's Regulation Z, as it existed at that time, making only non-substantive, technical, formatting, and stylistic changes.

Beginning January 10, 2013, the Bureau issued several final rules implementing amendments to TILA under the Dodd-Frank Act (the Title XIV Final Rules), including the ATR Rule.[3] On February 13, 2013, the Bureau announced an initiative to support implementation of its new mortgage rules,[4] under which the Bureau would work with the mortgage industry and other stakeholders to ensure that the new rules could be implemented accurately and expeditiously.

Since the issuance of the Title XIV Final Rules, industry and consumer advocates have expressed uncertainty about the application of the ATR Rule in situations where a successor seeks to be added as an obligor or substituted for the current obligor on an existing mortgage. The Bureau has been asked whether the creditor is obligated under the ATR Rule to determine the successor's ability to repay the mortgage before formally adding the successor as an obligor. Often, this issue arises upon the death of the obligor, with the surviving spouse or children asserting rights under the mortgage, but it may also present itself in other settings, such as in separation or divorce, after a transfer from living parents to children, or a transfer to an inter vivos trust of which the consumer is the beneficiary. If the ATR Rule applies when a creditor adds a successor as an obligor, such transactions may be less likely to occur. There can be significant consequences for a successor that is not able to become an obligor on a mortgage. For instance, if the successor seeks a modification of the existing transaction as part of trying to retain the home, the creditor may refuse to modify the terms of the debt on the grounds that the successor is not a party to the existing obligation and therefore cannot enter into a modification agreement.[5]

[1] This interpretive rule refers generally to "creditors." Under Regulation Z the term "creditor" generally means the one to whom the obligation is initially payable. *See* § 1026.2(a)17. Where a mortgage has been sold after consummation, the original "creditor" may no longer be in position to agree to add an obligor. When evaluating whether acknowledging a new obligor triggers the requirements of § 1026.20(b) or § 1026. 43, servicers and assignees of the original obligation may rely on this interpretive rule.

[2] *See, e.g.,* sections 1011 and 1021 of the Dodd-Frank Act, 12 U.S.C. 5491 and 5511 (establishing and setting forth the purpose, objectives, and functions of the Bureau); section 1061 of the Dodd-Frank Act, 12 U.S.C. 5581 (consolidating certain rulemaking authority for Federal consumer financial laws in the Bureau); section 1100A of the Dodd-Frank Act (codified in scattered sections of 15 U.S.C.) (similarly consolidating certain rulemaking authority in the Bureau). *But see* section 1029 of the Dodd-Frank Act, 12 U.S.C. 5519 (subject to certain exceptions, excluding from the Bureau's authority any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both).

[3] On January 10, 2013, the Bureau issued the January 2013 ATR Final Rule. 78 FR 6407 (Jan. 30, 2013). That same day the Bureau issued the 2013 Escrows Final Rule, and the 2013 HOEPA Final Rule. 78 FR 4725 (Jan. 22, 2013); 78 FR 6855 (Jan. 31, 2013). On January 17, 2013, the Bureau issued the 2013 Mortgage Servicing Final Rules. 78 FR 10695 (Feb. 14, 2013); 78 FR 10901 (Feb. 14, 2013). On January 18, 2013, the Bureau issued the 2013 ECOA Valuations Final Rule and, jointly with other agencies, the 2013 Interagency Appraisals Final Rule. 78 FR 7215 (Jan. 31, 2013); 78 FR 10367 (Feb. 13, 2013). On January 20, 2013, the Bureau issued the 2013 Loan Originator Final Rule. 78 FR 11279 (Feb. 15, 2013). Pursuant to the Dodd-Frank Act, which permitted a maximum of one year for implementation, most of these rules became effective on January 10, 2014.

[4] Press Release, Consumer Financial Protection Bureau, *CFPB Lays Out Implementotion Plan for New Mortgage Rules* (Feb. 13, 2013), *ovoilable ot http://www.consumerfinonce.gov/newsroom/consumer-finonciol-protection-bureou-lays-out-implementation-plon-for-new-mortgoge-rules/.*

[5] As discussed in part II below, most workout agreements are not "refinancings" subject to the ATR Rule. However, creditors generally require a successor to enter into an assumption agreement prior to or simultaneous with the execution of the modification agreement in part because creditors are concerned about their ability to enforce the terms of the modified debt absent a written agreement, executed by an obligor with authority.

In general, as discussed in part II below, in these situations, where the addition or substitution of the successor as the obligor is not an "assumption" under § 1026.20(b), such addition or substitution is not subject to the ATR Rule's requirements. A creditor may rely on this interpretation as a safe harbor under section 130(f) of TILA. The Bureau plans to incorporate this interpretation into Regulation Z's Official Interpretations at a later date.

The Bureau is aware of other questions related to a servicer's obligations under the 2013 Mortgage Servicing Final Rules with respect to successors. Under Regulation X § 1024.38(b)(1)(vi), servicers are required to maintain policies and procedures reasonably designed to ensure the servicer can promptly identify and facilitate communication with the successor-in-interest of a deceased borrower upon notification of the death of the borrower. On October 15, 2013, the Bureau issued a guidance bulletin providing examples of servicer practices the Bureau would consider to be components of the policies and procedures mortgage servicers must have in place to comply with these requirements regarding successors-in-interest.[6] The Bureau is monitoring these issues to determine whether they require further guidance or rulemaking.

II. Application of ATR to Certain Situations Involving Successors-in-Interest

The Bureau has received many questions regarding the applicability of the ATR Rule where a successor acquires a home that is the collateral for an existing consumer credit transaction and seeks to become an obligor on that transaction. A successor is a person who receives legal interest in a property, typically by a transfer from a family member, by operation of law upon another's death, or under a divorce decree or separation agreement.[7] In all of these situations, where the successor acquires property that is subject to a mortgage, the successor is not personally liable for the associated debt, but may choose to assume the debt. The Garn-St Germain Depository Institutions Act of 1982 prohibits the creditor from exercising a due-on-sale clause based upon certain types of transfers, including the common situation of transfer upon death of a relative.[8] Even where a due-on-sale clause may be exercised, however, creditors may agree to add the successor as a named obligor under the loan contract.

A. Application of the ATR Rule to a Change in Obligors

Under Regulation Z § 1026.43, the ATR Rule applies to any "covered transaction" defined, with certain enumerated exceptions, as "any consumer credit transaction that is secured by a dwelling . . . including any real property attached to a dwelling." Under § 1026.43(c), a creditor must make a reasonable and good faith determination that the consumer has the ability to repay at or before consummation of the covered transaction. Similarly, Regulation Z generally requires creditors to provide disclosures required under § 1026.18 or § 1026.19 to consumers before consummation of certain closed-end loans. In certain circumstances, however, creditors and consumers agree, *after* consummation, to changes to an existing transaction that are treated as a "new transaction" under Regulation Z, requiring new disclosures. Section 1026.20(a) and (b) provide that if a creditor and consumer engage in activity that constitutes a "refinancing" or an "assumption," the creditor must make new disclosures. Comment 43(a)–1 is consistent with this approach in excluding from the scope of § 1026.43 changes to the loan that are not a refinancing under § 1026.20(a).

The terms "refinancing" and "assumption" are each assigned a specific meaning in § 1026.20(a) and (b). These terms generally define when a change in a closed-end loan's terms or obligors constitutes a new transaction under Regulation Z. For example, under § 1026.20(a), a refinancing occurs when an existing obligation is "satisfied and replaced by a new obligation undertaken by the same consumer." Certain changes to the loan's terms, including, generally, workout agreements for delinquent borrowers, do *not* meet the definition of a "refinancing," under § 1026.20(a). *See* § 1026.20(a)(4); comment 20(a)(4)–1. As comment 43(a)–1 makes explicit, such agreements are therefore not covered transactions and are not subject to § 1026.43.

Section 1026.20(a) and (b) address different types of events. Section 1026.20(a) addresses changes to a loan's terms—such as an increase in the interest rate in a transaction initially disclosed as a fixed-rate transaction. In contrast, § 1026.20(b) applies to changes in the loan's obligors. Under § 1026.20(b) an assumption occurs when—and only when—the creditor "expressly agrees in writing with a subsequent consumer to accept that consumer as a primary obligor on an existing residential mortgage transaction."

The Bureau believes that just as comment 43(a)–1 explicitly incorporates the definition of "refinancing" in § 1026.20(a)—and the limitations on that definition—into the scope of § 1026.43, so, too, the ATR requirement in § 1026.43 should be interpreted to incorporate the existing Regulation Z standard for transactions involving a change of obligors set forth in § 1026.20(b). Unless the change satisfies the definition of an "assumption" under § 1026.20(b), a change of obligors does not trigger the ATR requirements under § 1026.43.

The Bureau's interpretation is consistent with comment 43(a)-1 and consistent with the Bureau's purposes in issuing the Ability-to-Repay Rule. This interpretation applies a standard to transactions that involve new obligors that is consistent with the standard that exists in Regulation Z generally. The Bureau believes it would be potentially incongruous to interpret § 1026.43 as *never* applying to transactions involving a new obligor, which by definition are excluded from being refinancings under § 1026.20(a). The Bureau also believes that interpreting § 1026.43 as either never applying to transactions with new obligors or as applying to some transactions with new obligors based on a standard other than the familiar rule set forth in § 1026.20(b) would not be consistent with the policies underlying the ATR Rule, the Bureau's intent in promulgating the rule, or the public's understanding of Regulation Z.

B. The Addition of a Successor as Named Obligor Generally Does not Constitute an "Assumption"

As noted above, § 1026.43 should be interpreted to incorporate the existing standards under § 1026.20(b) for determining whether a transaction is an "assumption." An assumption under § 1026.20(b) occurs when the creditor agrees in writing to accept a subsequent consumer as a primary obligor on an existing "residential mortgage transaction." A "residential mortgage transaction" is a transaction in which a consumer finances the acquisition or initial construction of the consumer's principal dwelling. *See* § 1026.2(a)(24). For purposes of determining whether the transaction is an "assumption," the creditor must look to whether the new

[6] CFPB Bulletin, 2013–12 (Oct. 15, 2013), *http://files.consumerfinance.gov/f/201310_cfpb_mortgage-servicing_bulletin.pdf.*

[7] The term successor also may include an inter vivos trust, created by a borrower who transfers his or her property into the trust in which the obligor is or remains a beneficiary.

[8] *See* 12 U.S.C.1701j–3(d).

obligor is seeking to finance the acquisition of that subsequent consumer's principal dwelling.[9] Whether the existing extension of consumer credit was a residential mortgage transaction as to the existing primary obligor is immaterial.

A residential mortgage transaction does not arise where a successor takes on the debt obligation that is secured by property the successor previously acquired.[10] In these situations, § 1026.20(b) does not apply when the successor agrees to be added as an obligor on an existing mortgage loan. Although these transactions are commonly referred to as assumptions, they are not assumptions under § 1026.20(b) because the transaction is not a residential mortgage transaction as to the successor. Accordingly, the ATR Rule in § 1026.43 does not apply to a transaction in which a successor seeks to take on the debt secured by property that the successor previously acquired.

In contrast to the successor situation described above, if a consumer without an existing interest takes on the obligation of the existing borrower in order to finance the acquisition of the consumer's principal dwelling, the transaction is a residential mortgage transaction. In such a case, where the creditor expressly agrees in writing to the new primary obligor, an assumption has occurred under § 1026.20(b), and it is subject to the ability-to-repay requirements in § 1026.43, in addition to other requirements of Regulation Z. Moreover, where a creditor adds a successor as the obligor, whether that event is subject to § 1026.43 or not, the extension of credit remains a consumer credit transaction under Regulation Z. The creditor, assignee, or servicer must comply with any ongoing obligations pertaining to the extension of consumer credit, such as the requirement to provide monthly statements in § 1026.41 and the requirement to notify the obligors of adjustments to the loan's interest rate in § 1026.20(c) and (d).

III. Regulatory Requirements

This rule articulates the Bureau's interpretation of Regulation Z, and the Truth-in-Lending Act. It is therefore exempt from the APA's notice and comment rulemaking requirements pursuant to 5 U.S.C. 553(b).

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a).

The Bureau has determined that this rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

Dated: July 1, 2014.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2014–16780 Filed 7–16–14; 8:45 am]

BILLING CODE 4810–AM–P

[9] Comment 20(b)–2 states that creditors "must look to the *assuming consumer* in determining whether a residential mortgage transaction exists." (emphasis added.)

[10] As comment 2(a)(24)–5 states, the term residential mortgage transaction "does not include a transaction involving a consumer's principal dwelling if the consumer had previously purchased and acquired some interest to the dwelling even through the consumer had not acquired full legal title."

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0209; Special Conditions No. 25–559–SC]

Special Conditions: Embraer Model ERJ–190 Airplane, Enhanced Flight-Vision System (EFVS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Embraer Model ERJ–190 airplane. This airplane will have a novel or unusual design feature associated with an enhanced flight-vision system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is July 17, 2014. We must receive your comments by September 2, 2014.

ADDRESSES: Send comments identified by docket number FAA–2014–0209 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.
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Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Dale Dunford, FAA, Airplane and Flightcrew Interface, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2239; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending

written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On December 10, 2012, Embraer applied for a change to Type Certificate No. A57NM to add an enhanced flight-vision system to the Embraer Model ERJ–190 airplane. The Embraer Model ERJ–190 airplane is a low-wing, conventional-tail, twin-turbofan, transport-category airplane with seating for up to 124 passengers.

The EFVS uses new and novel or unusual technology for which the FAA has no certification criteria. Title 14, Code of Federal Regulations (14 CFR) 25.773 does not permit visual distortions and reflections that could interfere with the pilot's normal duties, and was not written in anticipation of such technology. Because § 25.773 does not provide for any alternatives or considerations for such a new and novel system, it is necessary to establish safety requirements that assure an equivalent level of safety and effectiveness of the pilot-compartment view as intended by this rule. Other applications for certification of such technology are anticipated in the near future and magnify the need to establish FAA safety standards that can be applied consistently for all such approvals. Special conditions are therefore prescribed under the provisions of § 21.16.

Type Certification Basis

Under the provisions of § 21.101, Embraer must show that the Model ERJ–190 airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A57NM or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type-certification basis." The regulations incorporated by reference in A57NM are as follows:

14 CFR part 25, Amdts. 25–1 through 25–101 in entirety. In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these special conditions.

In addition to the applicable airworthiness regulations and special conditions, the Model ERJ–190 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model ERJ–190 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Model ERJ–190 airplane will incorporate the following novel or unusual design features:

Installation of an enhanced flight-vision system (EFVS).

Discussion

On January 9, 2004, the FAA published revisions to operational rules in 14 CFR parts 1, 91, 121, 125 and 135 to allow aircraft to operate below certain altitudes during a straight-in instrument approach while using an EFVS to meet certain visibility requirements.

Some Enhanced Vision Systems (EVS) were approved prior to this rule change in accordance with provisions of Special Conditions (re: ANM–SC–159) that addressed requirements for the pilot-compartment view and limited the scope of intended functions permissible under the operational rules at the time (re: § 91.175). In particular, the intended function of the EVS imagery was to present a view that aided the pilot during the approach, and which the pilot could use to detect and identify the visual references for the intended runway, as listed in 14 CFR 91.175(c)(3), down to 100 feet above the touchdown zone. However, the EVS imagery alone was not to be used as a means to satisfy visibility requirements below 100 feet, as a means to satisfy flight-visibility requirements (re: § 91.175(c)(2)), nor as flight guidance or as a substitute for the outside view for maneuvering the airplane.

The operational rule change expands the permissible application of certain EVSs that are certified to meet the new requirements for an EFVS. The rule will allow the use of EFVS for operation between the minimum descent altitude (MDA) or decision height (DH) to meet new visibility requirements found in § 91.175(l). Consequently, the intended function of the EFVS, unlike the previously approved EVS, includes the pilot's use of the imagery to determine that the "enhanced flight visibility" is not less than the minimum visibility prescribed for the instrument approach, and may be used for maneuvering the airplane between MDA or DH, and 100 feet above touchdown-zone elevation. See Advisory Circular (AC) 20–167 for a more in-depth description of the intended function.

The EFVS uses new and novel or unusual technology that displays video-raster imagery in the field of view regulated by 14 CFR 25.773. This rule does not permit distortions and reflections in the pilot-compartment view that can interfere with normal duties and was not written in anticipation of such technology. The video image potentially interferes with the pilot's ability to see the natural scene in the center of the forward field of view.

Unlike the pilot's natural forward vision, the EFVS image is infrared-based, monochrome, two-dimensional (i.e., no depth perception), and of lower resolution than normal human vision provides. While the pilot may be readily able to see around and through small individual stroke-written symbols on the HUD, the pilot may not be able to see around or through the image that fills the display without some interference of the outside view. Nevertheless, the EFVS may be capable of meeting an equivalent level of safety when considering the combined view of the image and the outside scene, which is visible to the pilot through the image. It is essential that the pilot can use this combination of image and natural view of the outside scene as safely and effectively as the pilot-compartment view currently available without the EFVS image.

Because § 25.773 does not expressly provide for any alternatives or considerations for such a new and novel system, it is necessary to establish safety requirements that assure an equivalent level of safety and effectiveness of the pilot-compartment view as intended by that rule. The purpose of these special conditions is to provide the unique

pilot-compartment view requirements for the EFVS installation.

Compliance with these special conditions is required for the EFVS to be found acceptable for the following intended functions, in accordance with § 91.175(l) and (m):

1. Presenting an image that would aid the pilot during a straight-in instrument approach.

2. Enable the pilot to determine the "enhanced flight visibility," as required by § 91.175(l)(2) for descent and operation below MDA/DH.

3. Enable the pilot to use the EFVS imagery to detect and identify the "visual references for the intended runway" required by § 91.175(l)(3), to continue the approach with vertical guidance to 100 feet height above touchdown-zone elevation.

Note: The term "enhanced vision system (EVS)" has been commonly used to refer to a system comprised of a head-up display, imaging sensor(s), and avionics interfaces that display the sensor imagery on the HUD, and overlay that imagery with alpha-numeric and symbolic flight information. However, the term has also been commonly used in reference to systems that display the sensor imagery, with or without other flight information, on a head-down display. Hence, to avoid confusion, the FAA defined the term "enhanced flight-vision system (EFVS)" to refer to certain EVS systems that meet the requirements of the new rule, in particular the requirement for a HUD and specified flight information, and can be used to determine "enhanced flight visibility." EFVS can be considered a subset of systems otherwise labeled EVS.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Embraer Model ERJ–190 airplane. Should Embraer apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the EFVS modification to the Embraer Model ERJ–190 airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**.

The FAA requests comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer Model ERJ–190 airplane.

1. EFVS imagery on the HUD must not degrade the safety of flight or interfere with the effective use of outside visual references for required pilot tasks during any phase of flight in which it is to be used.

2. To avoid unacceptable interference with the safe and effective use of the pilot-compartment view, the EFVS device must meet the following requirements:

a. EFVS design must minimize unacceptable display characteristics or artifacts (e.g. noise, "burlap" overlay, running water droplets) that obscure the desired image of the scene, impair the pilot's ability to detect and identify visual references, mask flight hazards, distract the pilot, or otherwise degrade task performance or safety.

b. Control of EFVS display brightness must be sufficiently effective, in dynamically changing background (ambient) lighting conditions, to prevent full or partial blooming of the display that would distract the pilot, impair the pilot's ability to detect and identify visual references, mask flight hazards, or otherwise degrade task performance or safety. If automatic control for image brightness is not provided, it must be shown that a single manual setting is satisfactory for the range of lighting conditions encountered during a time-critical, high-workload phase of flight (e.g., low-visibility instrument approach).

c. A readily accessible control must be provided that permits the pilot to immediately deactivate and reactivate display of the EFVS image on demand, without removing the pilot's hands from the primary flight controls (yoke or equivalent) or thrust control.

d. The EFVS image on the HUD must not impair the pilot's use of guidance information, or degrade the presentation and pilot awareness of essential flight information displayed on the HUD, such as alerts, airspeed, attitude, altitude and direction, approach guidance, wind-shear guidance, TCAS resolution advisories, and unusual-attitude recovery cues.

e. The EFVS image and the HUD symbols, which are spatially referenced to the pitch scale, outside view, and image, must be scaled and aligned (i.e., conformal) to the external scene and, when considered singly or in combination, must not be misleading, cause pilot confusion, or increase workload. There may be airplane attitudes or cross-wind conditions which cause certain symbols, such as the zero-pitch line or flight-path vector, to reach field-of-view limits such that they cannot be positioned conformably with the image and external scene. In such cases, these symbols may be displayed, but with an altered appearance which makes the pilot aware that they are no longer displayed conformably (for example, "ghosting").

f. A HUD system used to display EFVS images must, if previously certified, continue to meet all of the requirements of the original approval.

3. The safety and performance of the pilot tasks associated with the use of the pilot-compartment view must be not be degraded by the display of the EFVS image. Pilot tasks which must not be degraded by the EFVS image include:

a. Detection, accurate identification, and maneuvering, as necessary, to avoid traffic, terrain, obstacles, and other hazards of flight.

b. Accurate identification and utilization of visual references required for every task relevant to the phase of flight.

4. Appropriate limitations must be stated in the Operating Limitations section of the Airplane Flight Manual to prohibit the use of the EFVS for functions that have not been found to be acceptable.

Issued in Renton, Washington, on June 19, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–16781 Filed 7–16–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9664]

RIN 1545–BF80

Section 67 Limitations on Estates or Trusts; Change of Effective Date

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; amendment.

SUMMARY: This document amends final regulations (TD 9664) that were published in the **Federal Register** on May 9, 2014. The final regulations provide guidance on which costs incurred by estates or trusts other than grantor trusts (non-grantor trusts) are subject to the 2-percent floor for miscellaneous itemized deductions under section 67(a) of the Internal Revenue Code.

DATES: *Effective Date:* This amendment to the final regulations published on May 9, 2014 (79 FR 90), is effective on July 17, 2014.

Applicability Date: For date of applicability, see § 1.67–4(d).

FOR FURTHER INFORMATION CONTACT: Jennifer N. Keeney, (202) 317–6850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these amendments are under section 67 of the Internal Revenue Code. The final regulations (TD 9664) were published in the **Federal Register** on Friday, May 9, 2014 (79 FR 90). The final regulations applied to taxable years beginning on or after May 9, 2014.

Need for Amendment

The Treasury Department and the IRS received a comment raising concerns about the effective/applicability date of the regulations. As issued, the final regulations apply to taxable years beginning on or after May 9, 2014. Therefore, fiduciaries of existing trusts and calendar-year estates would implement the rules beginning January 1, 2015. However, the rules would apply immediately to any non-grantor trust created after May 8, 2014, the estate of any decedent who dies after May 8, 2014, and any existing fiscal-year estate with a taxable year beginning after May 8, 2014. The commentator stated that the effective/applicability date in the regulations does not give fiduciaries of these trusts and estates sufficient time to implement the changes that are necessary to comply with the regulations. Specifically, the commentator is concerned about allowing fiduciaries sufficient time to design and implement the necessary program changes to determine the portion of a bundled fee that is attributable to costs that are subject to the 2-percent floor versus costs that are not subject to the 2-percent floor. In response to these comments, this document amends § 1.67–4(d) of the Final Regulations so that the regulations apply to taxable years beginning on or after January 1, 2015.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** In § 1.67–4, paragraph (d) is revised read as follows:

§ 1.67–4 Costs paid or incurred by estates or non-grantor trusts.

* * * * *

(d) *Effective/applicability date.* This section applies to taxable years beginning after December 31, 2014.

Martin V. Franks,

Branch Chief, Publications & Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure & Administration).

[FR Doc. 2014–16834 Filed 7–16–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD–2011–HA–0134]

RIN 0720–AB55

TRICARE Certified Mental Health Counselors

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Department of Defense is publishing this final rule to implement the TRICARE Certified Mental Health Counselor (TCMHC) provider type as a qualified mental health provider authorized to independently diagnose and treat TRICARE beneficiaries and receive reimbursement for services. Additionally, we are extending the time frame that was mentioned in the Interim Final Rule for meeting certain education, examination, and supervised clinical practice criteria to be considered for authorization as a TCMHC. The time frame has been changed from prior to January 1, 2015, to prior to January 1, 2017. One final set of criteria shall apply for the authorization of the TCMHC beginning January 1, 2017. The supervised mental health counselor (SMHC) provider type, while previously proposed to be terminated under TRICARE, is now continued indefinitely as an extramedical individual provider practicing mental health counseling under the supervision of a TRICARE-authorized physician.

DATES: *Effective Date:* This rule is effective August 18, 2014.

FOR FURTHER INFORMATION CONTACT: Dr. Patricia Moseley, Defense Health Agency, Clinical Support Division, Behavioral Health Branch, 703–681–0064.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Final Rule

1. The Need for the Regulatory Action

The purpose of this final rule is to prescribe regulations that will allow licensed or certified mental health counselors to be able to independently provide care to TRICARE beneficiaries and receive payment for those services. The final rule incorporates the recommendations of the Institute of Medicine (IOM) 2010 report for the independent practice of mental health counselors (MHCs) under TRICARE, including specific education, licensure,

examination, and supervised clinical practice experience requirements in order to become a TRICARE authorized independent provider. This final rule also provides for the continued authorization of Supervised Mental Health Counselors (SMHCs) as TRICARE authorized providers when practicing under physician referral and supervision. This important change to the interim final rule, will maintain continuity of care for those beneficiaries who are receiving services from SMHCs under the current system and will help to ensure a continued robust, quality provider pool for TRICARE beneficiaries to access when seeking medically necessary and appropriate mental health counseling services. Authorization of TCMHCs and SMHCs is part of a comprehensive quality-management system implemented by TRICARE for all mental health professionals.

2. Legal Authority for the Regulatory Action

The legal authority for this Final Rule is Section 724 of the National Defense Authorization Act (NDAA) for Fiscal Year 2011, Public Law 111–383, which required the Department of Defense to prescribe regulations to establish the criteria that would allow licensed or certified mental health counselors to be able to independently provide care to TRICARE beneficiaries and receive payment for those services.

B. Summary of the Major Provisions of the Final Rule

1. Designation of "TRICARE Certified Mental Health Counselor (TCMHC)" as an Allied Health Professional Under TRICARE

This final rule establishes a new category of individual professional providers of medical care under the TRICARE program entitled TRICARE Certified Mental Health Counselors (TCMHC).

2. Under Basic Program Benefits, Services of TCMHCs and SMHCs Are Extended to Beneficiaries

Under this final rule, beneficiaries are able to choose the services of a either a TCMHC who independently provides diagnostic and therapeutic services or a Supervised Mental Health Counselor (SMHC) who is authorized to provide mental health counseling pursuant to physician referral and ongoing supervision of the beneficiary's care. This final rule rescinds the expiration date published in the IFR for phase-out the SMHC provider type. The rule also adds appropriate definitions in 32 CFR 199.2 for SMHCs and TCMHCs.

3. *The Transition Period Is Extended to December 31, 2016, for a MHC To Meet the Currently Recognized Quality Standards Required for Independent Practice*

The date of the transition period established in the IFR is extended in the final rule and is changed accordingly throughout this rule. TCMHCs who are authorized during the transition period are not required to be reauthorized under the new criteria after January 1, 2017. Additionally, MHCs who meet all certification requirements prior to the end of the transition period can apply for TRICARE authorization at any time after the transition period. Such authorization will be based on the certification requirements met prior to the end of the transition period. Providers who do not meet all of the certification requirements prior to the expiration of the transition period will be required to meet the quality standards recommended by the IOM and adopted by TRICARE, including possession of a master's or higher-level degree from a Council for Accreditation of Counseling and Related Educational Programs (CACREP) accredited mental health counseling program of education and training as well as having passed the National Clinical Mental Health Counseling Examination (NCMHCE).

4. Expansion of Providers Authorized To Supervise the Post-Master's Clinical Practice for Authorization as a TCMHC

This final rule modifies the criteria in the IFR to permit supervision of a prospective TCMHC's post-master's clinical practice experience. Supervision is no longer restricted to a mental health counselor licensed for independent practice in mental health counseling in the jurisdiction where practicing but may be gained from multiple, licensed independent mental health professionals, similar to industry standards.

C. Costs and Benefits

This rule is not anticipated to have an annual effect on the economy of $100 million or more; therefore, it is not an economically significant rule under Executive Order 12866 and the Congressional Review Act. All services and supplies authorized under the TRICARE Basic Program must be determined to be medically necessary in the treatment of an illness, injury or bodily malfunction before the care can be cost shared by TRICARE. For this reason, DoD anticipates that TRICARE will have a marginal increase in cost associated with increased access to authorized mental health counselors within the TRICARE basic program.

II. Discussion of Final Rule

A. Background

1. The Conference Report (House Report 109–360) to the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2006, requested the Department of Defense to report on actions taken to improve the efficiency and effectiveness of procedures to facilitate physician referral and supervision of MHCs. The report included a description of "best practices" employed throughout the military health system (MHS) to ensure access to services provided by MHCs under the TRICARE program. The report concluded that there remained significant variability among the states in training programs and requirements for licensure as a MHC. The report stated that while there is evidence that the extent of training variability decreased over time, it continued to be evident that professional counselors licensed to practice had quite varying exposure to classroom education and supervised clinical experiences in the assessment and treatment of persons with mental disorders.

2. Section 717 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 111–181, directed the Secretary of Defense to conduct an independent study of the credentials, preparation, and training of individuals practicing as licensed MHCs and to make recommendations for permitting licensed MHCs to practice independently under the TRICARE program. In this study, the Institute of Medicine (IOM) of the National Academies of Science recommended allowing licensed MHCs who meet certain requirements for training, education, experience, certification, and licensure to practice independently under the TRICARE program. This final rule implements changes to 32 CFR Part 199 largely based on those recommendations.

3. Section 724 of the National Defense Authorization Act for Fiscal Year 2011, Public Law 111–383, required the Department of Defense to prescribe regulations that establish the criteria for the independent practice of mental health counselors, as previously studied by the IOM in accordance with Section 717 of FY 2008 NDAA. As a result, the published Interim Final Rule—TRICARE: Certified Mental Health Counselors (76 **Federal Register** 80741–80744) requested 60 days of public comment from December 27, 2011 until February 27, 2012. In this final rule,

these criteria allow licensed or certified TCMHCs to independently provide care to TRICARE beneficiaries and receive payment for those services as do other allied health professionals listed in 32 CFR 199.6(c)(3)(iii).

B. Certification Criteria for TRICARE Certified Mental Health Counselor (TCMHC) Independent Practice Under TRICARE

This final rule establishes certification criteria largely consistent with the recommendations of the Institute of Medicine (IOM) 2010 study, "Provision of Mental Health Counseling Services under TRICARE," (*http://www.iom.edu/Reports/2010/Provision-of-Mental-Health-Counseling-Services-Under-TRICARE.aspx*). The IOM recommendations specify that the independent practice of MHCs in TRICARE should occur under certain circumstances, to include:

> A master's or higher level degree in counseling from a program in mental health counseling or clinical mental health counseling that is accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP); a state license in mental health counseling at the 'clinical' or the higher or highest level available in states that have tiered licensing schemes; the passage of the National Clinical Mental Health Counseling Examination; and a well-defined scope of practice for practitioners (p. 10).

TRICARE adopts the quality standards recommended by the IOM. We understand the availability of CACREP accredited clinical mental health counseling training programs and the use of the NCMHCE examination as quality standards are not yet widespread in the field. To support this health care provider transition, the new quality standards for the independent practice of TCMHCs will not fully replace existing criteria, including regional accreditation of institution programs and passage of the National Counselor Exam (NCE), until January 1, 2017. While the IFR set an expiration date for authorization of SMHCs to coincide with the end of the transition period, this final rule specifies that TRICARE will continue authorization of SMHCs indefinitely to preserve access to care for our beneficiaries during and after the transition period. This will preserve patient access to an experienced and well-trained mental health professional provider group. At the same time, this final rule is designed to encourage greater participation of qualified MHCs to become independent TCMHCs and thus improve access to quality mental health treatment for our beneficiaries.

C. Additional Revisions to the Regulations

In reviewing the interim final rule, we realized that we inadvertently failed to update several other provisions of the regulation that reference "mental health counselors" to account for the expansion of provider types in this field and the different rules that apply to each. Consequently, in this final rule, we have deleted the definition of "mental health counselor" from 32 CFR 199.2 and replaced it with definitions of "Supervised Mental Health Counselor" and "TRICARE Certified Mental Health Counselor." We have also revised 32 CFR 199.7(e)(3) to clearly indicate that claims for reimbursement for services of supervised mental health counselors must include certification to the effect that a written communication has been made or will be made to the referring physician at the end of treatment, or more frequently, as required by the referring physician. There is no similar requirement for TCMHCs as they are authorized to practice independently

III. Public Comments

The Interim Final Rule: TRICARE—Certified Mental Health Counselors was published in the **Federal Register** (76 FR 80741–80744) on December 27, 2011, for a 60-day public comment period. We received 404 public comments. Following is a summary of the public comments and our responses.

Comment: A few commenters suggested a change from the title of Certified Mental Health Counselor (CMHC) as was the proposed title published in the Interim Final Rule, because the acronym, CMHC, is very similar to the National Board for Certified Counselor's (NBCC) title for Certified Clinical Mental Health Counselor (CCMHC).

Response: We agree and believe it is necessary to distinguish the titles to prevent confusion. Consequently, the final rule will use the title, TRICARE Certified Mental Health Counselor (TCMHC).

Comment: Many commenters recommended independent provider status for qualified MHCs. Some commenters requested continuation of physician referral and supervision as a condition of authorization.

Response: TRICARE appreciates the skills and professional experience of the MHCs seeking independent status and recognizes the depth of expertise represented by the current SMHC provider pool. With this final rule, TRICARE maintains a robust selection of extramedical provider types for beneficiaries, plus beneficiaries may now choose to receive medically necessary and appropriate care from a TCMHC without physician referral and supervision. Under the final rule, the criteria provider category of an SMHC will remain indefinitely.

Comment: Multiple national organizations and individuals expressed concern about the time required to obtain counseling degrees, licensure, and supervised clinical practice hours and to prepare for the NCMHCE. These commenters requested additional time for current counseling graduate students to complete their degrees, gain supervised clinical practice hours, and pass national examinations in order to become authorized for independent practice under TRICARE.

Response: We recognize that the combined education and examination criteria for authorization as a TCMHC may present a higher bar to the field of mental health counseling in some states. Consequently, the transition period has been extended until January 1, 2017, and this date is modified throughout the final rule. The final rule balances the implementation of quality standards for MHCs with beneficiary access to their services. This four year period allows completion of counseling degrees, supervised clinical practice hours, and licensure under the existing quality standards. MHCs who meet all of the criteria for TCMHCs prior to end of the transition period may apply for certification after the transition period, and this certification will be based on the criteria (c)(3)(iii)(N)(2). This extension also allows time for experienced MHCs and currently practicing SMHCs to pass the National Clinical Mental Health Counseling Examination (NCMHCE). This change aims to ensure the availability of well-qualified, independent providers for our beneficiaries.

Comment: Some commenters suggested that any professional mental health discipline or state licensed professional counselors should be able to supervise the clinical practice of the MHC for TRICARE authorization as a TCMHC. A few commenters recommend supervisors use standards other than those of the American Mental Health Counselor Association (AMHCA) standards.

Response: We appreciate these suggestions and have amended the Final Rule at 32 CFR 199.6(c)(3)(iii)(N)(*1*)(*iii*) and (*2*)(*iii*) to expand the types of providers authorized to supervise the post-master's clinical practice for certification as a TCMHC. Supervision is no longer restricted to mental health counselors licensed for independent practice but may be gained from

multiple, licensed independent mental health professionals, including psychiatrists, clinical psychologists, certified clinical social workers, and certified psychiatric nurse specialists who are licensed for independent practice in the jurisdiction where practicing and who are practicing within the scope of their licenses. SMHCs and pastoral counselors, who require physician referral and supervision, as well as marriage and family therapists, do not meet the qualification criteria as supervisors for MHCs seeking authorization as TCMHCs. The final rule addresses supervised clinical practice that is provided in a manner consistent with the AMHCA guidelines specific to the knowledge, skills, and practice of mental health counseling. The Department of Defense has elected to adopt these standards, consistent with the IOM's recommendation, as the AMHCA is the recognized national or professional association that sets the standards for the profession.

Comment: Many commenters request that the licensed professional counselors (LPCs) be allowed to practice independently under TRICARE, for example, psychotherapists; school, career, substance abuse, and rehabilitation counselors; expressive arts therapists; and counseling psychologists and licensed psychological associates.

Response: We appreciate these comments from individuals and professional organizations. We are aware that states allow specialty counseling areas to practice under the title of "licensed professional counselor" or similar titles and that educational requirements vary from state to state. The 2006 MHS Report to Congress and the 2010 IOM report noted that the great majority of the states do not require that a LPC graduate from a mental health specialty counseling program in order to be licensed to assess and treat persons with mental disorders. This final rule responds to the statutory requirement for the Department to prescribe criteria for the independent practice of licensed and certified mental health counselors. Thus, in the final rule TCMHCs are required to have specified education and training in order to diagnose and treat mental health conditions as individual professional providers of care. This final rule, however, also maintains SMHCs as a category of authorized TRICARE providers. Consequently, individuals, including some of those specifically identified by the commenters, who possess either a master's degree in mental health counseling or an allied mental health field and meet all other SMHC criteria, may also serve as TRICARE authorized providers with physician referral and ongoing supervision.

Comment: Several commenters recommend that TRICARE use a state license for authorization as a TCMHC. One commenter recommended that a state license alone should be sufficient as Medicaid and private insurance companies consider them sufficient for the practice of MHCs. Another commenter raised concerns that the criteria for authorizing TCMHCs will result in "separate regulations for the credentialing of mental health counselors" for Medicaid, Medicare, and TRICARE.

Response: We appreciate these comments, but have determined that the final rule will adhere to the IOM (2010) recommendations that incorporate a set of four criteria (licensure, education, certification via examination, and clinical supervision), not the state license alone, for the independent practice of MHCs under TRICARE. The IOM Report discusses at greater length both independent and supervised practice under other federal programs. We would note that Medicare does not recognize licensed professional counselors as independent providers, so they are not directly reimbursed through the program.

Comment: Some commenters asked whether TRICARE requires professional certification of a MHC.

Response: Yes. Reference to professional licensure and certification was unintentionally omitted from the interim final rule. We appreciate the comment and have corrected this inadvertent exclusion for the final rule by adding relevant provisions at 32 CFR 199.6(c)(3)(iii)(N)(*1*)(*iv*) and (*2*)(*iv*). Consistent with TRICARE requirements, professional certification is required when a jurisdiction does not issue a professional license [32 CFR 199.6(c)(2)(ii)]. Currently, all states (but not all territories) issue professional licensure for MHCs. In 1993, professional certification by the National Academy of Certified Mental Health Counselors of the American Mental Health Counselors Association was placed in the National Board for Certified Counselors' credentialing process. Thus the professional certification of Certified Clinical Mental Health Counselor is now required for authorization as a TCMHC or SMHC in those jurisdictions that do not issue a professional license.

Comment: Multiple commenters proposed the acceptance of their own states' or territories' licensing criteria for the number of hours of post-master's supervised clinical practice experience for the TCMHC.

Response: As recognized by the IOM, state requirements and practices can vary considerably. The requirements for all TRICARE authorized providers are set forth by federal regulation, specifically 32 CFR 199.6, including professional licensure, certification, and any specific education, training, and experience necessary to promote the delivery of services by fully qualified individuals. By establishing uniform standards, TRICARE seeks to provide high quality behavioral health care delivered by well-trained clinicians. No compelling comments were submitted to change the final rule requirement for TCMHCs related to the hours of supervised clinical practice.

Comment: A few commenters ask whether a master's degree from an accredited on-line mental health or clinical mental health program met the criteria for independent practice under TRICARE.

Response: The final rule makes no distinction between how a degree is earned, whether via distance learning or otherwise, as long as the provider has obtained a master's or higher-level degree from an appropriately accredited mental health counseling program of education and training. We would note, however, at the present time that CACREP and other regional accrediting bodies accredit very few institutions' programs that provide distance learning for mental health counseling.

Comment: A few commenters recommended that the National Counselor Examination (NCE) should be the "key to eligibility," not program accreditation. A few commenters expressed that either the NCE or the NCMHCE should be the accepted criteria for certification. Other commenters expressed appreciation that passage of the NCMHCE with graduation from a non-CACREP accredited program in mental health counseling is part of the eligibility criteria.

Response: We appreciate these comments. TRICARE accepted the specific recommendations of the IOM for the independent practice of MHCs, to include accredited education as well as examination criteria. To ensure the availability of TCMHCs who meet these quality standards during the transition period, this final rule pairs the examinations with the education criteria. After the transition period, only the more rigorous examination of clinical knowledge of patient care, the NCMHCE, is accepted for authorization as a TCMHC.

Comment: A few commenters suggest that TRICARE certify graduates from all universities that the federal government approves and allocates federal education funds. Other commenters ask whether graduates of the Rehabilitation Services of America (RSA) educational programs are allowed to practice independently under TRICARE, since their scholarship program provides federal funding for grants.

Response: The final rule makes no distinction as to which universities and educational programs receive federal funding. Appropriately accredited programs of education and training for clinical mental health counselors, will satisfy the educational requirements applicable to TCMHCs and SMHCs regardless of whether or not federal funding has been provided. Conversely, federal funding of programs that do not meet the specified educational and accreditation criteria will not serve to waive the applicable requirements. Additionally, we understand that the RSA oversees competitive grant programs designed to ensure that skilled personnel are available to service the rehabilitation needs of individuals with disabilities and that many discretionary grants are provided for master's degrees in rehabilitation counseling (*http://www2.ed.gov/students/college/aid/rehab/carcouns.html*). Congress requested that the DoD prescribe criteria for the authorization of MHCs to practice independently under TRICARE. The Department does not intend to broaden the scope of this final rule to rehabilitation counselors who do not meet the criteria specified in the regulation for TCMHCs or SMHCs.

Comment: Numerous commenters recommended a grandfathering clause to exempt a practicing MHC from meeting the criteria of the final rule. Others suggested the acceptance of each state's license as the criteria for grandfathering. Some commenters specifically recommended grandfathering MHCs who have two to five years of supervised experience serving the military.

Response: We believe the changes that have been made to the final rule to permit the continued practice of SMHCs under existing eligibility criteria, as well as the extension of the transition period for a MHC to meet the current quality standards, adequately address these comments while still ensuring the provision of high quality mental health care for beneficiaries, regardless of their location. Specifically, the transition period allows MHCs the time to meet the quality standards for independent practice and allows for the implementation of uniform criteria that are not gained by grandfathering. TRICARE recognizes that many mental health counselors and current SMHCs have graduated prior to the establishment of either the CACREP accreditation for mental health counseling programs or the National Board of Certified Counselor's national examination for clinical mental health counselors. This final rule seeks to balance the implementation of quality standards for mental health counselors with beneficiary access to those services.

IV. Regulatory Impact Analysis

Overall Impact

The Department has examined the impact of this final rule as required by Executive Orders (EOs) 12866 (September 1993, Regulatory Planning and Review) and 13563 (January 18, 2011, Improving Regulation and Regulatory Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and the Congressional Review Act [5 U.S.C. 804(2)].

1. Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). We estimate that this rulemaking is not "economically significant" as measured by the $100 million threshold and, hence, is not a major rule under the Congressional Review Act or the E.O.s.

2. Congressional Review Act, 5 U.S.C. 804(2)

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of $100 million or more or have certain other impacts. This Final rule is not a major rule under the Congressional Review Act.

3. Public Law 96–354, "Regulatory Flexibility Act" (RFA), Title 5, U.S.C., Sec. 601

The RFA requires agencies to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. This rule is not an economically significant regulatory action, and it has been certified that it will not have a significant impact on a substantial number of small entities. Therefore, this rule is not subject to the requirements of the RFA.

4. Public Law 104–4, Sec. 202, "Unfunded Mandates Reform Act"

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $140 million. This final rule will not mandate any requirements for state, local, or tribal governments or the private sector.

5. Public Law 96–511, "Paperwork Reduction Act" (Title 44, U.S.C., Chapter 35)

This rule will not impose significant additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3502–3511). Existing information collection requirements of the TRICARE and Medicare programs will be utilized. TRICARE authorized and non-network providers will be coding and filing claims in the same manner as they currently are with TRICARE.

6. Executive Order 13132, "Federalism"

This rule has been examined for its impact under E.O. 13132, and it does not contain policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of powers and responsibilities among the various levels of Government. Therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. In § 199.2, paragraph (b) is amended by removing the definition of "Mental health counselor" and adding the definitions of "Supervised mental health counselor" and "TRICARE certified mental health counselor" in alphabetical order to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Supervised mental health counselor. An extramedical individual provider who meets the requirements outlined in § 199.6.

* * * * *

TRICARE certified mental health counselor. An allied health professional who meets the requirements outlined in § 199.6.

* * * * *

■ 3. Section 199.4 is amended by revising paragraph (c)(3)(ix)(A) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(c) * * *

(3) * * *

(ix) * * *

(A) *Covered diagnostic and therapeutic services.* Subject to the requirements and limitations stated, CHAMPUS benefits are payable for the following services when rendered in the diagnosis or treatment of a covered mental disorder by a CHAMPUS-authorized, qualified mental health provider practicing within the scope of his or her license. Qualified mental health providers are: Psychiatrists or other physicians; clinical psychologists, certified psychiatric nurse specialists, certified clinical social workers, certified marriage and family therapists, TRICARE certified mental health counselors, pastoral counselors under a physician's supervision and supervised mental health counselors under a physician's supervision. No payment will be made for any service listed in paragraph (c)(3)(ix)(A) of this section rendered by an individual who does not meet the criteria of § 199.6 for his or her respective profession, regardless of whether the provider is an independent professional provider or an employee of an authorized professional or institutional provider.

* * * * *

■ 4. Section 199.6 is amended by revising paragraphs (c)(3)(iii)(N) and (c)(3)(iv)(C) to read as follows:

§ 199.6 TRICARE—authorized providers.

* * * * *

(c) * * *

(3) * * *

(iii) * * *

(N) *TRICARE certified mental health counselor.* For the purposes of CHAMPUS, a TRICARE certified mental health counselor (TCMHC) must be licensed for independent practice in mental health counseling by the jurisdiction where practicing. In jurisdictions with two or more licenses allowing for differing scopes of independent practice, the licensed mental health counselor may only practice within the scope of the license he or she possesses. In addition, a TCMHC must meet the requirements of either paragraph (c)(3)(iii)(N)(*1*) or the requirements of paragraph (c)(3)(iii)(N)(*2*) of this section.

(*1*) The requirements of this paragraph are that the TCMHC:

(*i*) Must have passed the National Clinical Mental Health Counselor Examination (NCMHCE) or its successor as determined by the Director, TMA; and

(*ii*) Must possess a master's or higher-level degree from a mental health counseling program of education and training accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP); and

(*iii*) Must have a minimum of two (2) years of post-master's degree supervised mental health counseling practice which includes a minimum of 3,000 hours of supervised clinical practice and 100 hours of face-to-face supervision. Supervision must be provided by mental health counselors at the highest level of state licensure, psychiatrists, clinical psychologists, certified clinical social workers, or certified psychiatric nurse specialists who are licensed for independent practice in the jurisdiction where practicing and who are practicing within the scope of their licenses. Supervised clinical practice must be received in a manner that is consistent with the guidelines regarding knowledge, skills, and practice standards for supervision of the American Mental Health Counselors Association; and

(*iv*) Is licensed or certified for independent practice in mental health counseling by the jurisdiction where practicing (see paragraph (c)(2)(ii) of this section for more specific information).

(*2*) The requirements of this paragraph are that the TCMHC, prior to January 1, 2017:

(*i*) Possess a master's or higher-level degree from a mental health counseling program of education and training accredited by CACREP and must have passed the National Counselor Examination (NCE); or

(*ii*) Possess a master's or higher-level degree from a mental health counseling program of education and training from either a CACREP or regionally accredited institution and have passed the NCMHCE; and

(*iii*) Must have a minimum of two (2) years of post-master's degree supervised mental health counseling practice which includes a minimum of 3,000 hours of supervised clinical practice and 100 hours of face-to-face supervision. Supervision must be provided by mental health counselors at the highest level of state licensure, psychiatrists, clinical psychologists, certified clinical social workers, or certified psychiatric nurse specialists who are licensed for independent practice in the jurisdiction where practicing and who are practicing within the scope of their licenses. Supervised clinical practice must be received in a manner that is consistent with the guidelines regarding knowledge, skills, and practice standards for supervision of the American Mental Health Counselors Association; and

(*iv*) Is licensed or certified for independent practice in mental health counseling by the jurisdiction where practicing (see paragraph (c)(2)(ii) of this section for more specific information).

(*3*) The Director, TRICARE Management Activity may amend or modify existing or specify additional certification requirements as needed to accommodate future practice and licensing standards and to ensure that all TCMHCs continue to meet educational, licensing, and clinical training requirements considered appropriate.

(iv) * * *

(C) *Supervised mental health counselor.* For the purposes of TRICARE, a supervised mental health counselor is an individual who does not meet the requirements of a TRICARE certified mental health counselor in paragraph (c)(3)(iii)(N) of this section, but meets all of the following requirements and conditions of practice:

(*1*) Minimum of a master's degree in mental health counseling or allied mental health field from a regionally accredited institution; and

(2) Two years of post-masters experience which includes 3,000 hours of clinical work and 100 hours of face-to-face supervision; and

(3) Is licensed or certified to practice as a mental health counselor by the jurisdiction where practicing (see paragraph (c)(3)(iv)(D) of this section for more specific information); and

(4) May only be reimbursed when:

(i) The TRICARE beneficiary is referred for therapy by a physician; and

(ii) A physician is providing ongoing oversight and supervision of the therapy being provided; and

(iii) The mental health counselor certifies on each claim for reimbursement that a written communication has been made or will be made to the referring physician of the results of the treatment. Such communication will be made at the end of the treatment, or more frequently, as required by the referring physician (refer to § 199.7).

* * * * *

■ 5. Section 199.7 is amended by revising paragraphs (e)(3) to read as follows:

§ 199.7 Claims submission, review, and payment.

* * * * *

(e) * * *

(3) Claims involving the services of marriage and family counselors, pastoral counselors, and supervised mental health counselors. CHAMPUS requires that marriage and family counselors, pastoral counselors, and supervised mental health counselors make a written report to the referring physician concerning the CHAMPUS beneficiary's progress. Therefore, each claim for reimbursement for services of marriage and family counselors, pastoral counselors, and supervised mental health counselors must include certification to the effect that a written communication has been made or will be made to the referring physician at the end of treatment, or more frequently, as required by the referring physician.

* * * * *

Dated: July 11, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–16702 Filed 7–16–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0848]

RIN 1625–AA09

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Venice, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Hatchett Creek (US–41) Twin Bridges, Gulf Intracoastal Waterway mile 56.9, Venice, FL. Changing the operational schedule of the Hatchett Creek (US–41) Twin Bridges will allow the 8 hour, Sarasota Iron Man Triathlon to occur annually without being interrupted. This event is anticipated to be scheduled annually on the second Sunday of November, from 9 a.m. to 5 p.m.

DATES: This rule is effective August 18, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0848]. 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 Ms. Danielle Mauser, Seventh Coast Guard District, Bridge Branch, 305–415–6946, email *Danielle.L.Mauser2@uscg.mil.* If you have questions about viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On November 21, 2013, we published a notice of proposed rulemaking (NPRM) entitled, "Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Venice, FL" in the **Federal Register** (78 FR 69803). No comments on the proposed rule were received. No public meeting was requested or held.

B. Basis and Purpose

The changes will have a minor impact on vessels transiting the Gulf Intracoastal Waterway in the vicinity of Venice, Florida, but will still meet the reasonable needs to navigation. This action will accommodate the Sarasota Iron Man Triathlon held annually on the second Sunday of November.

C. Discussion of Comments, Changes and the Final Rule

No comments were received. This rule will allow the Hatchett Creek Bridge to remain closed to navigation for eight hours for an annual event. This rule will revise paragraph (b) in 33 CFR 117.287 to include this eight hour closure for the second Sunday in November annually. The Hatchett Creek (US–41) Bridge provides a vertical clearance of 16 feet at mean high water in the closed position and a horizontal clearance of 90 feet. Vessels with a height of less than 16 feet may pass through the bridge at any time. The Gulf of Mexico is the only alternative route, and this route would be unacceptable for certain classes of vessels such as tugs and barges.

D. Regulatory Analyses

The rule was developed after considering numerous statutes and executive orders related to rulemaking. Below is a summary of the analysis based on the aforementioned 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. It does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

This rule is not a significant regulatory action because it will only have a minor impact on vessels transiting the Gulf Intracoastal Waterway in the vicinity of Venice, Florida and it will still meet the reasonable needs of navigation.

2. Impact on Small Entities

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

This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels needing the draw to open for safe transit under the bridge from 9 a.m. to 5 p.m. on the second Sunday of November each year.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for eight hours annually. Vessels that can safely transit under the bridge may do so at any time. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the river.

3. Assistance for Small Entities

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

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

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

This rule does not use technical standards. Therefore, the use of voluntary consensus standards was not considered.

14. Environment

After analyzing this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), it has been concluded that this action is among a category of actions, that do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

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

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. In § 117.287, revise paragraph (b) to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(b) The draw of the Hatchett Creek (US–41) bridge, mile 56.9 at Venice, shall open on signal, except that, from 7 a.m. to 4:20 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour and except between 4:25 p.m. and 5:25 p.m. when the draw need not open. On Saturdays, Sundays, and Federal holidays from 7:30 a.m. to 6 p.m. the draw need open only on the hour, quarter-hour, half-hour, and three quarter-hour. This bridge need not open to navigation on the second Sunday of November annually, from 9 a.m. to 5 p.m., to facilitate the Iron Man Triathlon event.

* * * * *

Dated: June 18, 2014.

J.H. Korn,

Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 2014–16844 Filed 7–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0570]

Drawbridge Operation Regulations; Norwalk River, Norwalk, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Metro North WALK Bridge across the Norwalk River, mile 0.1, at Norwalk, Connecticut. The deviation is necessary to facilitate necessary maintenance and repairs to the electrical and mechanical operating systems at the bridge. This temporary deviation authorizes the bridge to open after an eight-hour advance notice is given under a revised operating schedule.

DATES: This deviation is effective without actual notice from July 17, 2014 through December 30, 2014. For the purposes of enforcement, actual notice will be used on July 4, 2014, until July 17, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0570] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Christopher J. Bisignano, Supervisory Bridge Management Specialist, First Coast Guard District, *Christopher.J.Bisignano@uscg.mil* or (212) 668–7021. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Metro North WALK Bridge, mile 0.1, across the Norwalk River at Norwalk, Connecticut, has a vertical clearance in the closed position of 16 feet at mean high water and 23 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.217(b).

The waterway users are seasonal recreational vessels and commercial vessels of various sizes.

The owner of the bridge, Connecticut Department of Transportation, requested a temporary deviation from the regulations from July 4, 2014 through December 30, 2014, to allow the bridge to open after an eight-hour advance notice is given to help facilitate necessary electrical and mechanical maintenance and repairs at the bridge.

The Coast Guard will work with Connecticut Department of Transportation and Metro North to develop a long term repair schedule during this initial temporary deviation time period.

Under this temporary deviation, in effect from July 4, 2014 through December 30, 2014, the Metro North WALK Bridge at mile 0.1, across the Norwalk River, at Norwalk, Connecticut shall open after at least an eight-hour advance notice is given as follows:

(1) From 10 a.m. to 2 p.m., a maximum of one opening each day Monday through Friday, excluding holidays.

(2) From 9 p.m. to 3 a.m., a maximum of two openings each night, starting on Monday at 9 p.m. through Friday at 3 a.m. including holidays.

(3) From 9 p.m. Fridays to 3 a.m. Mondays, including holidays.

(4) For emergencies only at all other times.

(5) A delay of up to 20 minutes may be expected if a train is approaching so closely that it may not be safely stopped.

Vessels that can pass under the bridge in the closed position may do so at any time. There are no alternate routes. The bridge can open in the event of an emergency situation.

Vessel operators will be notified of these changes to the bridge operating schedule through a Local Notice to Mariners publication and a Safety Marine Information Broadcast (SMIB) issued by the Coast Guard so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: July 1, 2014.

Linda L. Fagan,

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

[FR Doc. 2014–16842 Filed 7–16–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0259]

RIN 1625–AA00

Safety Zone; Fireworks Display, Lake Michigan; Winnetka, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Michigan in Winnetka, IL. This safety zone is intended to restrict vessels from a portion of Lake Michigan due to a barge-based fireworks display. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the fireworks display.

DATES: This rule is effective from 9:15 p.m. until 10 p.m. on August 16, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0259. 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 Petty Officer Joseph McCollum, U.S. Coast Guard Sector Lake Michigan; telephone 414–747–7148, email *Joseph.P.McCollum@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

On May 14, 2014, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone, Fireworks Display, Lake Michigan; Winnetka, IL in the **Federal Register** (79 FR 27521). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

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

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided a comment period of 30 days and no comments were received. Accordingly, we have made no changes from the proposed rule.

On August 16, 2014, a fireworks display is expected to take place on Lake Michigan, Winnetka, IL, from a barge located at approximate position 42°06′24.19″ N, 087°43′7.92″ W (NAD 83). The Captain of the Port, Lake Michigan, has determined that an aerial firework display presents a significant risk to public safety and property. Such hazards include falling and flaming debris.

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

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be small and enforced for a short duration of 45 minutes. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port or her designated on-scene representative.

2. Impact on Small Entities

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

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on small entities. This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Lake Michigan from 9:15 p.m. until 10 p.m. on August 16, 2014.

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

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0259 to read as follows:

§ 165.T09–0259 Safety Zone; Fireworks Display, Lake Michigan; Winnetka, IL.

(a) *Location.* All waters of Lake Michigan, near Winnetka, IL, within an 840 foot radius from a barge located at approximate position 42°06′24.19″ N, 087°43′7.92″ W (NAD 83).

(b) *Effective period.* This section will be effective from 9:15 p.m. until 10 p.m. on August 16, 2014.

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

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

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

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

Dated: June 30, 2014.

A.B. Cocanour,

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

[FR Doc. 2014–16846 Filed 7–16–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 13

[EPA–HQ–OA–2014–0012; FRL–9913–63–OCFO]

Administrative Wage Garnishment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of adverse comments, EPA is withdrawing the direct final rule for Administrative Wage Garnishment published in the **Federal Register** on July 2, 2014.

DATES: The direct final rule published at 79 FR 37644 on July 2, 2014 is withdrawn effective July 17, 2014.

FOR FURTHER INFORMATION CONTACT: FPPS c/o Anita Jones, OCFO/OFM/FPPS, Mailcode 2733R, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4969; fax number: (202) 565–2585; email address: *jones.anita@epa.gov.*

SUPPLEMENTARY INFORMATION: Due to the receipt of adverse comments, EPA is withdrawing the direct final rule amending EPA's claims collection standards to include Administrative Wage Garnishment, which published in

the **Federal Register** on July 2, 2014 (79 FR 37644). In the direct final rule, EPA stated that if adverse comments were received by August 1, 2014, the direct final rule would be withdrawn and not take effect. EPA received adverse comments on that direct final rule. EPA will address those comments in any subsequent final action, based upon the proposed rulemaking action, which was published in the **Federal Register** on July 2, 2014 (79 FR 37704).

List of Subjects in 40 CFR Part 13

Environmental protection, Administrative practice and procedure, Claims, Debt collection, Government employees, Garnishment of wages, Hearing and appeal procedures, Salaries, Wages.

Authority: 5 U.S.C. 552a, 5512, and 5514; 31 U.S.C. 3701; 31 U.S.C. 3711 *et seq.* and 3720A; 31 U.S.C. 3720D; 31 CFR 285.11; 31 CFR parts 900–904.

Dated: July 10, 2014.

Jeanne Conklin,

Acting Director Office of Financial Management.

PART 13—CLAIMS COLLECTION STANDARDS

Accordingly, the amendment to subpart I published in the **Federal Register** on July 2, 2014 (79 FR 37644) on page 37646 is withdrawn effective July 17, 2014.

[FR Doc. 2014–16808 Filed 7–16–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2014–0388 FRL–9913–84–Region 10]

Approval and Promulgation of State Implementation Plans; Idaho: Portneuf Valley PM_{10} Maintenance Plan Amendment to the Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the State of Idaho (Idaho or the State) on April 21, 2014, to amend the Portneuf Valley maintenance plan for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The SIP revision updates the on-road motor vehicle emissions inventory and motor vehicle emissions budgets (MVEBs) using the EPA's Motor Vehicle Emissions Simulator (MOVES2010b) and the most recent road dust emission factors. This rulemaking action approves the SIP revision and thereby makes the MVEBs available for transportation conformity purposes. The EPA is approving this SIP revision because it is consistent with the Clean Cir Act (CAA).

DATES: This rule is effective on September 15, 2014, without further notice, unless the EPA receives adverse comment by August 18, 2014. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2014–0388, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: pepple.karl@epa.gov.*
- *Mail:* Karl Pepple, U.S. EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- *Hand Delivery/Courier:* U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Karl Pepple, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2014–0388. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information 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 the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the 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, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Karl Pepple at telephone number: (206) 553–1778, email address: *pepple.karl@epa.gov,* or the above EPA, Region 10 address.

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

I. Background for This Action

In 2004, Idaho requested that the EPA redesignate the Portneuf Valley area from nonattainment to attainment for PM_{10} and submitted a maintenance plan (2004 maintenance plan) that demonstrated attainment of the PM_{10} NAAQS through 2020. The EPA approved Idaho's submittal on July 13, 2006 (71 FR 39574). The 2004 maintenance plan included an on-road motor vehicle emissions inventory and MVEBs for PM_{10}, volatile organic compounds (VOC) and nitrogen oxides (NO_X).

The MVEBs serve as a ceiling on emissions from an area's planned transportation system. Under section 176(c) of the CAA, transportation plans and projects must "conform" to (i.e., be consistent with) the SIP before they can be adopted or approved. 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 delay an interim milestone. The MVEB is the mechanism

the EPA has identified for carrying out the demonstration of consistency with the SIP. For more information about MVEBs see the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188).

In the 2004 maintenance plan, the on-road motor vehicle emissions inventory and MVEBs were developed using the EPA's motor vehicle emission factor model, MOBILE6, and paved road dust emissions factors calculated with the 1995 version of the EPA's *AP–42, Compilation of Air Pollutant Emission Factors* (AP–42).[1] Throughout this document, we refer to the on-road vehicle emissions inventory and MVEBs in the 2004 maintenance plan as the "existing" on-road vehicle emissions inventory and MVEBs.

On March 2, 2010 (75 FR 9411), the EPA published a notice of availability of the MOVES2010 model for use in developing MVEBs for SIPs and for conducting transportation conformity analyses. The MOVES2010 model is the EPA's state of the art tool for estimating highway emissions. The EPA subsequently released two minor model revisions: MOVES2010a in September 2010, and MOVES2010b in April 2012. On February 4, 2011 (76 FR 6328), the EPA announced an update to the AP–42 method for estimating paved road dust emissions (2011 AP–42). MOVES2010 and the 2011 AP–42 paved road dust emissions factors are required to be used in new regional emissions analyses for transportation conformity determinations in the Portneuf Valley PM_{10} maintenance area. Idaho and the Bannock Transportation Planning Organization examined how the new methods would affect future transportation conformity determinations. Idaho opted to submit a SIP revision to update the existing MVEBs with MOVES2010b, the 2011 AP–42 paved road dust emission factors, and the latest planning assumptions. The EPA received Idaho's SIP revision on April 21, 2014.

II. The EPA's Evaluation of Idaho's SIP Revision

Idaho's SIP revision changed only the on-road motor vehicle emissions in the 2004 maintenance plan. The SIP revision updated the on-road vehicle emissions inventory and the MVEBs using MOVES2010b and the 2011 AP–42 paved road dust emissions factors and used the latest planning assumptions. Idaho explained that the point and area source emissions in the 2004 maintenance plan remained unchanged. The growth assumptions remained valid as did the control strategy assumptions for categories other than on-road vehicles. However, Idaho documented major changes in sand usage for wintertime antiskid treatments since the analysis used in the 2004 maintenance plan and this change resulted in a significant reduction in paved road dust emissions estimates as calculated using the 2011 AP–42 paved road dust method. As a result of the updated modeling and planning assumptions, the on-road emissions inventory has lower estimates for direct PM_{10} emissions and higher estimates for NO_X and VOC emissions than the existing on-road emissions inventory did. The EPA notes that the increases in emissions estimates for NO_X and VOC are not due to increases in emissions from on-road motor vehicles, but rather because MOVES2010 provides more accurate emissions estimates than the MOBILE6 model did.

To assess the maximum effect of the updated modeling and planning assumptions on net PM_{10} emissions in the airshed, Idaho used a 100% conversion rate for NO_X to ammonium nitrate to compare the updated on-road emissions inventory to the existing MVEBs. Based on this analysis, the net PM_{10} calculated emissions were lower in the updated on-road emissions inventory than in the existing MVEBs. Although the results of the analysis showed greater PM_{10} emissions in the updated on-road emissions inventory from secondary particle formation than in the existing MVEBs, it showed lower PM_{10} emissions from directly emitted PM_{10}. Thus, Idaho concluded that the reductions in paved road dust emissions estimates were greater than the increases that occurred from the MOBILE6 to MOVES2010b modeling changes.

As provided for in the transportation conformity rule (40 CFR 93.124(a)), Idaho developed updated MVEBs by adding a safety margin to the updated on-road emissions inventory estimates. The safety margin was calculated from the difference in emissions between the updated on-road emissions inventory and the existing MVEBs.[2] Idaho demonstrated that the net PM_{10} calculated emissions in the updated and existing MVEBs were equivalent. The updated MVEBs for the years 2011 and 2020 are shown in the table below.

UPDATED MVEBS FOR THE PORTNEUF VALLEY PM_{10} AREA

[Tons per year]

Year	PM_{10}	NO_X	VOC
2011	415	1,364	903
2020	498	856	651

The EPA evaluated the updated on-road vehicle emission inventory and the MVEBs in Idaho's SIP revision and concluded that the SIP continues to demonstrate its purpose of maintaining the PM_{10} NAAQS through the year 2020 because the total PM_{10} emissions from on-road vehicles in the SIP revision are equivalent to the total PM_{10} emissions from on-road vehicles in the 2004 maintenance plan.

III. Final Action

The EPA is taking direct final action to approve the SIP revision submitted on April 21, 2014, by the State of Idaho to the Portneuf Valley PM_{10} Maintenance Plan. The SIP revision includes MVEBs that were developed with the MOVES2010b model the 2011 AP–42 paved road dust emission factors. Upon the effective date of our approval, the MOBILE6-based budgets in the existing SIP will no longer be applicable for transportation conformity purposes.

IV. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" 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

[1] For information on paved road dust emission factors, *see* AP–42, chapter 13, section 2.1, *http://www.epa.gov/ttn/chief/ap42/index.html#toc.*

[2] Idaho added a 3.1% safety margin to the on-road emissions estimates for the 2011 MVEB and a 31.5% safety margin for the 2020 MVEB.

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 15, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxides, Particulate Matter, Reporting and recordkeeping requirements, and Volatile organic compounds.

Dated: July 2, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations 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 N—Idaho

■ 2. Section 52.670 is amended in paragraph (e) by adding two entries to the end of the table to read as follows:

§ 52.670 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
*	*	*	*	*
Portneuf Valley PM_{10} Nonattainment Area Plan and Maintenance Plan	Portneuf Valley	7/13/06	71 FR 39574	
Portneuf Valley PM_{10} Maintenance Plan—Revision	Portneuf Valley	04/21/14	07/17/14 [Insert page number where the document begins].	

■ 3. Section 52.672 is amended by adding paragraph (e)(2) to read as follows:

§ 52.672 Approval of plans.

* * * * *

(e) * * *

(2) The EPA approves as a revision to the Idaho State Implementation Plan, the Portneuf Valley PM_{10} Maintenance Plan Amendment submitted by the State on April 21, 2011, revising the Portneuf Valley PM_{10} Nonattainment Area Plan and Maintenance Plan that was approved at 71 FR 39574 (July 13, 2006).

* * * * *

[FR Doc. 2014–16760 Filed 7–16–14; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 821

[Docket No. NTSB–GC–2011–0001]

RIN 3147–AA00

Rules of Practice in Air Safety Proceedings; Correction

AGENCY: National Transportation Safety Board (NTSB or Board).

ACTION: Final rule; correction.

SUMMARY: The NTSB is correcting a final rule published October 16, 2012, which

inadvertently removed a portion of text from a paragraph within a section. This correction is a minor technical change.

DATES: Effective July 17, 2014.

ADDRESSES: Members of the public may contact the NTSB Office of General Counsel concerning this correction at 490 L'Enfant Plaza SW., Washington, DC 20594.

FOR FURTHER INFORMATION CONTACT: David Tochen, General Counsel, (202) 314–6080.

SUPPLEMENTARY INFORMATION: In its October 16, 2012 final rule, 77 FR 63245, in which the NTSB published rule changes concerning several sections in part 821, including email submission of documents, petitions for reconsideration, consideration of evidence concerning the existence of an emergency in cases proceeding under part 821, subpart I of the NTSB rules, the NTSB erroneously truncated the text of a paragraph within § 821.54(b). The NTSB intended to keep the final sentence of § 821.54(b), in addition to a new sentence immediately preceding it, which provides the respondent may include attachments to a petition for review of the Administrator's emergency determination. Also, the final sentence of paragraph (b) should continue to state, "The petition must be filed with the Board by overnight delivery service or facsimile and simultaneously served on the Administrator by the same means." The NTSB's removal of this sentence in the October 16, 2012 final rule was an unintentional oversight.

List of Subjects in 49 CFR Part 821

Administrative practice and procedure, Airmen, Aviation safety.

Accordingly, the NTSB amends 49 CFR part 821 by making the following correcting amendment:

PART 821—RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

■ 1. The authority citation for part 821 continues to read as follows:

Authority: 49 U.S.C. 1101–1155, 44701–44723, 46301, Pub. L. 112–153, unless otherwise noted.

■ 2. In § 821.54, revise paragraph (b) to read as follows:

§ 821.54 Petition for review of Administrator's determination of emergency.

* * * * *

(b) *Form, content and service of petition.* The petition may be in letter form. A copy of the Administrator's order, from which review of the emergency determination is sought, must be attached to the petition. If a copy of the order is not attached, the petition will be dismissed. While the petition need only request that the Board review the Administrator's determination as to the existence of an emergency requiring the order be effective immediately, it may also enumerate the respondent's reasons for believing that the Administrator's emergency determination is not warranted in the interest of aviation safety. The respondent may include attachments to the petition for review (e.g., affidavits, other documents or records) limited to evidence the respondent believes supports the reasons enumerated in the petition for why the Administrator's emergency determination is not warranted in the interest of aviation safety. The petition must be filed with the Board by overnight delivery service or facsimile and simultaneously served on the Administrator by the same means.

* * * * *

Christopher A. Hart,

Acting Chairman.

[FR Doc. 2014–16712 Filed 7–16–14; 8:45 am]

BILLING CODE P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 821

[Docket No. NTSB–GC–2011–0001]

RIN 3147–AA00

Rules of Practice in Air Safety Proceedings; Correction

AGENCY: National Transportation Safety Board (NTSB or Board).

ACTION: Final rule; correction.

SUMMARY: The NTSB is correcting a final rule published September 19, 2013, which inadvertently included an incorrect pronoun. This correction is a minor change to ensure consistency in the NTSB's references to the Administrator of the Federal Aviation Administration.

DATES: Effective July 17, 2014.

ADDRESSES: Members of the public may contact the NTSB Office of General Counsel concerning this correction at 490 L'Enfant Plaza SW., Washington, DC 20594.

FOR FURTHER INFORMATION CONTACT: David Tochen, General Counsel, (202) 314–6080.

SUPPLEMENTARY INFORMATION: In its September 19, 2013, final rule implementing changes to 49 CFR 821.19, the NTSB finalized an amendment to paragraph (d) of that section. 78 FR 57527. In the revision of paragraph (d), paragraph (d)(1) contains the pronoun "it," which refers to the noun "the Administrator." This is incorrect. As a result, by this correction, the NTSB makes a technical correction to this sentence, to use the correct pronoun in the sentence.

List of Subjects in 49 CFR Part 821

Administrative practice and procedure, Airmen, Aviation safety.

Accordingly, the NTSB amends 49 CFR part 821 by making the following correcting amendment:

PART 821—RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

■ 1. The authority citation for part 821 continues to read as follows:

Authority: 49 U.S.C. 1101–1155, 44701–44723, 46301, Pub. L. 112–153, unless otherwise noted.

■ 2. In § 821.19, revise paragraph (d) to read as follows:

§ 821.19 Depositions and other discovery.

* * * * *

(d) *Failure to provide copy of releasable portion of Enforcement Investigative Report (EIR).* (1) Except as provided in § 821.55 with respect to emergency proceedings, where the respondent requests the EIR and the Administrator fails to provide the releasable portion of the EIR to the respondent by the time he or she serves the complaint on the respondent, the respondent may move to dismiss the complaint or for other relief and, unless the Administrator establishes good cause for that failure, the law judge shall order such relief as he or she deems appropriate, after considering the parties' arguments.

(2) The releasable portion of the EIR shall include all information in the EIR, except for the following:

(i) Information that is privileged;

(ii) Information that constitutes work product or reflects internal deliberative process;

(iii) Information that would disclose the identity of a confidential source;

(iv) Information of which applicable law prohibits disclosure;

(v) Information about which the law judge grants leave to withhold as not relevant to the subject matter of the proceeding or otherwise, for good cause shown; or

(vi) Sensitive security information, as defined at 49 U.S.C. 40119 and 49 CFR 15.5.

(3) Nothing in this section shall be interpreted as preventing the Administrator from releasing to the

respondent information in addition to that which is contained in the releasable portion of the EIR.

Christopher A. Hart,

Acting Chairman.

[FR Doc. 2014–16710 Filed 7–16–14; 8:45 am]

BILLING CODE 7533–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[Docket No. EP 542 (Sub-No. 22)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2014 Update

Correction

In rule document 2014–16467 appearing on pages 41137 through 41141 in the issue of Tuesday, July 15, 2014, make the following correction:

1. On page 41137, in the third column, in the **DATES** section "August 13, 2014" should read "August 14, 2014".

[FR Doc. C1–2014–16467 Filed 7–16–14; 8:45 am]

BILLING CODE 1505–01–D

Proposed Rules

Federal Register
Vol. 79, No. 137
Thursday, July 17, 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 AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. APHIS–2012–0073]

RIN 0579–AD91

Cattle Fever Tick; Importation Requirements for Ruminants From Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to recognize the State of Sonora as a region in Mexico that is free of fever ticks. We would also establish an exemption from acaricide dipping treatment requirements, and the documentation requirements associated with such dipping, that are currently applicable to cattle and other ruminants originating from Sonora as a condition of eligibility for entry to the United States, provided that certain conditions are met. This proposed action would remove restrictions on the importation of cattle and other ruminants from Sonora that we believe are no longer necessary and reduce the costs associated with tick dipping for exporters and importers of ruminants.

DATES: We will consider all comments that we receive on or before September 15, 2014.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to: *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0073.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0073, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0073* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Betzaida Lopez, Senior Staff Veterinarian, National Import Export Services, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737; (301) 851–3300.

SUPPLMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 prohibit or restrict the importation of certain animals, birds, and poultry into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart D of part 93 (§§ 93.400 through 93.436, referred to below as the regulations) governs the importation of ruminants; within subpart D, §§ 93.424 through 93.429 specifically address the importation of various ruminants from Mexico into the United States.

In § 93.426, paragraph (a) provides that all ruminants offered for entry into the United States from Mexico must be inspected at a port of entry in order to determine whether they are infested with fever ticks [1] or are affected with or have been exposed to a communicable disease. Except for ruminants imported under § 93.427(b)(2), which we discuss below, ruminants found to be infected with or exposed to a communicable disease will be refused entry.

Section 93.427 contains conditions to mitigate the risk of the spread of fever ticks, tuberculosis, and brucellosis to U.S. livestock via the importation of cattle and other ruminants from Mexico. Paragraph (b) specifically addresses fever ticks, with (b)(1) containing requirements for ruminants that have not been exposed to any communicable disease, including the fever-tick-borne disease bovine babesiosis (currently referred to in the regulations as splenetic, southern, or tick fever), and (b)(2) containing requirements for ruminants that have been exposed to bovine babesiosis or found to be infested with or exposed to fever ticks.

Under paragraph (b)(1), cattle that have not been exposed to bovine babesiosis and have not been infested with or exposed to fever ticks may be imported into the United States through any port of entry, provided that:

- The cattle are accompanied by a certificate showing that they were examined by a veterinarian and determined to be free from communicable diseases and not to have been exposed to such diseases in the 60 days prior to movement to the port of entry;
- The cattle were loaded into cleaned and disinfected cars or trucks, if moved by rail or truck; and that, while en route to the port of entry, they were not trailed or driven through any area infested with fever ticks.
- The cattle are treated at the port of entry with an Animal and Plant Health Inspection Service (APHIS)-approved tickicidal dip once, under the supervision of an APHIS inspector.

Under paragraph (b)(2) of § 93.427, cattle that have been exposed to bovine babesiosis or that have been infested with or exposed to fever ticks, may be imported from Mexico into the United States, provided that:

- The cattle were inspected by a veterinarian in Mexico and, in the determination of the veterinarian, are free from fever ticks and all evidence of communicable diseases, and have not been exposed to communicable diseases, other than bovine babesiosis, during the 60 days prior to movement to a port of entry into the United States.
- The cattle were treated with an APHIS-approved tickicidal dip in Mexico within 7 to 12 days before being offered for entry into the United States. (Paragraph (b) of 9 CFR 72.13 lists approved tickicidal dips.)
- The cattle are accompanied by a certificate issued in accordance with § 93.405 that states that this inspection and dipping have occurred. (Section 93.405 of the regulations contains conditions for the issuance of such certificates.)
- The cattle are presented for entry into the United States at the port of entry at Santa Teresa, NM, or a port of entry within Texas that has been approved by APHIS. (APHIS-approved

[1] Currently, § 93.400 defines *fever tick* as *Boophilus annulatus*. However, for the purposes of this document, fever tick means *Rhipicephalus annulatus* and *Rhipicephalus microplus*. We discuss this at greater length later in this document.

ports of entry within Texas are listed in § 93.403(c).)

- The importer, or his or her agent, executes and delivers to the inspector at the port of entry an application for inspection and supervised dipping. In this application, the importer, or his or her agent, agrees to waive all claims against the United States for any loss or damage to the cattle occasioned by or resulting from this dipping, or resulting from the fact that they are later found to still be infested with ticks, and to any loss or damage to cattle that come in contact with these cattle.
- When offered for entry, the cattle receive an inspection by an inspector. If free from fever ticks, the cattle are treated once with an APHIS-approved tickicidal dip 7 to 14 days after the dipping in Mexico referred to above. If found to be infested with fever ticks, then the cattle are refused entry and may not be inspected again at a port of entry until they are again dipped and 10 to 14 days have elapsed.
- The cattle are not imported into an area of Texas quarantined for bovine babesiosis, or for tick infestation. (Information regarding such quarantined areas is found in 9 CFR 72.5.)

The Mexican State of Sonora has submitted requests to be evaluated for their fever tick status in accordance with our process for evaluating a foreign region's animal health status, which is described in § 92.2.

In response to these requests, we have prepared a risk assessment that evaluates the fever tick status of Sonora.[2] Based on that assessment, we have reason to believe that cattle that are born and produced in Sonora, have neither been exposed to nor infested with fever ticks, and have, accordingly, not been exposed to bovine babesiosis present a low likelihood of exposing U.S. livestock to fever ticks via importation into the United States.

We are, therefore, proposing to recognize Sonora as free of fever ticks and to establish an exemption for cattle imported into the United States from Sonora from the acaricide dipping treatment requirements, and the documentation requirements associated with such dipping, that are currently applicable to cattle or other ruminants imported from all regions of Mexico, provided that certain conditions are met. Those conditions are discussed in greater detail below. This proposed action would remove restrictions on the importation of cattle and other ruminants from Sonora that we believe are no longer necessary and would reduce the costs associated with tick dipping for exporters and importers.

[2] The assessment is available on the Regulations.gov Web site (see **ADRESSES** above) or by contacting the person listed in this document under the heading **FOR FURTHER INFORMATION CONTACT.**

Cattle From Regions of Mexico That APHIS Has Determined To Be Free From Fever Ticks

As noted above, current § 93.427(b)(1) contains import requirements for cattle from Mexico that have not been exposed to bovine babesiosis, while paragraph (b)(2) contains requirements for those that have. This proposed rule, in addition to making substantive changes to the regulations, such as exempting cattle from tick-free regions from acaricide dipping, would reorganize paragraph (b), placing the requirements for cattle from such regions in paragraph (b)(1) and those for the remainder of Mexico in (b)(2).

The introductory text of proposed paragraph (b)(1) would state that APHIS has evaluated certain regions of Mexico in accordance with § 92.2 and determined that they are free from fever ticks; a list of all such regions would be found on the Internet at *http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/importexport*. Copies of the list would also be available by contacting APHIS at the postal address that would be listed in the regulations. The paragraph would further note that regions could be removed from the list based on a determination by APHIS that fever ticks exist in the region, on the discovery of tick-infested cattle from that region at a port of entry into the United States, or on information provided by a representative of the government of that region that fever ticks exist in the region.

Proposed (b)(1)(i) would state that cattle imported from regions of Mexico that APHIS has determined to be free from fever ticks would have to be accompanied by a certificate issued in accordance with § 93.405 that states that the cattle originate from such a region of Mexico. This requirement would provide us with written documentation from a competent Mexican veterinary authority regarding the origin of the cattle and would facilitate traceback in the unlikely event that any cattle from a tick-free region of Mexico are determined to be infested with fever ticks during an inspection at a port of entry on the Mexican border.

Proposed paragraph (b)(1)(ii) would state that if the cattle will transit through an area of Mexico that we have not determined to be free from fever ticks, they would have to be moved in a sealed means of conveyance. This proposed requirement would prevent the commingling of cattle from tick-free regions with cattle that are not from such regions during transit through Mexico prior to export to the United States.

Proposed paragraph (b)(1)(iii) would state that the cattle must be presented for entry into the United States at a port of entry listed in § 93.403(c). This paragraph represents an editorial rather than a substantive change, since cattle from Mexico that have not been exposed to bovine babesiosis are already subject to the general requirement in § 93.426 that ruminants from Mexico must be imported through ports designated in § 93.403. The port-of-entry requirement is intended to ensure that ruminants imported from Mexico enter the United States through land border ports with adequate inspection and quarantine facilities.

Proposed paragraph (b)(1)(iv) would state that the cattle must be segregated at the U.S. port of entry from cattle from regions of Mexico that have not been determined to be free of fever ticks. This proposed requirement would prevent cattle from tick-free regions from commingling at the port of entry with cattle that may have been exposed to bovine babesiosis.

Proposed paragraph (b)(1)(v) would state that the importer, or his or her agent, would have to execute and deliver to the inspector at the port of entry an application for inspection or supervised dipping. In this application, the importer, or his or her agent, would have to agree to waive all claims against the United States for any loss or damage to the cattle occasioned by or resulting from inspection or dipping or from the fact that the cattle are later found still to be tick infested and for any loss or damage to any other cattle in the importer's possession or control that come in contact with the dipped cattle. This paragraph is largely incorporated, with minor editorial changes, from § 93.427(b)(2)(iii) of the existing regulations, differing substantively in that the proposed rule would allow the importer to apply either for inspection or supervised dipping, rather than requiring him or her to apply for both, as the regulations do now.

Proposed paragraph (b)(1)(vi) would state that the cattle must either be inspected by an APHIS inspector at the port of entry for evidence of tick infestation, or be treated with an APHIS-approved tickicidal dip under the supervision of an inspector at the port of entry.

As noted above, the existing regulations require that all cattle from Mexico must, among other things, undergo a tick dip under the supervision of an APHIS inspector at

the U.S. port of entry. As we have also noted, however, under this proposed rule, cattle from tick-free regions of Mexico would no longer be required to undergo a tick dip. We believe that, in lieu of a dip, an inspection at the port of entry is an adequate risk-mitigation measure because the exclusion and dipping requirements currently in place in Sonora are functionally equivalent to ours. We would, therefore, allow the exporter to choose between having the cattle inspected by an APHIS inspector at the port of entry or having the cattle undergo a tick dip there. Choosing the inspection option would allow the exporter to avoid the cost of the tick dip. Some exporters may still opt for the dip instead, however, because the dipping process is generally less time-consuming than the inspection process.

Finally, proposed paragraph (b)(1)(vii) would state that if any cattle in a shipment are determined, upon inspection at the port of entry, to be infested with fever ticks, the entire lot would be refused entry and, subsequently, could only be imported into the United States after meeting the conditions for the importation of cattle from regions of Mexico that APHIS has not determined to be free from fever ticks. As noted above, the finding of tick-infested cattle at the port of entry could result in the loss of the exporting region's tick-free status.

Cattle From Regions of Mexico That APHIS Has Not Determined To Be Free From Fever Ticks

Because of the possibility that cattle imported from regions of Mexico that are not free of fever ticks have been exposed to bovine babesiosis, such imports would be allowed only under the conditions currently applicable to exposed cattle, which are contained in paragraph (b)(2) of § 93.427. In our proposed paragraph (b)(2), we would make some editorial revisions to make the regulations clearer and easier to read and would also make one substantive change, which we discuss below.

The provisions contained in proposed paragraphs (b)(2)(i) through (b)(2)(v), which would be incorporated from the existing regulations, with the substantive change referred to above, would state that:

- The cattle would have to be inspeced by a veterinarian in Mexico and determined to be free from fever ticks and all evidence of communicable diseases and not to have been exposed to communicable diseases, other gthan bovine babesiosis, during the 60 days prior to movement to a port of entry into the United States.
- The cattle would have to be treated in Mexico with a tickicidal dip that is listed in § 72.13 within 7 to 14 days (the existing regulations list the range as 7 to 12 days) before being offered for entry into the United States.
- The cattle would have to be accompanied by a certificate issued in accordance with § 93.405 that states that this inspection and dipping have occurred.
- The cattle would have to be presented for entry into the United States at the port of entry at Santa Teresa, NM, or a port of entry within Texas that is listed in § 93.403(c).
- The importer, or his or her agent, would have to execute and deliver to the inspector at the port of entry an application for inspection and supervised dipping. In this application, the importer, or his or her agent, would agree to waive all claims against the United States for any loss or damage to the cattle occasioned by or resulting from this dipping or from the fact that the cattle are later found still to be infested with ticks and for any loss or damage to any other cattle in the importer's possession or control that come in contact with the dipped cattle.

Proposed paragraph (b)(2)(vi) contains port-of-entry inspection and dipping requirements. When offered for entry, the cattle would have to receive an inspection by an inspector. If found to be free from fever ticks, the cattle would have to be treated once at the port with a tickicidal dip listed in § 72.13. That dip would have to take place within 7 to 14 days after the required dipping in Mexico. If found to be infested with fever ticks, the cattle would be refused entry and could not be inspected again at a port of entry until they are dipped a second time and 7 to 14 days have elapsed following the second dipping. Under the current regulations, the required interval before an inspection could take place following the second dipping at the port is 10 to 14 days. We have found operationally, however, that when cattle become infested with fever ticks, ticks will emerge and present evidence of infestation in as few as 7 days. Throughout paragraph (b)(2), we would standardize the intervals between dips or between dips and inspections at 7 to 14 days. That proposed interval is adequate to determine whether the tickicidal treatment has been effective.

Finally, proposed paragraph (b)(2)(vii) would state that the cattle must not be imported into an area of Texas that is quarantined in accordance with § 72.5 for bovine babesiosis, or for tick infestation. This provision, like most of the others in proposed § 93.427(b)(2), is incorporated from the existing regulations.

Miscellaneous Amendments

As we mentioned previously in footnote 1 of this document, § 93.400 of the regulations currently defines *fever tick* as *Boophilus annulatus.* However, the genus Boophilus has been reclassified as a subgenus of the genus Rhipicephalus. A final rule published in the **Federal Register** on February 7, 2013 (78 FR 8960–8961, Docket No. APHIS–2012–0069) updated our domestic bovine babesiosis regulations in 9 CFR 72.1 to reflect this reclassification. Similarly, for the purposes of import requirements for ruminants from regions of North America, we operationally consider *fever tick* to refer to *Rhipicephalus annulatus* and *Rhipicephalus microplus.* We are proposing to amend the definition of *fever tick* to reflect this operational understanding.

The amended definition would also provide that *fever tick* would include any other species of tick determined by the Administrator to be a vector of bovine babesiosis and specified on the Internet at the Web address provided in the regulations. This would provide the regulations with needed flexibility in the event that additional tick vectors of bovine babesiosis are discovered in North America.

Additionally, while the regulations currently refer to the disease borne by fever ticks as splenetic, southern, or tick fever, the international taxonomic community favors the term bovine babesiosis. Accordingly, we would remove references to splenetic, southern, and tick fever from the regulations and replace them with the term bovine babesiosis.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

We are proposing to recognize the Mexican State of Sonora as a region that is free of fever ticks. Further, while the

existing fever tick regulations require both inspection and supervised acaricide dipping at the port of entry for all cattle from Mexico, under this proposed rule, importers of cattle from Sonora would have to submit an application either for inspection or dipping, but not both.

From 2009 to 2012, 1.26 million cattle were imported yearly from Mexico into the United States. About one-fourth came from Sonora. Cattle imported into the United States from Mexico are generally purchased by stocker operations that background the cattle on pasture before they are shipped to feedlots. Most of these entities are small according to the Small Business Administration standard for cattle producers.

The average unit price of cattle imported from Mexico from 2009 to 2012 was about $440. The average cost of dipping with acaricide is $3.50 to $10.00 per head. It takes approximately 5 seconds for 3 cattle to cross a dipping vat. For an average 500-head herd, dipping takes about 15 minutes. To inspect a 500-head herd takes from 4 to 12 hours. Depending on the size of the herd and time needed for inspection, some importers may choose to have the cattle dipped rather than inspected. The estimated cost of dipping is equivalent to about 1 to 2 percent of the value of the imported cattle. Any resulting cost savings realized by U.S. cattle importers due to inspection rather than dipping of cattle would depend on the relative price responsiveness of the sellers and buyers of the cattle. APHIS does not expect the rule to result in an increase of any consequence in the number of cattle imported from Mexico.

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging the rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2012–0073. Please send a copy of your comments to: (1) Docket No. APHIS–2012–0073, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, Room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to recognize the State of Sonora as a region in Mexico that is free of fever ticks. We would also establish an exemption from acaricide dipping treatment requirements, and the documentation requirements associated with such dipping, that are currently applicable to cattle and other ruminants originating from Sonora as a condition of eligibility for entry to the United States, provided that certain conditions are met. The documentation requirements for the importation of these cattle are currently covered under OMB control numbers 0579–0224 and 0579–0040. However, the application of seals to conveyances will be a new information collection activity.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, 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 information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Veterinarians of Mexico and foreign Federal governments.

Estimated annual number of respondents: 1.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 1.

Estimated total annual burden on respondents: 1 hour. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 93 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

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

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 93.400, the definition of *fever tick* is revised to read as follows:

§ 93.400 Definitions.

* * * * *

Fever tick. Rhipicephalus annulatus, Rhipicephalus microplus, and any other species of tick determined by the Administrator to be a vector of bovine babesiosis and specified on the Internet at *http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/importexport.*

* * * * *

§ 93.423 [Amended]

■ 3. In § 93.423, paragraph (c) is amended by removing the words "splenetic, southern, or tick fever" and adding the words "bovine babesiosis" in their place.

■ 4. In § 93.427, paragraph (b) is revised to read as follows:

§ 93.427 Cattle and other bovines from Mexico.

* * * * *

(b)(1) *Cattle from regions of Mexico that APHIS has determined to be free from fever ticks.* APHIS has evaluated certain regions of Mexico in accordance with § 92.2 of this chapter, and determined that they are free from fever ticks; a list of all such regions is found on the Internet *http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/importexport.* Copies of the list are also available by contacting APHIS at the following address: Regionalization Evaluation Services, National Import Export Services, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, MD 20737. Regions may be removed from the list based on a determination by APHIS that fever ticks exist in the region, on the discovery of tick-infested cattle from the region at a port of entry into the United States, or on information provided by a representative of the government of that region that fever ticks exist in the region. Cattle from regions of Mexico that APHIS has determined to be free from fever ticks may be imported into the United States subject to the following conditions:

(i) The cattle are accompanied by a certificate issued in accordance with § 93.405 that states that the cattle originate from a region of Mexico that APHIS has determined to be free from fever ticks.

(ii) If the cattle will transit to the United States through an area of Mexico that APHIS has not determined to be free from fever ticks, they are moved in a sealed means of conveyance, and that seal remains intact throughout such transit.

(iii) The cattle are presented for entry into the United States at a land border port of entry listed in § 93.403(c).

(iv) The cattle are segregated at the U.S. port of entry from cattle from regions of Mexico that APHIS has not determined to be free from fever ticks.

(v) The importer, or his or her agent, executes and delivers to the inspector at the port of entry an application for inspection or supervised dipping. In this application, the importer, or his or her agent, waive all claims against the United States for any loss or damage to the cattle occasioned by or resulting from inspection or dipping or from the fact that the cattle are later found still to be tick infested, and for any loss or damage to any other cattle in the importer's possession or control that come in contact with the dipped cattle.

(vi) The cattle are either inspected by an APHIS inspector at the port of entry for evidence of tick infestation or are treated with a tickicidal dip that is listed in § 72.13 of this chapter under the supervision of an inspector at the port of entry.

(vii) If any cattle are determined to be infested with fever ticks, the lot of cattle is refused entry and may only be imported into the United States subject to the requirements in paragraph (b)(2) of this section.

(2) *Cattle from regions of Mexico that APHIS has not determined to be free from fever ticks.* Cattle from regions of Mexico that APHIS has not determined to be free from fever ticks may only be imported into the United States subject to the following conditions:

(i) The cattle have been inspected by a veterinarian in Mexico and, in the determination of the veterinarian, are free from fever ticks and all evidence of communicable diseases, and have not been exposed to communicable diseases, other than bovine babesiosis, during the 60 days prior to movement to a port of entry into the United States.

(ii) The cattle have been treated in Mexico with a tickicidal dip that is listed in § 72.13 of this chapter within 7 to 14 days before being offered for entry into the United States.

(iii) The cattle are accompanied by a certificate issued in accordance with § 93.405 that states that this inspection and dipping have occurred.

(iv) The cattle are presented for entry into the United States at the port of entry at Santa Teresa, NM, or a port of entry within Texas that is listed in § 93.403(c).

(v) The importer, or his or her agent, executes and delivers to the inspector at the port of entry an application for inspection and supervised dipping. In this application, the importer, or his or her agent, agrees to waive all claims against the United States for any loss or damage to the cattle occasioned by or resulting from this dipping or from the fact that the cattle are later found to still be infested with ticks, and for any loss or damage to any other cattle in the importer's possession or control that come in contact with the dipped cattle.

(vi) When offered for entry, the cattle receive an inspection by an inspector. If free from fever ticks, the cattle are treated once with a tickicidal dip that is listed in § 72.13 of this chapter 7 to 14 days after the dipping required in paragraph (b)(2)(ii) of this section. If found to be infested with fever ticks, the cattle are refused entry and may not be inspected again at a port of entry until they are again dipped and 7 to 14 days have elapsed.

(vii) The cattle are not imported into an area of Texas that is quarantined in accordance with § 72.5 of this chapter for bovine babesiosis, or for tick infestation.

* * * * *

Done in Washington, DC, this 11th day of July 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–16783 Filed 7–16–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2014–BT–STD–0025]

RIN 1904–AD04

Energy Efficiency Program for Consumer Products: Energy Conservation Standards for Computer and Battery Backup Systems

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

ACTION: Notice of public meeting and availability of the Framework Document.

SUMMARY: The U.S. Department of Energy (DOE) is initiating this rulemaking and data collection process to consider establishing energy conservation standards for computer and battery backup systems (computer systems). To inform interested parties and to facilitate this process, DOE has prepared a framework document that details the analytical approach and scope of coverage for the rulemaking, and identifies several issues on which DOE is particularly interested in receiving comments. DOE will hold a public meeting to discuss and receive comments on its planned analytical approach and issues it will address in this rulemaking proceeding. DOE

welcomes written comments and relevant data from the public on any subject within the scope of this rulemaking. A copy of the Framework Document is available at: *www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/81*

DATES: *Meeting:* DOE will hold a public meeting on Thursday, July 31, 2014 from 9 a.m. to 5 p.m. in Washington, DC.

Comments: DOE will accept written comments, data, and information regarding the Framework Document before and after the public meeting, but no later than September 2, 2014.

ADDRESSES: Additionally, DOE plans to conduct the public meeting via webinar. You may attend the public meeting via webinar, and registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/81.*

Participants are responsible for ensuring their systems are compatible with the webinar software.

The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121. Please note that foreign nationals planning to participate in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945 so that the necessary procedures can be completed. Please note that any person wishing to bring a laptop computer into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing laptops, or allow an extra 45 minutes. As noted above, persons may also attend the public meeting via webinar.

Interested parties are encouraged to submit comments electronically. However, comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: ComputerSystems2014STD0025@ee.doe.gov.* Include docket number EERE–2014–BT–STD–0025 and/or regulatory identification number (RIN) 1904–AD04 in the subject line of the message. All comments should clearly identify the name, address, and, if appropriate, organization of the commenter. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Framework Document for Computer and Battery Backup Systems, Docket No. EERE–2014–BT–STD–0025 and/or RIN 1904–AD04, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies. [Please note that comments sent by mail are often delayed and may be damaged by mail screening processes.]
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Sixth Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Instructions: All submissions received must include the agency name and docket number and/or RIN for this rulemaking. No telefacsimilies (faxes) will be accepted.

Docket: The docket is available for review at *http://www.regulations.gov,* and will include **Federal Register** notices, framework document, notice of proposed rulemaking, public meeting attendee lists and transcripts, comments, and other supporting documents/materials throughout the rulemaking process. The regulations.gov Web page contains simple instructions on how to access all documents, including public comments, in the docket. The docket can be accessed by searching for docket number EERE–2014–BT–STD–0025 on the regulations.gov Web site. All documents in the docket are listed in the *http://www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

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

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *DOE_computer_standards@ee.doe.gov.*

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

For information on how to submit or review public comments and on how to participate in the public meeting, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Title III, Part A[1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163, (42 U.S.C. 6291–6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering major household appliances (collectively referred to as "covered products").[2] EPCA authorizes DOE to establish technologically feasible, economically justified energy conservation standards for covered products or equipment that would be likely to result in significant national energy savings. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII)) In addition to specifying a list of covered residential and commercial products, EPCA contains provisions that enable the Secretary of Energy (Secretary) to classify additional types of consumer products as covered products. (42 U.S.C. 6292(a)(20)) For a given product to be classified as a covered product, the Secretary must determine that classifying the product as a covered product is necessary or appropriate to carry out the purposes of EPCA, and that the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (kWh) per year. (42 U.S.C. 6292(b)(1))

Under this authority, DOE published a notice of proposed determination which tentatively determined that computer systems meet the criteria for a covered product. 79 FR 11345 (Feb. 28, 2014). DOE received several

[1] For editorial reasons, upon codification in the U.S. code, Part B was re-designated Part A.

[2] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Pub. L. 112–210 (Dec. 18, 2012).

stakeholder comments in response to the proposed determination, many of which are addressed in this framework document. DOE will address any remaining stakeholder comments when it issues a final determination of coverage at a later stage in the rulemaking process.

If DOE issues a final determination that computer systems are a covered product, it may establish a test procedure and energy conservation standard for computer systems. DOE may prescribe test procedures to assess the energy consumption of covered products. (42 U.S.C. 6293(b)) For the Secretary to prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p) for covered products added pursuant to 42 U.S.C. 6292(b)(1), he must determine that:

(a) The average energy use of the products has exceeded 150 kWh per household for a 12-month period;

(b) The aggregate 12-month energy use of the products has exceeded 4.2 billion kilowatt-hours;

(c) Substantial improvement in energy efficiency is technologically feasible; and

(d) The application of a labeling rule under 42 U.S.C. 6294 is unlikely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible and economically justified. (42 U.S.C. 6295(l)(1))

Today's framework document is the first step toward initiating this rulemaking process. DOE has prepared the framework document to explain the relevant issues, analyses, and processes it anticipates using when considering a new test procedure and energy conservation standard for computer systems. The focus of the public meeting noted above will be to discuss the information presented and issues identified in the framework document. At the public meeting, DOE will make presentations and invite discussion on the rulemaking process as it applies to computer systems. DOE will also solicit comments, data, and information from participants and other interested parties.

DOE is planning to conduct in-depth technical analyses in the following areas: (1) Engineering; (2) energy use; (3) product price; (4) life-cycle cost and payback period; (5) national impacts; (6) manufacturer impacts; (7) emission impacts; (8) utility impacts; (9) employment impacts; and (10) regulatory impacts. DOE will also conduct several other analyses that support those previously listed, including the market and technology assessment, the screening analysis (which contributes to the engineering analysis), and the shipments analysis (which contributes to the national impact analysis).

DOE encourages those who wish to participate in the public meeting to obtain the framework document and to be prepared to discuss its contents. A copy of the framework document is available at: *www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/81.*

Public meeting participants need not limit their comments to the issues identified in the framework document. DOE is also interested in comments on other relevant issues that participants believe would affect energy conservation standards for these products, applicable test procedures, or the preliminary determination on the scope of coverage. DOE invites all interested parties, whether or not they participate in the public meeting, to submit in writing by September 2, 2014, comments and information on matters addressed in the framework document and on other matters relevant to DOE's consideration of coverage of and standards for computer systems.

The public meeting will be conducted in an informal, facilitated, conference style. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by U.S. antitrust laws. A court reporter will record the proceedings of the public meeting, after which a transcript will be available for purchase from the court reporter and placed on the DOE Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/81.*

After the public meeting and the close of the comment period on the framework document, DOE will collect data, conduct the analyses as discussed in the framework document and at the public meeting, and review the public comments it receives.

DOE considers public participation to be a very important part of the process for determining whether to establish energy conservation standards and, if so, in setting those new standards. DOE actively encourages the participation and interaction of the public during the omment period at each stage of the rulemaking process. Beginning with the framework document, and during each subsequent public meeting and comment period, interactions with and among members of the public provide a balanced discussion of the issues to assist DOE in the standards rulemaking process. Accordingly, anyone who wishes to participate in the public meeting, receive meeting materials, or be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Ms. Brenda Edwards at (202) 586–2945, or via email at *Brenda.Edwards@ee.doe.gov.*

Issued in Washington, DC, on July 9, 2014.

Kathleen B. Hogan,

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

[FR Doc. 2014–16828 Filed 7–16–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0449; Directorate Identifier 2013–NM–259–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A318 series airplanes, Model A319 series airplanes, Model A320–211, –212, –214, –231, –232, and –233 airplanes, and Model A321 series airplanes. This proposed AD was prompted by a report of a circumferential crack at the gland retaining-ring groove of certain retraction actuators on the main landing gear (MLG). This proposed AD would require an inspection to identify the part numbers of MLG retraction actuators and replacement of certain MLG retraction actuators. We are proposing this AD to prevent MLG retraction actuator failure that could prevent the full extension and/or down-locking of the MLG, possibly resulting in MLG collapse during landing or rollout, and consequent damage to the airplane and injury to the occupants.

DATES: We must receive comments on this proposed AD by September 2, 2014.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–

30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0449; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2014–0449; Directorate Identifier 2013–NM–259–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0283R1, dated December 9, 2013 [Corrected December 11, 2013] (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> During routine pre-flight inspection of an Airbus A319, a hydraulic fluid leak was detected, coming from the retraction actuator of the main landing gear (MLG). The results of subsequent investigations revealed that a galvanic difference between materials induced an internal corrosion which was the crack initiator of the component. Actuators from 201590 series were identified as potentially affected, unless inspected and corrected during MLG overhaul.
> This condition, if not detected and corrected, could lead to retraction actuator failure, preventing the full extension and/or down-locking of the MLG, possibly resulting in MLG collapse during landing or rollout and consequent damage to the aeroplane and injury to occupants.
> To address this potential unsafe condition, Airbus published Service Bulletin (SB) A320–32–1408, providing instructions to identify and replace the affected actuators that have already exceeded 20,000 flight cycles (FC) or 10 years of operation since new, or since last overhaul.
> For the reason described above, EASA AD 2013–0283 was issued to require a one-time identification and replacement of each affected MLG retraction actuator.
> * * * * *

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0449.

Relevant Service Information

Airbus has issued Service Bulletin A320–32–1408, dated July 22, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

"Contacting the Manufacturer" Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled "Airworthy Product" in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In another NPRM, Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to the FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase "its delegated agent" to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

One commenter to the other NPRM, Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), stated the following: "The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin."

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the

accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed that paragraph and retitled it "Contacting the Manufacturer." This paragraph now clarifies that for any requirement in this proposed AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the FAA, the European Aviation Safety Agency (EASA), or Airbus's EASA DOA. Where necessary throughout this proposed AD, we also replaced any reference to approvals of corrective actions with a reference to the Contacting the Manufacturer paragraph.

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in 'manufacturers' service instructions that are "Required for Compliance" with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Costs of Compliance

We estimate that this proposed AD affects 851 airplanes of U.S. registry.

We also estimate that it would take about 11 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $36,135 per MLG actuator. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $31,546,570, or $37,070 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have 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.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2014–0449; Directorate Identifier 2013–NM–259–AD.

(a) Comments Due Date

We must receive comments by September 2, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes specified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A318–111, –112, –121, and –122 airplanes.

(2) Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Airbus Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(4) Airbus Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by a report of a circumferential crack at the gland retaining-ring groove of certain retraction actuators on the main landing gear (MLG). We are issuing this AD to prevent MLG retraction actuator failure that could prevent the full extension and/or down-locking of the MLG, possibly resulting in MLG collapse during landing or rollout, and consequent damage to the airplane and injury to the occupants.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection To Determine Part Number (P/N) and Time-in-Service

Within 18 months after the effective date of this AD: Do an inspection of each MLG retraction actuator to determine whether the actuator has P/N 201590001, 201590002, 201590002–010, 201590002–020, 201590003;

and to determine the time-in-service accumulated on actuators having those part numbers. The actuator flight cycles and calendar time are those accumulated since first installation on an airplane, or since last actuator overhaul, or since the most recent accomplishment of the actions described in Maintenance Review Board Review (MRBR) Task 321147–01–1, whichever occurs latest. A review of airplane delivery or maintenance records is acceptable, provided that the actuator part number and time-in-service can be conclusively identified from that review.

(h) MLG Actuator Replacement

At the applicable time specified in paragraphs (h)(1) and (h)(2) of this AD: Replace each MLG actuator having a part number identified in paragraph (g) of this AD with a new or serviceable actuator, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1408, dated July 22, 2013. The actuator flight cycles and calendar time specified in paragraphs (h)(1) and (h)(2) of this AD are those accumulated since first installation on an airplane, or since last actuator overhaul, or since doing the actions described in MRBR Task 321147–01–1; whichever occurs later.

(1) For actuators with accumulated time-in-service equal to or more than 20,000 flight cycles or 10 years as of the effective date of this AD: Within 18 months after the effective date of this AD.

(2) For actuators with accumulated time-in-service less than 20,000 flight cycles and 10 years as of the effective date of this AD: Before the accumulation of 10 years since first installation on an airplane.

(i) MLG Actuator Replacement With Unknown Time-in-Service

Within 18 months after the effective date of this AD: Replace each MLG retraction actuator having a part number specified in paragraph (g) of this AD, and for which the in-service history is unknown, with a new or serviceable actuator, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1408, dated July 22, 2013.

(j) Exception to Paragraphs (g), (h), and (i) of This AD

An airplane that does not have Airbus Modification 26644 or Modification 150820 (for all airplane models), or Modification 27151 (for Model A321 series airplanes), applied in production, as applicable, is not affected by the requirements of paragraphs (g), (h), and (i) of this AD, provided that it can be conclusively determined that no MLG retraction actuator having a part number identified in paragraph (g) of this AD has been installed on that airplane since first flight.

(k) Parts Installation Limitation

As of the effective date of this AD, installation of an MLG retraction actuator having a part number identified in paragraph (g) of this AD is allowed, provided that the MLG retraction actuator has not accumulated or exceeded 20,000 flight cycles or 10 years since new; or 20,000 flight cycles or 10 years since last actuator overhaul.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227 1405; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Special Flight Permits

Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the airplane can be modified (if the operator elects to do so), provided the MLG remains extended.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive Airworthiness Directive 2013–0283R1, dated December 9, 2013, [Corrected December 11, 2013] for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0449.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on July 3, 2014.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–16815 Filed 7–16–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0447; Directorate Identifier 2014–NM–019–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier Model DHC–8–400 series airplanes. This proposed AD was prompted by a report of several cracks found on the forward passenger airstair door step assembly. This proposed AD would require an inspection to determine the serial number of the airstair step assembly, and if necessary, an electronic tap test, re-identification of the airstair step assembly, and replacement of the airstair step assembly. We are proposing this AD to detect and correct cracks in the forward passenger airstair door step assembly, which could propagate and result in the structural failure of the steps and impede the evacuation of passengers in the event of an emergency egress situation.

DATES: We must receive comments on this proposed AD by September 2, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com*; Internet *http://www.bombardier.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0447; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jeffrey Zimmer, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7306; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2014–0447; Directorate Identifier 2014–NM–019–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–20R1, dated December 30, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> There has been one in-service report of several cracks being found on the forward passenger airstair door step assembly between the steps and the sidewall panels. The investigation revealed that the application of potting compound may have been omitted during the bonding at the joint of the airstair door steps and the sidewalls. The omission of potting compound could cause the bonding sealant to crack. The cracks, if not detected, could propagate to result in the structural failure of the steps.
>
> In the event of an emergency egress situation, the failure of the airstair step assembly could impede the evacuation of passengers.
>
> This [Canadian] AD mandates the replacement of the affected forward passenger airstair step assembly with a new or reworked step assembly.
>
> Revision 1 of this [Canadian] AD provides additional instructions for performing an electronic tap test of the airstair step assembly if the Serial Number (S/N) of the airstair step assembly cannot be found.

The actions in this AD include an inspection to determine the serial number of the airstair step assembly, and if necessary, an electronic tap test, re-identification of the airstair step assembly, and replacement of the airstair step assembly. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0447.

Relevant Service Information

Bombardier has issued Service Bulletin 84–52–77, Revision B, dated October 31, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

"Contacting the Manufacturer" Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled "Airworthy Product" in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In another NPRM, Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to the FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase "its delegated agent" to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

One commenter to the other NPRM, Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), stated the following: "The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin."

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the

requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed that paragraph and retitled it "Contacting the Manufacturer." This paragraph now clarifies that for any requirement in this proposed AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the FAA, TCCA, or Bombardier's TCCA Design Approval Organization (DAO).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DAO, the approval must include the DAO-authorized signature. The DAO signature indicates that the data and information contained in the document are TCCA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DAO-authorized signature approval are not TCCA-approved, unless TCCA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are "Required for Compliance" with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Costs of Compliance

We estimate that this proposed AD affects 76 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $6,460, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take up to 9 work-hours and require parts costing $206,175, for a cost of $206,940 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have 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.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc.: Docket No. FAA–2014–0447; Directorate Identifier 2014–NM–019–AD.

(a) Comments Due Date

We must receive comments by September 2, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 series airplanes, certificated in any category, serial numbers 4001 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by a report of several cracks found on the forward passenger airstair door step assembly. We are issuing this AD to detect and correct cracks in the forward passenger airstair door step assembly, which could propagate and result in the structural failure of the steps and impede the evacuation of passengers in the event of an emergency egress situation.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection, Electronic Tap Test, Re-Identification, and Replacement of the Airstair Step Assembly

For airplanes having serial numbers 4001 through 4393: Within 320 days after the effective date of this AD, do an inspection to determine the serial number of the airstair step assembly, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–52–77, Revision B, dated October 31, 2013.

(1) If the serial number of the airstair step assembly cannot be found, or if the serial number is illegible: Before further flight, do an electronic tap test to determine the existence of epoxy compound, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–52–77, Revision B, dated October 31, 2013.

(i) If the existence of epoxy compound is confirmed, before further flight, re-identify the airstair step assembly, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–52–77, Revision B, dated October 31, 2013.

(ii) If the existence of epoxy compound is not confirmed: Within 6,000 flight hours after the effective date of this AD, replace the airstair step assembly, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–52–77, Revision B, dated October 31, 2013.

(2) If the serial number of the airstair step assembly is in the affected range specified in paragraph 1.A. "Effectivity" of Bombardier Service Bulletin 84–52–77, Revision B, dated October 31, 2013: Within 6,000 flight hours after the effective date of this AD, replace the airstair step assembly, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–52–77, Revision B, dated October 31, 2013.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install on any airplane an airstair step assembly with part number 85217008–001 containing a serial number in the affected range specified in paragraph 1.A. "Effectivity" of Bombardier Service Bulletin 84–52–77, Revision B, dated October 31, 2013.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD if the serial number is known, and if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–52–77, Revision A, dated April 24, 2013, which is not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–20R1, dated December 30, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0447.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on July 3, 2014.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–16811 Filed 7–16–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

St. Johns River, U.S. Coast Guard Station Mayport, Sector Jacksonville, Florida; Restricted Area

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to amend the existing regulations to establish a new restricted area in the waters surrounding U.S. Coast Guard Sector Jacksonville facilities at Station Mayport, Jacksonville, Florida (Station Mayport). Station Mayport is situated on the south side of the St. Johns River which, as the primary federal navigable channel entering the Port of Jacksonville, is heavily transited by commercial and recreational vessels. This United States Coast Guard (USCG) facility maintains a high operational tempo for both routine and emergency operations. The amendment to the existing regulations is necessary to enhance the USCG's ability to counter postulated threats against their personnel, equipment, cutters, and facilities by providing a stand-off buffer encompassing the waters immediately contiguous to the Station Mayport. The amendment will also serve to protect the general public from injury or property damage during routine and emergency USCG operations and provide an explosive safety arc buffer during periodic transfer of ammunitions between units, including cutters.

DATES: Written comments must be submitted on or before August 18, 2014.

ADDRESSES: You may submit comments, identified by docket number COE–2014–0009, by any of the following methods:

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

Email: *david.b.olson@usace.army.mil.* Include the docket number, COE–2014–0009, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW–CO (David B. Olson), 441 G Street NW., Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE–2014–0009. All comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the commenter indicates that 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 regulations.gov or email. The regulations.gov Web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through 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, we recommend 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 we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov.* All documents in the docket are listed. Although listed in

the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922 or Mr. Mark R. Evans, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division, at 904–232–2028.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3), the Corps is proposing to amend the regulations at 33 CFR part 334 by establishing a new restricted area in the waters of the St. Johns River adjacent to Station Mayport. The proposed amendment will allow the Commanding Officer, U.S. Coast Guard Station Mayport to restrict passage of persons, watercraft, and vessels in waters contiguous to this Command, thereby providing greater security to the personnel, equipment, cutters and facilities housed at the site.

Procedural Requirements

a. *Review Under Executive Order 12866.* The proposed rule is issued with respect to a military function of the Department of Defense and the provisions of Executive Order 12866 do not apply.

b. *Review Under the Regulatory Flexibility Act.* The proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). Unless information is obtained to the contrary during the comment period, the Corps expects that the proposed rule would have practically no economic impact on the public, or result in no anticipated navigational hazard or interference with existing waterway traffic. This proposed rule, if adopted, will have no significant economic impact on small entities.

c. *Review Under the National Environmental Policy Act.* Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact on the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered.

d. *Unfunded Mandates Act.* This proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Therefore, this proposed rule is not subject to the requirements of Sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA). The proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, the proposed rule is not subject to the requirements of Section 203 of UMRA.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Add § 334.505 to read as follows:

§ 334.505 St. Johns River, U.S. Coast Guard Station Mayport, Sector Jacksonville, Florida; restricted area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States as defined at 33 CFR part 329, within the area bounded by a line connecting the following coordinates: Commencing from the shoreline at latitude 30°23.315366′ N, longitude 081°26.056735′ W; thence directly to latitude 30°23.325775′ N, longitude 081°26.071548′ W; thence directly to latitude 30°23.266063′ N, longitude 081°26.132775′ W; thence to latitude 30°23.215082′ N, longitude 081°26.1287404′ W; thence proceed directly to a point on the shoreline at latitude 30°23.204522′ N, longitude 081°26.111753′ W thence following the mean high water line to the point of beginning.

(b) *The regulations.* (1) The restricted area described in paragraph (a) of this section is only open to U.S. Government vessels. U.S. Government vessels include, but are not limited to, U.S. Coast Guard, U.S. Coast Guard Auxiliary, Department of Defense, National Oceanic and Atmospheric Administration, state and local law enforcement, emergency services and vessels under contract with the U.S. Government. Warning signs notifying individuals of the restricted area boundary and prohibiting all unauthorized entry into the area will be posted along the property boundary.

(2) All persons, vessels, and other craft are prohibited from entering, transiting, drifting, dredging, or anchoring within the restricted area described in paragraph (a) of this section without prior approval from the Commanding Officer, U.S. Coast Guard Station Mayport or his/her designated representative.

(3) Fishing, trawling, net-fishing, and other aquatic activities are prohibited in the restricted area without prior approval from the Commanding Officer, U.S. Coast Guard Station Mayport or his/her designated representative.

(4) The restrictions described in paragraph (b) of this section are in effect 24 hours a day, 7 days a week.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer, U.S. Coast Guard Station Mayport and/or such persons or agencies as he/she may designate.

Dated: July 11, 2014.

James R. Hannon,

Chief, Operations and Regulatory, Directorate of Civil Works.

[FR Doc. 2014–16837 Filed 7–16–14; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–HQ–OAR–2011–0151; FRL–9913–98–OAR]

RIN 2060–AS27

Managing Emissions From Oil and Natural Gas Production in Indian Country

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The Environmental Protection Agency is announcing that the period for providing public comments on the June 5, 2014, advanced notice of proposed rulemaking for ''Managing Emissions from Oil and Natural Gas Production in Indian Country'' is being extended by 30 days.

DATES: *Comments.* The public comment period for the advanced notice of

proposed rulemaking published June 5, 2014 (79 FR 32502) is being extended by 30 days to August 20, 2014, in order to provide the public additional time to submit comments.

ADDRESSES: *Comments.* Written comments on the advanced notice of proposed rulemaking may be submitted to the EPA electronically, by mail, by facsimile, or through hand delivery/courier. Please refer to the advanced notice of proposed rulemaking (79 FR 32502) for the addresses and detailed instructions.

Docket. Publicly available documents relevant to this action are available for public inspection either electronically at *http://www.regulations.gov* or in hard copy at the EPA Docket Center, 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. A reasonable fee may be charged for copying. The EPA has established the official public docket No. EPA–HQ–OAR–2011–0151.

Worldwide Web. A copy of this notice will be posted in the regulations and standards section of our new source review (NSR) home page located at *http://www.epa.gov/nsr* and on the tribal NSR page at *http://www.epa.gov/air/tribal/tribalnsr.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Stoneman, Outreach and Information Division, Office of Air Quality Planning and Standards, (C304–01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–0823, facsimile number (919) 541–0072; email address: *stoneman.chris@epa.gov.*

SUPPLEMENTARY INFORMATION: *Comment Period.* The EPA received two requests to extend the comment period on the June 5, 2014, advanced notice of proposed rulemaking for "Managing Emissions from Oil and Natural Gas Production in Indian Country." Based on its evaluation of those requests and the level of interest in the advance notice of proposed rulemaking, the EPA is extending the public comment period for an additional 30 days. The public comment period will end on August 20, 2014, rather than July 21, 2014. This will ensure that the public has sufficient time to review and comment on all of the information available, including the advanced notice of proposed rulemaking and other materials in the docket.

List of Subjects in 40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Indians, Indians-law, Indians-tribal government, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 11, 2014.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2014–16812 Filed 7–16–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2014–0388 FRL–9913–85–Region 10]

Approval and Promulgation of State Implementation Plans; Idaho: Portneuf Valley PM_{10} Maintenance Plan Amendment to the Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the State of Idaho (Idaho or the State) on April 21, 2014, to amend the Portneuf Valley maintenance plan for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The SIP revision updates the on-road motor vehicle emissions inventory and motor vehicle emissions budgets (MVEBs) using the EPA's Motor Vehicle Emissions Simulator (MOVES2010b) and the most recent road dust emission factors. This rulemaking action approves the SIP revision and thereby makes the MVEBs available for transportation conformity purposes. The EPA is approving this SIP revision because it is consistent with the Clean Cir Act (CAA).

DATES: Comments must be received on or before August 18, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2014–0388, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: pepple.karl@epa.gov.*
- *Mail:* Karl Pepple, U.S. EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- *Hand Delivery/Courier:* U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Karl Pepple, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Karl Pepple at telephone number: (206) 553–1778, email address: *pepple.karl@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: For further information, please see the direct final action, of the same title, which is located in the Rules section of this **Federal Register.** The EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If the EPA receives no adverse comments, the EPA will not take further action on this proposed rule.

If the EPA receives adverse comments, the EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if 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, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: July 2, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2014–16759 Filed 7–16–14; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–117

[FMR Case 2014–102–2; Docket 2014–0015; Sequence 1]

RIN 3090–AJ45

Federal Management Regulation (FMR); Transportation Management; Transportation Reporting

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: GSA is proposing to amend the Federal Management Regulation (FMR) to recommend that agencies annually submit a Federal Transportation Summary for prior fiscal year transportation activities for freight and cargo, including household goods (HHG). Every process improvement effort relies on data to provide a factual basis for making decisions. Data collection improves decision-making by helping to focus on objective information rather than subjective opinions. Agencies that choose to report will submit a Federal Transportation Summary through a Web-based tool named the Federal Interagency Transportation System (FITS). Reported items include agencies' data on transportation management, training, and shipments/expenditures by procurement method, spending, environmental/sustainable factors and shipping profile. This proposed rule, if adopted, will provide GSA the summary data necessary for analysis, which will assist GSA in developing enhanced Governmentwide transportation policies to make transportation management programs more efficient, cost-effective, and sustainable.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before October 15, 2014 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FMR Case 2014–102–2 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking Portal by searching for "FMR Case 2014–102–2," and selecting the link that corresponds with "FMR case 2014–102–2." Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "FMR Case 2014–102–2" on your attached document.
- Fax: (202) 501–4067.
- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, ATTN: Hada Flowers, Washington, DC 20405–0001.

Instructions: Please submit comments only and cite FMR Case 2014–102–2, on all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Lee Gregory, Office of Government-wide Policy, at (202) 507–0871 or by email at *lee.gregory@gsa.gov.* For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FMR Case 2014–102–2.

SUPPLEMENTARY INFORMATION:

A. Background

In almost every purchase of supplies and equipment from vendors, something must be moved and delivered. Since the early 1860s, the Federal Government has procured transportation using either a contract or a tender of service (also called a rate tender). There are Federal transportation laws and regulations that govern each of the five modes of transportation (air, water, pipeline, rail, and ground). Each mode has advantages and disadvantages that should be evaluated for cost, sustainability, speed of delivery, etc. The expense of moving this freight or cargo, including HHG, can be managed by the agency, consolidated as a shared service across agencies, or the transportation service provider (TSP), depending upon the contract or tender of service terms.

Over the last several years, GSA has worked with the Governmentwide Transportation Policy Council (GTPC) to identify key transportation performance measures, data elements, and collection standards necessary for more informed decision-making. The GTPC is composed of representatives from civilian agencies and the Department of Defense, and provides guidance in the planning and development of uniform transportation policies and procedures. The GTPC supports data collection as a necessary first step to improve transportation management.

In 2009, GSA contracted for a Governmentwide transportation management study. The study concluded that "most agencies have no single point of accountability for outbound transportation, have limited transparency into actual expenditures, and usually do not identify the most appropriate procurement method." The study also identified inadequate research into the acquisition and selection of a transportation service provider (TSP), and a lack of standard training, expertise, and operational approaches to transportation management. A 2012 GSA study identified the need for reliable Governmentwide transportation data.

Best in class organizations exhibit a consistent set of behaviors to identify and implement improved processes that maximize the efficiency, cost effectiveness, and sustainability of their transportation operations. Organizations seeking continuous improvement monitor, measure and compare their performance against other organizations to improve their return on investment, generate greater savings, enhance their supply chain and improve sustainability. GSA is proposing to revise the FMR to recommend agencies annually submit a Federal Transportation Summary for prior fiscal year transportation activities for freight and cargo, including household goods. The data collected and reported will help agencies and GSA improve management, transportation services, and policy.

B. Changes

This proposed rule:

- Would revise 41 CFR part 102–117, subpart K, to recommend annual reporting of transportation data.
- Would redesignate the sections in 41 CFR part 102–117, subpart L.

C. Executive Orders 12866 and 13563

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

D. Regulatory Flexibility Act

These revisions are not substantive, and therefore, this proposed rule would not have a significant economic impact on a substantial number of small entities

within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The proposed rule is also exempt from the Administrative Procedure Act per 5 U.S.C. 553(a)(2), because it applies to agency management or personnel.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This proposed rule is also exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates to agency management or personnel.

List of Subjects in 41 CFR Part 102–117

Transportation Management, Transportation Reporting.

Dated: June 18, 2014.

Christine J. Harada,

Associate Administrator.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR part 102–117 as follows:

PART 102–117—TRANSPORTATION MANAGEMENT

■ 1. The authority citation for 41 CFR part 102–117 continues to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 121(c); 40 U.S.C. 501, *et seq.;* 46 U.S.C. 55305; 49 U.S.C. 40118.

102–117.355 [Redesignated as 102–117.361]

■ 2. In Subpart L, redesignate 102–117.355 as 102–117.361.

102–117.360 [Redesignated as 102–117.362]

■ 3. In Subpart L, redesignate 102–117.360 as 102–117.362.

■ 4. Revise Subpart K to read as follows:

Subpart K—Transportation Reporting

Sec.

Subpart K—Transportation Reporting

102–117.345 What is the Federal Transportation Summary?

(a) The Federal Transportation Summary is an annual summary of an agency's prior fiscal year transportation data for freight and cargo, including household goods (HHG). Reported items include agencies' data on transportation management, training, and shipments/expenditures by procurement method, spending, environmental/sustainable factors and shipping profile.

(b) Agencies that choose to report should submit their Federal Transportation Summary through a Web-based tool named the Federal Interagency Transportation System (FITS). It is anticipated that agencies will upload some data from operational transportation systems, while other data will be reported directly into FITS. Agencies' Federal Transportation Summaries will provide GSA the data necessary for analysis that will result in enhanced transportation policies for delivering a more efficient, cost-effective, sustainable, and accountable Government. The data will also allow agency benchmarking to drive improvement.

102–117.350 Do I have to report?

No; however, all Chief Financial Officer (CFO) Act agencies are strongly encouraged to submit annually an agency-wide Federal Transportation Summary for the preceding fiscal year through FITS by October 31.

102–117.355 Why should I report?

(a) Reporting transportation and transportation-related services will provide GSA with:

(1) Data to assess the magnitude and key characteristics of transportation within the Government (*e.g.*, how much agencies spend; what type of commodity is shipped; most used lanes, etc.), and

(2) Data to analyze and recommend changes to policies, standards, practices, and procedures to improve Government transportation.

(b) Agencies that choose to report may identify opportunities within their organization to improve transportation management program performance as a result of the data analytics.

102–117.360 How do I submit information to GSA for the Federal Transportation Summary?

GSA will post a Federal Management Regulation bulletin at *http://gsa.gov/fmrbulletintransportation,* which will provide information regarding FITS, detail the submission process, including data requested, and provide information concerning available training.

[FR Doc. 2014–16817 Filed 7–16–14; 8:45 am]

BILLING CODE 6820–14–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 821

RIN 3147–AA00

[Docket No. NTSB–GC–2011–0001]

Rules of Practice in Air Safety Proceedings; Withdrawal

AGENCY: National Transportation Safety Board (NTSB or Board).

ACTION: Notice of withdrawal of proposed rulemaking.

SUMMARY: The NTSB is withdrawing its Notice of Proposed Rulemaking (NPRM) published on September 19, 2013. The proposed change in the NPRM would have required the Federal Aviation Administration (FAA) to provide releasable portions of the enforcement investigative report (EIR) to each respondent in emergency cases.

DATES: As of July 17, 2014, the proposed rule published September 19, 2013, at 78 FR 57602, is withdrawn.

FOR FURTHER INFORMATION CONTACT: David Tochen, General Counsel, (202) 314–6080.

SUPPLEMENTARY INFORMATION: On September 19, 2013, the NTSB published an NPRM and a final rule, related to the enactment of the Pilot's Bill of Rights, Public Law 112–153 at section 2(b)(2)(E) (August 3, 2012). In the NPRM, published at 78 FR 57602, the NTSB proposed requiring the release of the EIR in emergency air safety enforcement cases proceeding under subpart I of the NTSB's rules (Special Rules Applicable to Proceedings Involving Emergency and Other Immediately Effective Orders).

The NTSB received three comments in response to the NPRM. Two of the comments, submitted by Aircraft Owners and Pilots Association (AOPA) and National Business Aviation Association (NBAA) expressed support for the NTSB's proposed change. AOPA's comment included a suggestion that the NTSB require, in some cases, privilege logs and *in camera* reviews of disclosed EIRs, to ensure the FAA disclosed all releasable portions under the proposed text of § 821.55. *See also* 49 CFR 821.19(d).

The remaining comment, from the FAA, discouraged the NTSB from proceeding with the proposed change,

on several bases. The FAA stated the NTSB, in its final rule which the NTSB also published on September 19, 2013, 78 FR 57527, recognized the NTSB lacks jurisdiction to oversee release of documents and discovery in a certificate enforcement action until the respondent has filed with the NTSB Office of Administrative law Judges an appeal from an order issued by the FAA Administrator. For this reason, in the final rule, the NTSB set forth the requirement that the FAA release its EIR upon the request of the respondent at the time the FAA issues its complaint in non-emergency cases. By that rationale, the FAA asserts in its comments regarding the NPRM the NTSB cannot exercise authority over the FAA's release of EIRs in emergency cases until the FAA issues its complaint in such cases. The FAA also quotes the Pilot's Bill of Rights, which requires the FAA to *make available* the EIR, rather than release it outright in the absence of a request. In addition, the FAA states it maintains authority to issue emergency orders orally, rather than in writing, and may do so in particularly egregious cases.

The FAA also points out the NTSB's promulgation of the proposed rule would have eliminated the paragraph concerning discovery procedures applicable to emergency cases. The FAA asks the NTSB to maintain its current rules concerning discovery procedures applicable to emergency cases.

The NTSB appreciates the points all three commenters proferred, and has carefully considered them. The NTSB finds the FAA's assertion concerning the lack of jurisdiction persuasive. The NTSB has decided to withdraw the proposed rulemaking, based on the lack of *express* statutory authority in the Pilot's Bill of Rights for the NTSB to exercise jurisdiction over emergency cases prior to a respondent's filing of an appeal of an order issued by the FAA Administrator. Given this lack of authority, the NTSB has determined it cannot promulgate and enforce the proposed rule change. Consistent with this decision to withdraw this rulemaking, the existing paragraph in § 821.55 concerning the discovery procedure applicable to emergency cases, remains unchanged. Notwithstanding this determination concerning authority, the NTSB believes its administrative law judges may nevertheless administer appropriate remedies in emergency cases where, after the NTSB's jurisdiction attaches, the FAA fails to make available the EIR to a respondent. Based on these considerations, we withdraw the NPRM published September 19, 2013.

Christopher A. Hart,

Acting Chairman.

[FR Doc. 2014–16713 Filed 7–16–14; 8:45 am]

BILLING CODE 7533–01–P

Notices

Federal Register
Vol. 79, No. 137
Thursday, July 17, 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

July 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 August 18, 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 20503. 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) 720–8681.

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.

National Agricultural Statistics Service

Title: Conservation Effects Assessment Project.

OMB Control Number: 0535–0245.

Summary of Collection: General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204(a). The National Agricultural Statistics Service (NASS) primary function is to prepare and issue official State and national estimates of crop and livestock production, disposition and prices. The goal of this information collection is to obtain land management information that will assist the Natural Resources Conservation Service in assessing environmental benefits associated with implementation and installation of associated conservation practices of various conservation programs such as the Environmental Quality Incentives Program, the Conservation Reserve Program, the Wetland Reserve Program, and other conservation programs.

Need and Use of the Information: The survey will utilize personal interviews to administer a questionnaire that is designed to obtain from farm operators field-specific data associated with selected National Resources Inventory sub-sample units in the contiguous 48 States. Data collected in this survey will be used in conjunction with previously collected data on soils, climate, and cropping history to model impacts of conservation practices on the larger environment. USDA needs updated scientifically credible data on residue and tillage management, nutrient management, and conservation practices in order to quantify and assess current impacts of farming practices and to document changes. The assessment will be used to report progress annually on Farm Bill implementation to Congress and the general public.

Description of Respondents: Farms.

Number of Respondents: 15,234.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 13,080.

Charlene Parker,
Departmental Information Collection Clearance Officer.

[FR Doc. 2014–16767 Filed 7–16–14; 8:45 am]
BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Institute of Standards and Technology (NIST).

Title: MEP Management Information Reporting System for the Business and Talent Management Self-Diagnostic Tool.

OMB Control Number: 0693–XXXX.

Form Number(s): None.

Type of Request: Regular submission (new information collection).

Number of Respondents: 600.

Average Hours per Response: 30 minutes.

Burden Hours: 300.

Needs and Uses: NIST Manufacturing Extension Partnership (MEP) is a national network of locally based manufacturing extension centers working with small manufacturers to assist them improve productivity, improve profitability and enhance their economic competitiveness.

The invitation to use to use the tool will be discussed during consultations with clients. Manufacturing clients that choose to use the SMARTalent self-diagnostic tool will use it twice a year. First to understand how well their business goals and workforce practices are aligned. The second time they will use it that year will be to check on their progress. After they use it one time, they will understand where to make changes or enhancements to their business processes and talent management. There will be no need to use it more than twice a year: once to understand their operational baseline and the second time to check on their progress in aligning goals and workforce actions.

Affected Public: Business or other for-profit organizations.

Frequency: Biennially.

Respondent's Obligation: None.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: July 11, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–16789 Filed 7–16–14; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Pacific Islands Region Permit Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

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 September 15, 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 Walter Ikehara, (808) 725–5175, or *Walter.Ikehara@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

Regulations at 50 CFR Part 665, Subpart F, require that a vessel must be registered to a valid federal fishing permit if it is used to fish with longline gear for Pacific pelagic management unit species (PMUS), land or transship longline caught PMUS, or receive longline caught PMUS from a longline vessel, within the Exclusive Economic Zone (EEZ) of United States (U.S.) islands in the central and western Pacific, or to fish with troll and handline gear for PMUS within the EEZ around each of the Pacific Remote Island Areas (PRIA).

Regulations at 50 CFR parts 665, Subparts D and E, require that the owner of a vessel used to fish for, land, or transship bottomfish management unit species (BMUS) using a large vessel (50 ft or longer) around Guam, or using a vessel within the EEZ around each of the PRIA, must register it to a valid federal fishing permit they hold.

Regulations at 50 CFR Part 665, Subparts B, C, D and E, require that a vessel used to fish for precious corals within the EEZ of U.S. islands in the central and western Pacific, must be registered to a valid federal fishing permit for a specific precious coral permit area.

This collection of information is needed for permit issuance, to identify actual or potential participants in the fishery, determine qualifications for permits, and to help measure the impacts of management controls on the participants in the fishery. The permit program is also an effective tool in the enforcement of fishery regulations and facilitates communication between the National Marine Fisheries Service (NMFS) and fishermen.

II. Method of Collection

Documents may be submitted via mail, fax, email or via Web-based application (National Permit System).

III. Data

OMB Control Number: 0648–0490.

Form Number: None.

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

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

Estimated Number of Respondents: 246.

Estimated Time per Response: Hawaii longline limited entry permit transfer, 1 hour; American Samoa longline limited entry permit renewal and additional permit application, 45 minutes; American Samoa longline permit transfer, 1 hour, 15 minutes; Main Hawaiian Islands longline prohibited area exemptions and permit appeals, 2 hours; all other permits, 30 minutes.

Estimated Total Annual Burden Hours: 145.

Estimated Total Annual Cost to Public: $8,800 (including $8,155 in processing fees).

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 has 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: July 11, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–16788 Filed 7–16–14; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Policy Guidance on Supervisory and Enforcement Considerations Relevant to Mortgage Brokers Transitioning to Mini-Correspondent Lenders

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Policy Guidance.

SUMMARY: The Bureau of Consumer Financial Protection (CFPB or Bureau) is issuing supervisory and enforcement guidance entitled "Policy Guidance on Supervisory and Enforcement Considerations Relevant to Mortgage Brokers Transitioning to Mini-Correspondent Lenders," (Policy Guidance) which relates to the Bureau's exercise of its authority to supervise and enforce compliance with RESPA and Regulation X and TILA and Regulation Z in certain transactions involving "mini-correspondent lenders."

FOR FURTHER INFORMATION CONTACT: Paul S. Ceja, Senior Counsel and Special Advisor; Office of Regulations at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Bureau has become aware of increased interest among some mortgage brokers to restructure their business to become mini-correspondent lenders (mini-correspondents) in the possible belief that doing so will alter the applicability of important consumer protections that apply to transactions involving mortgage brokers. These protections include provisions in the Real Estate Settlement Procedures Act (RESPA) and Regulation X and the Truth in Lending Act (TILA) and Regulation Z, as amended by title XIV of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). The Bureau has implemented the title XIV amendments to RESPA and TILA through final rules amending Regulations X and Z, issued beginning in January 2013. These rules generally took effect in January 2014.

The Bureau is issuing this Policy Guidance to identify for mortgage industry stakeholders, consumers, and the public generally questions the Bureau may consider in exercising its supervisory and enforcement authority under RESPA and TILA with respect to transactions involving mini-correspondent lenders.

II. Description of Policy Guidance

The Policy Guidance begins by providing background on the Bureau's concern regarding the shift of some mortgage brokers to the mini-correspondent lender role, the RESPA and TILA consumer protections potentially affected by the transition of a mortgage broker to a mini-correspondent lender, and an overview of correspondent lending. The Policy Guidance follows this with a discussion of the regulatory framework under Regulation X and Regulation Z that determines the role and obligations of the parties in a mortgage transaction. The Policy Guidance then provides a non-exhaustive list of questions the Bureau may consider in the exercise of its supervisory and enforcement authority with respect to transactions involving mini-correspondent lenders. The Policy Guidance makes clear that no single question listed in the Policy Guidance is necessarily determinative of how the Bureau may exercise its supervisory and enforcement authorities. The Policy Guidance also makes clear that the facts and circumstances of the particular mortgage transaction being reviewed would be relevant to how the Bureau exercises these authorities.

The Policy Guidance states that the Bureau will closely monitor the practices of mini-correspondents, including former mortgage brokers that have converted to this form, to ensure that the protections afforded to consumers under federal consumer financial law, including the Bureau's implementing regulations, are not being evaded. Finally, the Policy Guidance also states that the Bureau will use all appropriate tools to assess whether supervisory, enforcement, or other actions are necessary.

III. Policy Guidance

The text of the Policy Guidance follows:

Policy Guidance on Supervisory and Enforcement Considerations Relevant to Mortgage Brokers Transitioning to Mini-Correspondent Lenders

The Bureau of Consumer Financial Protection (CFPB or Bureau) is issuing this "Policy Guidance on Supervisory and Enforcement Considerations Relevant to Mortgage Brokers Transitioning to Mini-Correspondent Lenders" (Policy Guidance) to identify the questions the Bureau may consider in exercising its supervisory and enforcement authority under the Real Estate Settlement Procedures Act (RESPA) and Regulation X and the Truth in Lending Act (TILA) and Regulation Z with respect to mortgage transactions involving mini-correspondent lenders (mini-correspondents), including transactions involving mortgage brokers that transition to mini-correspondent lender roles.

Background

The Bureau has become aware of increased mortgage industry interest in the transition of mortgage brokers from their traditional roles to mini-correspondent lender roles. The Bureau is concerned that some mortgage brokers may be shifting to the mini-correspondent model in the belief that, by identifying themselves as mini-correspondent lenders, they automatically alter the application of important consumer protections that apply to transactions involving mortgage brokers. These protections include provisions in RESPA and Regulation X[1] and TILA and Regulation Z,[2] as amended by title XIV of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act).[3] The Bureau has implemented the title XIV amendments to RESPA and TILA through final rules amending Regulations X and Z, issued beginning in January 2013. These rules generally took effect in January 2014.

Regulations X and Z apply certain requirements and prohibitions to compensation paid to a mortgage broker. These provisions include:

- Disclosure of mortgage broker compensation. Regulation X requires that the lender's compensation to the mortgage broker be disclosed on the Good-Faith Estimate and HUD–1 Settlement Statement.[4] By contrast, payments received by the lender from an investor as compensation for a "bona fide" transfer of the loan in the secondary market need not be disclosed;[5]
- Inclusion of mortgage broker compensation in "points and fees." Under Regulation Z, compensation paid to a mortgage broker by a consumer or creditor is included in points and fees for purposes of the points-and-fees cap for "qualified mortgages" and for the points-and-fees test for determining whether a mortgage is a "high-cost mortgage" under the Home Ownership and Equity Protection Act (HOEPA).[6] Interest paid to a creditor is not included in points and fees; nor is any compensation a creditor (not otherwise defined as a "loan originator" for purposes of the loan originator compensation restrictions discussed further below) receives from a third party that purchases the loan included in points and fees;[7]

[1] 12 U.S.C. 2601 *et seq.*, 12 CFR part 1024.

[2] 15 U.S.C. 1601 *et seq.*, 12 CFR part 1026.

[3] Public Law 111–203, 124 Stat. 1376 (2010).

[4] *See* 12 CFR part 1024, appendix A and appendix C. The Bureau's TILA–RESPA Integrated Disclosure Rule (78 FR 79730 (Dec. 31, 2013)) effective August 1, 2015, requires that the creditor compensation's to the mortgage broker be on the Closing Disclosure (although not on the Loan Estimate). *See* 12 CFR 1026.38(f)(1).

[5] 12 CFR 1024.5(b)(7). Coverage under section 8 of RESPA, implemented at 12 CFR 1024.14, prohibiting the payment of kickbacks for the referral of settlement services, and splits of charges other than for services performed, is also implicated by whether compensation is being paid in a secondary market transaction. For example, compensation for the sale of a mortgage loan is a secondary market transaction rather than a referral fee and is "beyond the scope of section 8." *See* 12 CFR part 1024, appendix B, illustration 5.

[6] 12 CFR 1026.32(b)(1)(ii). This section cross references the definition of "loan originator" in 12 CFR 1026.36(a)(1). 12 CFR 1026.36(a)(2) defines "mortgage broker" for purposes of § 1026.36, as "any loan originator that is not an employee of the creditor." *See also* 12 CFR 1026.32(a)(1)(ii) (threshold for points and fees for high-cost mortgages); 12 CFR 1026.43(e)(3) (limit on points and fees for qualified mortgages). *See also* 15 U.S.C. 1602(bb)(1)(A) (definition of high-cost mortgage); 15 U.S.C. 1602(bb)(4) (points and fees included for high-cost mortgages); 15 U.S.C. 1639c(b)(2)(A)(vii) (limit on points and fees for qualified mortgages); and 15 U.S.C. 1639c(b)(2)(C) (definition of points and fees for purposes of qualified mortgages).

[7] 12 CFR 1026.32(b)(1)(i)(A) (excluding interest from points and fees); 12 CFR 1026.32(b)(1)(ii) (generally including compensation paid directly or

• Restrictions on mortgage broker compensation. TILA and Regulation Z[8] prohibit certain compensation arrangements between creditors and loan originators, including mortgage brokers.[9] Mortgage brokers may not receive compensation from both the consumer and the creditor or any another person;[10] and mortgage brokers may not receive compensation based on loan terms.[11] These restrictions do not apply to compensation by a third party, such as an investor, to a creditor that is not also defined as a loan originator for purposes of these compensation restrictions; and

• Prohibition on steering to increase mortgage broker compensation. TILA and Regulation Z prohibit loan originators, including mortgage brokers, from "steering" consumers to transactions not in their interest, to increase the mortgage broker's compensation.[12]

A correspondent lender, as generally understood in the mortgage industry, performs the activities necessary to originate a mortgage loan, i.e., it takes on the tasks usually performed by the originating lender. The correspondent lender takes and processes applications, provides required disclosures, and often, although not always, underwrites loans and makes the final credit approval decision. The correspondent lender closes loans in its name, funds them (often through a warehouse line of credit), and sells them to an investor by prior agreement. A full correspondent lender may have such agreements with multiple investors.

The Bureau understands that some entities may transition from being a mortgage broker to being a correspondent lender and, in so doing, may begin as a small correspondent with agreements with only a few investors. Entities attempting to move to the role of a correspondent lender may start by obtaining a warehouse line of credit, typically from a third-party "warehouse bank." The warehouse line of credit will provide the funding for the mortgage loans the entities originate and sell to a third-party investor. Over time, the number of third-party investors with which the correspondent lender has agreements may grow.

Since the Bureau issued the title XIV rules, it understands that some mortgage brokers may be setting up arrangements with wholesale lenders in which they purport to act as mini-correspondent lenders. Under such arrangements, the mortgage broker may in form appear to be the lender or creditor in each transaction by engaging in activities such as closing the loan in its own name, funding the loan from what is designated as a warehouse line of credit, and receiving compensation through what may nominally take the form of a premium for the sale of the loan to an investor.

However, in substance, these mortgage brokers may not have transitioned to the mini-correspondent lender role and may be continuing to serve effectively as mortgage brokers. That is, these mortgage brokers may continue to facilitate brokered loan transactions between borrowers and wholesale lenders (i.e., entities which typically provide the funding for loans in transactions involving mortgage brokers). For example, the mortgage broker may enter into an arrangement with a lender designated as an "investor," but that investor may function as the mortgage broker's wholesale lender, and not as a purchaser of loans in the secondary market. Such an "investor" may continue to perform the same origination activities it would perform as a traditional wholesale lender for the loans that it now "buys" from the mortgage broker. As well as performing these functions and agreeing to purchase the loans from the mortgage broker designated as a "mini-correspondent, the "investor" may also provide the warehouse line of credit that the "mini-correspondent" uses to fund its loans.

As discussed below, the requirements and restrictions that RESPA and TILA and their implementing regulations impose on compensation paid to mortgage brokers do not depend on the labels that parties use in their transactions. Rather, under Regulation X, whether compensation paid by the "investor" to the "lender" must be disclosed depends on determinations such as whether that compensation is part of a secondary market transaction, as opposed to a "table-funded" transaction. Likewise, under Regulation Z, whether compensation paid by the "investor" to the "creditor" must be included in the points-and-fees calculation and whether the "creditor" is subject to the compensation restrictions as a mortgage broker depends on determinations such as whether the "creditor" finances the transaction out of its own resources as opposed to relying on table-funding by the "investor."

In exercising its supervisory and enforcement authority, the Bureau may consider factors that evidence the true nature of the mortgage transaction, i.e., whether the parties are engaging in good faith in a secondary market transaction between a lender and a third-party investor or, in fact, a typical primary market transaction involving a mortgage broker and a wholesale lender.

Discussion

RESPA and TILA Regulatory Framework: The mortgage broker compensation requirements imposed by RESPA and Regulation X do not apply to exempt bona fide secondary-market transactions, but those requirements do apply to table-funded transactions. Whether a transaction is deemed to be a bona fide secondary market sale of a loan turns on the "real source of funding" and the "real interest of the funding lender."

Regulation X defines a mortgage broker as a person, other than an employee of a lender, who renders origination services and serves as an intermediary between a borrower and lender in a federally-related mortgage loan transaction, including such a person that closes the loan in its own name in a "table-funded transaction."[13] "Table-funding" occurs when the loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.[14] In table-funding, the third party who advances the loan funds and takes initial assignment of the loan at or after settlement is the lender for purposes of Regulation X, and the entity which acts as the intermediary in bringing that lender and the borrower together is the mortgage broker (even though that entity closes the loan in its own name).[15] However, a "bona fide transfer of a loan obligation in the secondary-market" is not covered by RESPA under Regulation X (with exceptions not relevant here).[16] Regulation X explains that the Bureau

indirectly by a consumer or creditor to a loan originator).

[8] *See* Loan Originator Compensation Requirements Under the Truth in Lending Act (Regulation Z) 78 FR 11279 (Feb. 15, 2013); *see also* Amendments to 2013 Mortgage Rules Under the Equal Credit Opportunity Act (Regulation B), Real Estate Settlement Procedures Act (Regulation X), and the Truth in Lending Act (Regulation Z), 78 FR 60382 (Oct.1, 2013).

[9] In Regulation Z these prohibitions apply to compensation paid to "loan originators" (including "loan originator organizations"). *See* 12 CFR 1026.36(a)(1)(i), (iii). However, for clarity this Policy Guidance refers to mortgage brokers which, as noted, are included in the definition of "loan originator." *See* 12 CFR 1026.36(a)(2) and footnote 6.

[10] 12 CFR 1026.36(d)(2).

[11] 12 CFR 1026.36(d)(1).

[12] 12 CFR 1026.36(e).

[13] 12 CFR 1024.2.

[14] *Id.*

[15] *Id.* A lender is otherwise generally defined as the secured creditor named on the debt obligation.

[16] 12 CFR 1024.5(b)(7).

will consider the "real source of funding" for the loan and the "real interest of the funding lender" in determining what constitutes a bona fide transfer.[17] Under Regulation X, a table-funded transaction is not a secondary-market transaction.[18]

Similarly, the TILA and Regulation Z loan originator compensation requirements discussed above cover compensation paid to mortgage brokers in "table-funded" transactions. Under Regulation Z, a creditor is defined in relevant part as a person who regularly extends credit and to whom the obligation is initially payable on the face of the note.[19] For purposes of the loan originator compensation requirements discussed above, however, a "loan originator" is defined to include such a creditor if it engages in loan origination activity and "does not finance the transaction at consummation out of the creditor's own resources, including by drawing on a *bona fide* warehouse line of credit."[20] In other words, the term loan originator, for purposes of the loan originator requirements discussed above, includes any creditor that otherwise satisfies the definition of loan originator and makes use of "table funding" by a third party.[21] A table-funded transaction is consummated with the debt obligation initially payable by its terms to one person, but another person provides the funds for the transaction at consummation and receives an immediate assignment of the note.[22]

By defining mortgage brokers to include entities which close loans in their own names in table-funded transactions—and by excluding from RESPA only bona fide secondary-market transactions—Regulation X recognizes that it is possible to structure transactions that take the form of the sale of a loan to an investor but where, in substance, the purchaser functions as the lender and the entity whose name is on the note is a mortgage broker. Regulation Z recognizes this as well by defining the term loan originator to include creditors in table-funded transactions and differentiating between such transactions and those in which a creditor draws upon a bona fide warehouse line of credit.

Questions the Bureau May Consider in Exercising Its Supervisory and Enforcement Authority Under RESPA and TILA in Transactions Involving Mini-Correspondents: As discussed above, the Bureau understands that some mortgage brokers have successfully transitioned to correspondent lenders (small or large) that do not act as mortgage brokers in covered mortgage transactions. Such correspondent lenders often perform a majority of the principal origination activities with the funds provided by a bona fide warehouse line of credit. The correspondent lenders then sell the loans in secondary market transactions to third-party investors. The Bureau also understands that other mortgage brokers may be seeking to adopt the form of a mini-correspondent lender out of a belief that doing so avoids application of various provisions of Regulations X and Z.

In exercising its supervisory and enforcement authority under RESPA and TILA in transactions involving mini-correspondents, the Bureau asks various questions relevant to understanding the true nature of the mortgage transaction.

Among the questions the Bureau asks are the following:

- Beyond the mortgage transaction at issue, does the mini-correspondent still act as a mortgage broker in some transactions, either brokering to the same wholesale lender that supplies the warehouse line of credit or otherwise?
  - If so, what distinguishes the mini-correspondent's "mortgage broker" transactions from its "lender" transactions?
- How many "investors" does the mini-correspondent have available to it to purchase loans?
- Is the mini-correspondent using a bona fide warehouse line of credit as the source to fund the loans that it originates?
  - Is the warehouse line of credit provided by a third-party warehouse bank?
  - How thorough was the process for the mini-correspondent to get approved for the warehouse line of credit?
  - Does the mini-correspondent have more than one warehouse line of credit?
  - Is the warehouse bank providing the line of credit one of, or affiliated with any of, the mini-correspondent's investors that purchase loans from the mini-correspondent?
  - If the warehouse line of credit is provided by an investor to whom the mini-correspondent will "sell" loans to, is the warehouse line a "captive" line (i.e., the mini-correspondent is required to sell the loans to the investor providing the warehouse line (or affiliates of the investor))?
  - What percentage of the mini-correspondent's total monthly originated volume is sold by the mini-correspondent to the entity providing the warehouse line of credit to the mini-correspondent, or to an investor related to the entity providing the warehouse line of credit?
  - Does the mini-correspondent's total warehouse line of credit capacity bear a reasonable relationship, consistent with correspondent lenders generally, to its size (i.e., its assets or net worth)?
- What changes has the mini-correspondent made to staff, procedures, and infrastructure to support the transition from mortgage broker to mini-correspondent?
- What training or guidance has the mini-correspondent received to understand the additional compliance risk associated with being the lender or creditor on a residential mortgage transaction?
- Which entity (mini-correspondent, warehouse lender, investor) is performing the majority of the principal mortgage origination activities?
  - Which entity underwrites the mortgage loan before consummation and otherwise makes the final credit decision on the loan?
  - What percentage of the principal mortgage origination activities, such as the taking of loan applications, loan processing, and pre-consummation underwriting, is being performed by the mini-correspondent, or an independent agent of the mini-correspondent?
  - If the majority of the principal mortgage origination activities are being performed by the investor, is there a plan in place to transition these activities to the mini-correspondent?
- What conditions must be met to make this transition (e.g., number of loans, time)?

This document is intended to provide guidance to mortgage industry stakeholders, consumers, and the public related to the considerations that the Bureau may employ in the exercise of its supervisory and enforcement authority with respect to mortgage transactions involving mini-correspondents, including mortgage brokers transitioning into becoming mini-correspondents. The above list of questions is not an exhaustive list of the Bureau's considerations relevant to the exercise of its supervisory and enforcement authorities. In addition, no single question listed above is necessarily determinative of how the Bureau may exercise its supervisory and enforcement authorities. Furthermore the facts and circumstances of the particular mortgage transaction being

[17] *Id. See also* 12 CFR part 1024, appendix B, illustration 5.

[18] *Id.*

[19] 12 CFR 1026.2(a)(17).

[20] 12 CFR 1026.36(a)(1)(i).

[21] Comment 36(a)–1.i.C.

[22] Comment 36(a)–1.ii.

reviewed are relevant to the exercise of these authorities.

Conclusion

The Bureau will closely monitor the practices of mini-correspondents, including former mortgage brokers that have converted to this form, to ensure that the protections afforded to consumers under federal consumer financial law, including the Bureau's implementing regulations, are not being evaded. In doing so, the Bureau will use all appropriate tools to assess whether supervisory, enforcement or other actions are necessary.

IV. Regulatory Requirements

This Policy Guidance is a non-binding policy guidance articulating considerations relevant to the Bureau's exercise of its supervisory and enforcement authority under Regulation X and RESPA, and Regulation Z and TILA. It is therefore exempt from the notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b).

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a).

The Bureau has determined that this Policy Guidance does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

Dated: July 9, 2014.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2014–16779 Filed 7–16–14; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

Public Availability of Consumer Product Safety Commission FY 2013 Service Contract Inventory

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC or we), in accordance with section 743(c) of Division C of the Consolidated Appropriations Act, 2010 (Pub. L. 111–117, 123 Stat. 3034, 3216), is announcing the availability of CPSC's service contract inventory for fiscal year (FY) 2013. This inventory provides information on service contract actions that exceeded $25,000 that CPSC made in FY 2013.

FOR FURTHER INFORMATION CONTACT: Eddie Ahmad, Procurement Analyst, Division of Procurement Services, Division of Procurement Services, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814. Telephone: 301–504–7884; email: *aahmad@cpsc.gov.*

SUPPLEMENTARY INFORMATION: On December 16, 2009, the Consolidated Appropriations Act, 2010 (Consolidated Appropriations Act), Public Law 111–117, became law. Section 743(a) of the Consolidated Appropriations Act, titled, "Service Contract Inventory Requirement," requires agencies to submit to the Office of Management and Budget (OMB), an annual inventory of service contracts awarded or extended through the exercise of an option on or after April 1, 2010, and describes the contents of the inventory. The contents of the inventory must include:

(A) A description of the services purchased by the executive agency and the role the services played in achieving agency objectives, regardless of whether such a purchase was made through a contract or task order;

(B) The organizational component of the executive agency administering the contract, and the organizational component of the agency whose requirements are being met through contractor performance of the service;

(C) The total dollar amount obligated for services under the contract and the funding source for the contract;

(D) The total dollar amount invoiced for services under the contract;

(E) The contract type and date of award;

(F) The name of the contractor and place of performance;

(G) The number and work location of contractor and subcontractor employees, expressed as full-time equivalents for direct labor, compensated under the contract;

(H) Whether the contract is a personal services contract; and

(I) Whether the contract was awarded on a noncompetitive basis, regardless of date of award.

Section 743(a)(3)(A) through (I) of the Consolidated Appropriations Act. Section 743(c) of the Consolidated Appropriations Act requires agencies to "publish in the **Federal Register** a notice that the inventory is available to the public."

Consequently, through this notice, we are announcing that the CPSC's service contract inventory for FY 2013 is available to the public. The inventory provides information on service contract actions over $25,000 that CPSC made in FY 2013. The information is organized by function to show how contracted resources are distributed throughout the CPSC. We developed the inventory in accordance with guidance issued on December 19, 2011, by the OMB. (The OMB guidance is available at: *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.*) The CPSC's Division of Procurement Services has posted its inventory, and a summary of the inventory can be found at our homepage at the following link: *http://www.cpsc.gov/About-CPSC/Agency-Reports/Service-Contract-Inventory/.*

Dated: July 10, 2014.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2014–16793 Filed 7–16–14; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2012–OS–0152]

Proposed Collection; Comment Request

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Defense Logistics Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 15, 2014.

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

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

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Logistics Agency, ATTN: Wide Area Workflow (WAWF) Program Management Office (PMO), 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6221.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; And OMB Number: Wide Area Work Flow (WAWF); WAWF is not a forms based application but accepts any supporting documentation as attachments; OMB Control Number 0704–XXXX.

Needs And Uses: Wide Area Work Flow (WAWF) is a DoD enterprise, web-based system that allows secure electronic submission, acceptance and procession of invoices and receiving reports in a real-time, paperless environment, resulting in complete transaction visibility, fewer interest penalties and reduced processing time. WAWF provides the Department and its suppliers the single point of entry to generate, capture and process invoice, acceptance and payments related documentation, and data to support the DoD asset visibility, tracking, and payment processes. WAWF also provides the Department with a single point of entry to generate, capture, and process vouchers for miscellaneous payment claims. Information in identifiable form must be collected to ensure that benefits are paid to the correct individual.

Affected Public: Dependents and members of the general public to include Foreign Nationals and vendors providing goods or services to the DoD.

Annual Burden Hours: 23,125.

Number of Respondents: 2,775.

Annual Responses per Respondent: 1 to 50.

Average Burden per Response: 10 minutes.

Frequency: On occasion for individuals; more frequent for vendors.

The purpose of the information collection is to monitor the status of and electronically process invoices, receiving reports and individual claims for payment through the review and validation and approval phases for submission to the Defense Finance and Accounting Service (DFAS) for payment.

Dated: July 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–16838 Filed 7–16–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2014–OS–0111]

Proposed Collection; Comment Request

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Defense Logistics Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 15, 2014.

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

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

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Logistics Agency, ATTN: DLA Intelligence, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6221.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DLA Personnel Security (PERSEC); Forms include DL1474, Defense Logistics Agency Pre-appointment Security Check; DH1728, Request for HQC Contractor Badge and/or Information Technology (IT) Access; DL1270, Determination of Need for Access/Position Sensitivity Change; DL1834, DLA Security Briefing/Debriefing Certificate; DL1875, Request for Waiver of Pre-appointment Investigative Requirements (PIR) (Noncritical Sensitive Positions); DL1875B, Request for Waiver of Pre-appointment Investigative Requirements (PIR) (Critical Sensitive Positions); and DL1875C, Request for Waiver of Pre-appointment Investigative Requirements (PIR) (Contractor Information Technology (IT) Positions); OMB Control Number: 0704–XXXX.

Needs and Uses: PERSEC is an administrative system used by DLA Personnel Security Specialists to determine whether an individual is suitable, eligible, or qualified to occupy a sensitive position and/or have access to classified information. Authority to collect this information is in accordance with 5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; E.O. 10450, Security Requirements for Government Employment; E.O. 12958, Classified National Security Information; DoD Regulation 5200.2, DoD Personnel Security Program; and E.O. 9397 (SSN). Personal Information Collection are: Name, Address, family members, Dates of Birth, Place of Birth, Mother's Maiden

name, Citizenship status, and SSN. The forms used to collect the data contain Privacy Act Statements as required by 5 U.S.C. 522a(e)(3). Only DLA Personnel Security Specialists and Management with the "need to know" can access an individual's PII information.

Affected Public: Individuals suitable, eligible, or qualified to occupy a sensitive position and/or have access to classified information. This includes DoD civilians, military personnel, and contractors that have been selected to work for the Defense Logistics Agency in a sensitive position.

Annual Burden Hours: 2,500.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

PERSEC is a Web application used by DLA personnel security specialists to maintain security clearance information on DLA civilian employees, military personnel, and contractors assigned to DLA. It is primarily a case management system used to supplement the Joint Personnel Adjudications System (JPAS) and to access information through database feeds. While JPAS is used to determine clearance eligibility, PERSEC is used to track security investigation status and generate summary reports.

Dated: July 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–16822 Filed 7–16–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2012–OS–0153]

Proposed Collection; Comment Request

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Defense Logistics Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 15, 2014.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Logistics Agency, DLA Information Operations Richmond, ATTN: Mr. Walter B. Gooch, 8000 Jefferson Davis Highway, Richmond, Virginia 23297–5000; or call (804) 279–3075.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Account Management and Provisioning System (AMPS); OMB Control Number 0704–XXXX.

Needs and Uses: System contains records relating to requests for and grants of access to DLA computer networks, systems, or databases. The records contain the individual's name, social security number, and citizenship.

Once collected, AMPS encrypts the SSN and makes it available for viewing only to the personnel security officer. Once system access is approved or denied by the personnel security officer, the SSN is re-encrypted and then deleted from the AMPS application.

Affected Public: State, Local, or Tribal Government, DoD Contractors.

Annual Burden Hours: 4,000.

Number of Respondents: 20,000.

Responses per Respondent: 1.

Average Burden per Response: 12 minutes.

Frequency: On occasion.

The system is maintained by DLA Information Operations to control and track access to DLA-controlled networks, computer systems, and databases. The records may also be used by law enforcement officials to identify the occurrence of and assist in the prevention of computer misuse and/or crim. Data, with all personal identifiers removed, may be used by management for system efficiency, workload, calculation, or reporting purposes.

Dated: July 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–16833 Filed 7–16–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0112]

Proposed Collection; Comment Request

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Logistics Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 15, 2014.

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

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

• Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the DLA Logistics Information Service, ATTN: Mr. Robert A Burrow, DLIS–LAE, 74 Washington Ave. N., Suite 7, Battle Creek, MI 49037–3084, or call Mr. Robert A. Burrow at (269) 961–4410.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and Omb Number: Department of Defense Electronic Mall Web site; OMB Control Number 0704–XXXX.

Needs and Uses: Each user of the DoD EMALL Web site must complete registration information in order to receive DoD EMALL access. Only authorized personnel of Federal, State, and Local government are bale to register and log into the DoD EMALL Web site to shop, search, order, and make purchases.

Affected Public: Not-for-profit institutions; State, local, or Tribal governments.

Annual Burden Hours: 8,344.75.

Number of Respondents: 33,379.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

DoD EMALL is an Internet-based Electronic Mall, which allows customers to search for and order items from the government and commercial sources. DoD EMALL is a Department of Defense program operated by the Defense Logistics Information Service (DLIS). All users are required to register and be authenticated and authorized by a DLIS Access Administrator.

Dated: July 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–16845 Filed 7–16–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Availability of the Fiscal Year 2013 Inventory of Contracts for Services

AGENCY: Department of Defense (DoD).

ACTION: Notice of availability.

SUMMARY: DoD announces the availability of the Inventory of Contracts for Services for Fiscal Year 2013 pursuant to section 2330a of title 10, United States Code. The inventory is available to the public.

FOR FURTHER INFORMATION CONTACT: Office of the Director, Defense Procurement and Acquisition Policy, ATTN: OUSD(AT&L)DPAP/CPIC, 3060 Defense Pentagon, Washington, DC 20301–3060. Mr. Jeff Grover may be contacted by email at *jeffrey.c.grover.civ@mail.mil* or by telephone at 703–697–9352.

SUPPLEMENTARY INFORMATION: In accordance with section 2330a of title 10 United States Code, the Office of the Deputy Director, Defense Procurement and Acquisition Policy, Contract Policy and International Contracting (DPAP/CPIC) will make available to the public the annual inventory of contracts for services. The inventory is posted to the Defense Procurement and Acquisition Policy Web site at: *http://www.acq.osd.mil/dpap/cpic/cp/acquisition_of_services_policy.html.*

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

[FR Doc. 2014–16703 Filed 7–16–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2014–OS–0110]

Privacy Act of 1974; System of Records

AGENCY: National Guard Bureau, DoD.

ACTION: Notice to add a new System of Records.

SUMMARY: The National Guard Bureau proposes to add a new system of records, INGB 001, entitled "Freedom of Information Act (FOIA) and Privacy Act (PA) Case Files" to its inventory of record systems subject to the Privacy Act of 1974, as amended. The information in this system will be used for processing FOIA and PA requests and administrative appeals; for participating in litigation regarding agency action on such requests and appeals; and for assisting the NGB in carrying out any other responsibilities under the FOIA and PA.

DATES: Comments will be accepted on or before August 18, 2014. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

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

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Nikolaisen, 111 South George Mason Drive, AH2, Arlington, VA 22204–1373 or telephone: (571) 256–7838.

SUPPLEMENTARY INFORMATION: The National Guard Bureau notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Web site at *http://dpclo.defense.gov/.* The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 13, 2014, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated

February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: July 11, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

INGB 001

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act (PA) Case Files.

SYSTEM LOCATION:

National Guard Bureau (NGB) Office of Information and Privacy (OIP), Office of the Chief Counsel, 111 South George Mason Drive, Arlington Hall 2, Arlington, VA 22204–1373.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested documents under the provisions of the Freedom of Information Act or Privacy Act from the NGB FOIA Requester Service Center; individuals whose requests and/or records have been processed under the FOIA or PA and referred by other Federal agencies; and attorneys representing individuals submitting such requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Original records created or compiled in response to FOIA or PA requests and administrative appeals. Requests include requesters' name, mailing address, FOIA or PA case number, subject of the request, telephone numbers and email addresses. Responses to such requests and administrative appeals include all related memoranda, correspondence, notes and other related or supporting documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; 5 U.S.C. 552, Public Information; Agency Rules, Opinions, Orders, Records, and Proceedings; 5 U.S.C. 552a, Records Maintained on Individuals; 32 CFR 329, NGB Privacy Program; DoD 5400.7–R, DoD FOIA Program; DoD 5400.11–R, DoD Privacy Program; and DoDD 5105.77, National Guard Bureau.

PURPOSE:

Information is being collected and maintained for the purpose of processing FOIA and PA requests and administrative appeals; for participating in litigation regarding agency action on such requests and appeals; and for assisting the NGB in carrying out any other responsibilities under the FOIA and PA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Retrieved by name of requester, subject matter, date of request, and FOIA or PA request case number.

SAFEGUARDS:

Paper records are maintained in locked file cabinets with access only to officials based on requirements of assigned duties. Computer databases are restricted to personnel working only within the Office of Information and Privacy that have a need-to know and are accessed with a common access card (CAC).

RETENTION AND DISPOSAL:

Records of requests that are granted are destroyed two years after the date of reply. Records of requests that are denied in whole or part, no records responses, responses to requesters who do not adequately describe records being sought, or do not state a willingness to pay fees, and records which are appealed or litigated are destroyed six years after final action.

SYSTEM MANAGER(S) AND ADDRESS:

NGB/OIP Office of the Chief Counsel, 111 South George Mason Drive, Arlington Hall 2, Arlington, VA 22204–1373.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to NGB/OIP Office of the Chief Counsel, 111 South George Mason Drive, Arlington Hall 2, Arlington, VA 22204–1373.

Written requests must include a signed declaration and include the first and last name of the individual, the timeframe for which records are being requested and FOIA/PA Case number if possible, and a full mailing address in order to receive a response.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to NGB/OIP Office of the Chief Counsel, 111 South George Mason Drive, Arlington Hall 2, Arlington, VA 22204–1373.

Written requests must include a signed declaration and include the first and last name of the individual, the timeframe for which records are being requested and FOIA/PA Case number if possible, and a full mailing address in order to receive a response.

CONTESTING RECORDS PROCEDURES:

The NGB rules for accessing records and for contesting contents and appealing initial agency determinations are published at 32 CFR Part 329 or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals who submit initial requests and administrative appeals pursuant to the FOIA; the agency records searched in the process of responding to such requests and appeals; DoD personnel assigned to handle such requests and appeals; other agencies or entities that have referred to the NGB requests concerning National Guard records or that have consulted with the NGB regarding the handling of particular requests; submitters of records; and information from those that have provided assistance to the NGB in making FOIA and PA access determinations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

During the course of a FOIA or PA action, exempt materials from other systems of records may, in turn, become part of the case records in this system. To the extent that copies of exempt records from those other systems of records are entered into this FOIA or PA case record, the NGB hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary systems of records which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 329. For additional information contact the system manager.

[FR Doc. 2014–16766 Filed 7–16–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Vocational Rehabilitation Services Projects for American Indians With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information

Vocational Rehabilitation Services Projects for American Indians With Disabilities

Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.250J.

DATES: *Applications Available:* July 18, 2014.

Deadline for Transmittal of Applications: September 2, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to provide vocational rehabilitation (VR) services to American Indians with disabilities who reside on or near Federal or State reservations, consistent with their individual strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that they may prepare for and engage in gainful employment, including self-employment, telecommuting, or business ownership.

This program also supports an important White House initiative issued in a Presidential Memorandum on Job-Driven Training for Workers on January 30, 2014.[1] This memorandum emphasizes the importance of developing a workforce with the skills that employers need. The Vocational Rehabilitation Services Projects for American Indians with Disabilities program supports the initiative by providing training and other services to assist individuals with disabilities to prepare for and engage in gainful and competitive employment.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 121(b)(4) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 741(b)(4)).

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:

Continuation of Previously Funded Tribal Programs

In making new awards under this program, we give priority to applications for the continuation of programs that have been funded under the Vocational Rehabilitation Services Projects for American Indians with Disabilities program.

Program Authority: 29 U.S.C. 741.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 80, 81, 82, 84, and 97. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR parts 369 and 371.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $21,000,000.

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: $340,000–$550,000.

Estimated Average Size of Awards: $425,000.

Estimated Number of Awards: 48.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Note: Eligibility for funding under the grant is contingent upon a grantee's continuing eligibility under the program regulations. As described in section III of this notice, these regulations may be amended during the project period for these grants. On an annual basis and as part of our process for making continuation awards under 34 CFR 75.253, the Department will review current grants and determine whether each grantee continues to meet the applicable eligibility requirements.

III. Eligibility Information

1. *Eligible Applicants:* The governing bodies of Indian tribes (and consortia of those governing bodies) located on Federal and State reservations.

Background

On May 9, 2012, the U.S. Government Accountability Office (GAO) released a report, "Federal Funding for Non-Federally Recognized Tribes," GAO–12–348 (available at *www.gao.gov/products/GAO–12–348*), in which a question was raised concerning the Department's practice for determining eligibility under the American Indian Vocational Rehabilitation Services (AIVRS) program. In interpreting the term "reservation," the Department had included tribes that were located on a defined and contiguous area of land where there was a concentration of tribal members and on which the tribal government was providing structured activities and services, such as the tribal service areas identified in a tribe's grant application.

The Department agreed to comply with GAO's recommendation that the Secretary review the eligibility requirements for AIVRS grants and take appropriate action on grants made to tribes that do not have Federal or State reservations.

For FYs 2012 and 2013, the Department decided not to conduct competitions for new awards under the AIVRS program while it was studying this issue. It extended any grants that were expiring at the end of FYs 2012 and 2013 and waived the regulatory prohibition on cost extensions so that these grantees could continue to receive grant funds while the Department was conducting its review. (77 FR 59085 (September 26, 2012); 78 FR 57066 (September 17, 2013))

On June 23, 2014, the Department published in the **Federal Register** a notice of proposed rulemaking (NPRM) that proposes, as one alternative, to amend the regulatory definition of "reservation," to limit the definition only to traditional Federal and State reservations and other land areas specifically listed in the statutory definition of "reservation" in 29 U.S.C. 741(c). (79 FR 35502) However, the NPRM also proposes an alternative definition of "reservation" consistent with the Department's long-standing interpretation that includes, in the definition of "reservation," a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.

Given the time needed to fully consider all comments to the NPRM in concert with comments received through tribal consultation, and before a final determination on the definition of "reservation" is reached, the Department decided that it is in the best interests of the program, its grantees, and the American Indians with

[1] Obama, B.H., Presidential Memorandum on Job-Driven Training for Workers. The White House, Office of the Press Secretary. January 30, 2014. Available at: *www.whitehouse.gov/the-press-office/2014/01/30/presidential-memorandum-job-driven-training-workers.*

disabilities they serve, to hold a competition for FY 2014. Because the Department has not published final regulations changing its definition of "reservation," the competition for FY 2014 will be conducted using the interpretation of "reservation" that the Department has used for many years. Consequently, an applicant that can demonstrate it is located on a defined and contiguous area of land where there is a concentration of tribal members and on which the tribal government is providing structured activities and services is eligible to apply. One way of demonstrating eligibility is to show that the U.S. Census identifies the applicant's land area as a State designated tribal statistical area or tribal designated statistical area.

Eligibility for funding under the grant beyond the initial year is contingent upon a grantee's continuing eligibility under the program regulations, as the regulations may be amended. On an annual basis and, as part of our process for making continuation awards under 34 CFR 75.253, the Department will review current grants and determine whether each grantee continues to meet the applicable eligibility requirements.

2. *Cost Sharing or Matching:* Cost sharing is required by 34 CFR 371.40.

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 a text telephone (TTY), call, toll free: 1–877–576–7734.

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 84.250J.

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 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. These include a requirement that the applicant submit documentation demonstrating that it is a federally or State recognized tribe and is located on a Federal or State reservation, as interpreted by the Department to include a defined and contiguous area of land where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.

Note: Each application must describe how the Special Application Requirements stated at 34 CFR 371.21 will be met, including evidence that the applicant has or will obtain a formal cooperative agreement with the appropriate State VR agency or agencies that include strategies for collaboration and coordination of service provision.

3. *Submission Dates and Times:*

Applications Available: July 18, 2014.

Deadline for Transmittal of Applications: September 2, 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:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of 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 and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an

Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under 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 AIVRS program, CFDA number 84.250J, 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 AIVRS 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 84.250, not 84.250J).

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 any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically 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 the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: August Martin, U.S. Department of Education, 400 Maryland Avenue SW., Room 5049, Washington, DC 20202–2800. FAX: (202) 245–7592.

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 84.250J) 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 84.250J) 550 12th Street SW., Room 7039, 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 of EDGAR and are listed in the application package. The maximum score for all of the selection criteria is 100 points, plus the 10 competitive preference priority points (see Section I. *Competitive Preference Priority*).

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 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 part 80; 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 established three performance measures for the AIVRS program. The measures are (1) the percentage of individuals who leave the program with an employment outcome, (2) the percentage of projects that demonstrate an average annual cost per employment outcome of no more than $35,000, and (3) the percentage of projects that demonstrate an average annual cost per participant of no more than $10,000. Each grantee must annually report its performance on these measures through the Annual Progress Reporting Form (APR Form) for the AIVRS program.

Job Training and Employment Common Measures

In addition, the AIVRS APR Form requests data necessary to assess the AIVRS program's performance on supplemental measures that are comparable to the job training and employment common measures that were developed by the Office of Management and Budget in coordination with Federal agencies with job training programs. Each grantee is required to collect and report data for these supplemental measures as part of the annual performance report requirement, including information on: (1) The number of individuals who, during this reporting period, were still employed three months after achieving an employment outcome, (2) the number of individuals who, during this reporting period, were still employed six months after achieving an employment outcome, (3) the average weekly earnings at entry, and (4) the average weekly earnings of the individuals whose employment outcomes resulted in earnings.

Note: For purposes of this section, the term "employment outcome" has the meaning provided in 34 CFR 369.4.

5. *Continuation Awards:* In making a continuation award, the Secretary considers, 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 and the cost principles described in the Office of Management and Budget (OMB) Circular A–87. 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). On an annual basis and as part of our process for making continuation awards under 34 CFR 75.253, the Department will review current grants and determine whether each grantee continues to meet the applicable eligibility requirements.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: August Martin, U.S. Department of Education, 400 Maryland Avenue SW., Room 5049, Potomac Center Plaza (PCP), Washington, DC 20202–2800. Telephone: (202) 245–7410 or by email: *august.martin@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Services (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) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 14, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–16830 Filed 7–16–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance: Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of Open Teleconference Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming open teleconference meeting of the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the Advisory Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES AND TIME: Wednesday, August 20, 2014, beginning at 2:00 p.m. and ending at approximately 2:30 p.m. (EDT).

ADDRESSES: Office of the Advisory Committee on Student Financial Assistance, Capitol Place, 80 F Street NW., Suite 412, Washington DC 20202–7582.

FOR FURTHER INFORMATION CONTACT: Dr. William J. Goggin, Executive Director, Advisory Committee on Student Financial Assistance, Capitol Place, 80 F Street NW., Suite 413, Washington DC 20202–7582, (202) 219–2099.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee serves as an independent source of advice and counsel to the Congress and the Secretary of Education on student financial aid policy. Since its inception, the congressional mandate requires the Advisory Committee to conduct objective, nonpartisan, and independent analyses on important aspects of the student assistance programs under Title IV of the Higher Education Act. In addition, Congress expanded the Advisory Committee's mission in the Higher Education Opportunity Act of 2008 to include several important areas: Access, Title IV modernization, early information and needs assessment and review and analysis of regulations.

Specifically, the Advisory Committee is to review, monitor and evaluate the Department of Education's progress in these areas and report recommended improvements to Congress and the Secretary.

The Advisory Committee has scheduled this teleconference for the sole purpose of electing an ACSFA member to serve as chair and a member to serve as vice-chair for one year beginning October 1, 2014.

Space at the F Street meeting site and listen only, dial-in line for the teleconference is limited, and you are encouraged to register early if you plan to attend. You may register by sending an email to the following email address: *tracy.deanna.jones@ed.gov*. Please include your name, title, affiliation, complete address (including internet and email, if available), and telephone and fax numbers. If you are unable to register electronically, you may fax your registration information to the Advisory Committee staff office at (202) 219–3032. You may also contact the Advisory Committee staff directly at (202) 219–2099. The registration deadline is Wednesday, August 13, 2014.

Individuals who will need accommodations for a disability in order to attend the teleconference meeting (i.e., interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Wednesday, August 13, 2014 by contacting Ms. Tracy Jones at (202) 219–2099 or via email at *tracy.deanna.jones@ed.gov*. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The teleconference site is accessible to individuals with disabilities. Individuals who use a telecommunications device for the deaf (TTY) may call the Federal Information Relay Service (FRS) toll free at 1–800–877–8339.

Records are kept for Advisory Committee proceedings, and are available for inspection at the Office of the Advisory Committee on Student Financial Assistance, Capitol Place, 80 F Street NW., Suite 413, Washington, DC, from the hours of 9:00 a.m. to 5:30 p.m. Eastern Standard Time, Monday through Friday, except Federal holidays. Information regarding the Advisory Committee is available on the Committee's Web site, *www.ed.gov/ACSFA*.

Dated: July 11, 2014.

William J. Goggin,

Executive Director, Advisory Committee on Student Financial Assistance.

[FR Doc. 2014–16768 Filed 7–16–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 13–153–LNG]

Waller LNG Services, LLC (d/b/a Waller Point LNG); Application for Long-Term Authorization To Export Liquefied Natural Gas Produced From Domestic Natural Gas Resources to Non-Free Trade Agreement Countries for a 25-Year Period

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on November 26, 2013, by Waller LNG Services, LLC (d/b/a Waller Point LNG) (Waller Point), requesting long-term, multi-contract authorization to export liquefied natural gas (LNG) produced from domestic sources in a volume up to 1.5 million metric tons per year (mtpa), which Waller Point states is equivalent to approximately 70 billion cubic feet per year (Bcf/yr) of natural gas, or 0.19 Bcf per day (Bcf/d).[1] Waller Point seeks authorization to export the LNG from the proposed Waller Point LNG Terminal (the Terminal), to be located in the Calcasieu Ship Channel in Cameron Parish, Louisiana, for a 25-year term commencing on the earlier of the date of first export or five years from the date the authorization is granted. Waller Point requests authorization to export the LNG by vessel to any country with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas (non-FTA countries), and with which trade is not prohibited by U.S. law or policy. Waller Point requests this authorization on its own behalf and as agent for other parties who hold title to the LNG at the time of export. The Application was filed under section 3 of the Natural Gas Act (NGA). Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, September 15, 2014.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Marc Talbert, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–7991;

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9793.

SUPPLEMENTARY INFORMATION:

Background

Applicant. Waller Point is a Texas limited liability company authorized to transact business in Louisiana. Waller Point states that its principal business address and registered office is in New Orleans, Louisiana, and its principal registered address is in Houston, Texas. Waller Point is a wholly owned subsidiary of Waller Energy Holdings, LLC, a Texas limited liability company. Waller Energy Holdings, LLC is a wholly owned subsidiary of Waller Liquefaction, L.P., a Texas limited partnership. The General Partner of Waller Liquefaction, L.P. is Waller LNG GP, LLC, a Texas limited liability company wholly owned by Waller Marine, Inc. (Waller Marine), a Texas corporation. Waller Marine is the developer of the Waller Point LNG Terminal, and is involved in developing LNG terminals and LNG storage and transportation vessels.

Procedural History. On October 12, 2012, in FE Docket No. 12–152–LNG, Waller Point filed an application proposing to export LNG to countries

[1] Applicants are required to provide volumes of natural gas in Bcf, 10 CFR 590.202(b)(1), and therefore DOE/FE will address Waller Point's requested authorization in Bcf/yr below.

with which the United States currently has, or in the future enters into, a free trade agreement requiring national treatment for trade in natural gas (FTA countries). On December 20, 2012, in Order No. 3211, DOE/FE authorized Waller Point to export domestically produced LNG by vessel from the proposed Waller Point LNG Terminal to FTA countries in a volume equivalent to 58.4 Bcf/yr of natural gas (0.16 Bcf/d) for a 25-year term.[2]

Liquefaction Project. Waller Point seeks long-term authorization to export domestically produced LNG from the proposed Waller Point LNG Terminal. Waller Point states that it is taking steps to build natural gas processing and liquefaction facilities to receive and liquefy domestic natural gas at the Terminal. Waller Point further states that it has secured, via long-term ground leases, a site of approximately 180 acres of land located at the Gulf of Mexico entrance point of the Calcasieu Ship Channel in Cameron Parish, Louisiana.[3]

According to Waller Point, the proposed Terminal will consist of liquefaction units capable of producing LNG up to a total export capacity of 2.75 mtpa, of which up to 1.5 mpta of LNG (the equivalent of approximately 70 Bcf/yr of natural gas) will be exported to non-FTA countries if the authorization subject to this Notice is granted. The Terminal also will consist of: (i) Berthing and accommodations for multiple LNG vessels, as well as unloading facilities and other features; (ii) a LNG storage facility having storage capacity up to 60,000 cubic meters; and (iii) associated utilities, infrastructure, and support systems.

Waller Point states that, once the Terminal facilities are constructed and operational, the Terminal will receive natural gas by pipeline. The Terminal will be capable of natural gas treatment, liquefaction, and export by direct transfer into off-taking LNG barges or by transfer from the Terminal's storage tanks into off-taking LNG barges berthed along the marine facilities in the Calcasieu Ship Channel.

[2] *Waller LNG Services, LLC (d/b/a Waller Point LNG),* DOE/FE Order No. 3211, FE Docket No. 12–152–LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Waller Point LNG Terminal in Cameron Parish, Louisiana, to Free Trade Agreement Nations (Dec. 20, 2012).

[3] Waller Point states that the site continues north for approximately 3,900 feet alongside the western side of the Ship Cannel, and includes all of Irregular Section 29 and part of Irregular Section 30, Township 15 South, Range 10 West of the Louisiana Meridian.

Current Application

Waller Point requests long-term, multi-contract authorization to export LNG in a volume equivalent to approximately 70 Bcf/yr of domestic natural gas (0.19 Bcf/d) from the proposed Waller Point LNG Terminal to any non-FTA country which has developed or in the future develops the capacity to import LNG, and with which trade is not prohibited by U.S. law or policy. Waller Point requests this authorization for a 25-year term commencing on the earlier of the date of first export or five years from the date the requested authorization is granted.

Waller Point states that it seeks to export the requested LNG on its own behalf and as agent for others. Waller Point states that it will comply with all DOE/FE requirements for exporters and agents as set forth in recent DOE/FE orders, including registering each LNG title holder for whom Waller Point seeks to export as agent. Waller Point proposes that this registration include a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements included by DOE/FE in Waller Point's export authorization, and to include those requirements in any subsequent purchase or sale agreement entered into by the title holder. In addition, Waller Point states that it will file under seal with DOE any relevant long-term commercial agreements between Waller Point and the LNG title holder, once those agreements have been executed.

Waller Point further states that it has not yet executed any long-term agreements or long-term export contracts, but is engaged in commercial discussions with foreign off-takers to obtain all of the available liquefaction capacity at the Waller Point LNG Terminal. Citing DOE/FE precedent, Walker Point states that applicants are not required to submit transaction-specific information with their applications, but may submit such information when the contracts reflecting such information are executed. Waller Point states that DOE/FE has previously found that this commitment conforms to the requirements of 10 CFR 590.202(b), which calls upon applicants to supply transaction specific information "to the extent practicable."

Waller Point anticipates that either it, Waller Marine (the developer of the Terminal), or individual customers who hold title to natural gas (via a liquefaction tolling agreement) will bear the responsibility for sourcing gas supplies for delivery to the Terminal. Waller Point states that, through Waller Marine, it will commence negotiations with certain natural gas suppliers for transportation capacity and the required lateral pipeline to be constructed, once commercial discussions between those suppliers and Waller Point progress.

Waller Point proposes to source natural gas to be used as feedstock for LNG production from the interstate and intrastate grid, at points of interconnection with other pipelines and points of liquidity both upstream and downstream of the pipeline. Waller Point anticipates that the Terminal will be connected to multiple interstate and Louisiana intrastate pipelines, which will enable it to purchase natural gas from conventional and unconventional basins across the region, state, and from virtually anywhere in the nation. Waller Point states that the gas supply can be sourced in requisite volumes in the spot market or pursued under long-term arrangements.

Public Interest Considerations

Waller Point contends that the proposed exports from the Waller Point LNG Terminal to non-FTA countries are consistent with the public interest under section 3(a) of the NGA, 15 U.S.C. 717b(a). Waller Point states that it is seeking to export relatively small volumes of LNG, particularly when compared to similar non-FTA export applications recently approved and pending before DOE/FE. Waller Point states that the export of smaller volumes of LNG has become economically and technically feasible in recent years due to: (i) The increasing domestic supply of natural gas, and (ii) the development of Waller Marine's patent-pending articulated tug and barge LNG regasification vessel arrangement. Waller Point asserts that the export of these smaller volumes of natural gas, including its proposed exports, will not have a significant impact on domestic supply, and will fulfill a need that is not otherwise being met in the domestic or international marketplace.

In support of its Application, Waller Point addresses: (i) The domestic need for the LNG to be exported, (ii) the impact on domestic natural gas market prices, and (iii) the economic and environmental benefits associated with its proposed exports. Waller Point asserts that the proposed exports will not cause a significant increase in domestic natural gas prices, will create more domestic employment opportunities, and will advance the development of LNG infrastructure needed for the United States to fully realize the use of LNG as a domestic transportation fuel in striving to achieve energy independence. For these reasons,

Waller Point asserts that its requested export authorization will have a positive effect on the U.S. economy and move the country closer to energy independence without detrimentally impacting the domestic natural gas supply.

Focusing on domestic need for the LNG, Waller Point states that recoverable reserves of natural gas in the United States are economical and plentiful enough to meet demand for both domestic consumption and long-term export from the Waller Point LNG Terminal. According to Waller Point, technological advancements in natural gas exploration and production have allowed for the continued development of previously undiscovered domestic shale gas reserves. Waller Point asserts that there has been a consistent trend of upward re-adjustment of U.S. recoverable natural gas reserves. Citing data from the U.S. Energy Information Administration (EIA), Waller Point states that the EIA estimates 2,203 trillion cubic feet of technically recoverable gas in the United States—a figure that it states far exceeds the volume of anticipated exports. For these and other reasons, Waller Point asserts that its proposed exports will not materially impact the availability of natural gas supply from a regional and national perspective, nor will the exports be needed to meet demand in the United States.

Additional details can be found in Waller Point's Application, which is posted on the DOE/FE Web site at: *http://www.fossil.energy.gov/programs/gasregulation/authorizations/2013_applications/13_153_LNG.pdf.*

Environmental Impact

Waller Point states that any construction or modifications to the Waller Point LNG Terminal resulting from or in connection with the Application would be subject to approval by the Federal Energy Regulatory Commission (FERC). Following the issuance of this requested authorization, Waller Point states that it will initiate the pre-filing review process at FERC for the proposed Terminal, consistent with the requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* Waller Point anticipates that FERC will act as the lead agency for the environmental review, with DOE acting as a cooperating agency. Waller Point requests that DOE/FE issue an order approving this Application, with such approval subject to completion by FERC of a satisfactory environmental review.

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation, the U.S. balance of trade, and international considerations; and whether the authorization is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Due to the complexity of the issues raised by the Applicant, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov* with FE Docket No. 13–153–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 13–153–LNG. **Please Note:** If submitting a filing via email, please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision, and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on July 11, 2014.

A. Anderson,

Director, Division of Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2014–16829 Filed 7–16–14; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9913–86–Region–1]

Notice of Availability of Draft NPDES General Permits MAG07000 and NHG07000 for Discharges From Dewatering Activities in the Commonwealth of Massachusetts and the State of New Hampshire: The Dewatering General Permit (DGP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Draft NPDES General Permits MAG07000 and NHG07000.

SUMMARY: The Director of the Office of Ecosystem Protection, EPA-New England, is providing a notice of availability of draft National Pollutant Discharge Elimination System (NPDES) general permits for dewatering activity discharges to certain waters of the Commonwealth of Massachusetts and the State of New Hampshire. These General Permits replace the Dewatering General Permits, which expired on September 30, 2013.

DATES: Comment on the draft general permits must be received on or before August 18, 2014.

Public Hearing Information: EPA will hold a public hearing, if necessary, in accordance with 40 CFR 124.12 and will provide interested parties with the opportunity to provide written and/or oral comments for the official administrative record.

ADDRESSES: Comments on the draft general permits shall be submitted by one of the following methods:

(1) *Email: alvarez.victor@epa.gov* or

(2) *Mail:* Victor Alvarez, U.S. EPA—Region 1, 5 Post Office Square—Suite 100, Mail Code OEP06–4, Boston, MA 02109–3912. No facsimiles (faxes) will be accepted.

The draft permit is based on an administrative record available for public review at EPA—Region 1, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Boston, Massachusetts 02109–3912. A reasonable fee may be charged for copying requests. The facts sheet for the draft general permit sets forth principal facts and the significant factual, legal, methodological and policy questions considered in the development of the draft permit and is available upon request. A brief summary is provided as **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the draft General Permits may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday, excluding holidays, from Victor Alvarez, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Boston, MA 02109–3912; telephone: 617–918–1572; email: *alvarez.victor@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA is proposing to reissue two draft general permits for the discharge of uncontaminated water from construction dewatering intrusion and/or stormwater accumulation from sites that disturb less than one acre of land and short and long term dewatering of foundation sumps. While the draft general permits are two distinct permits, for convenience, EPA has grouped them together in a single document and has provided a single fact sheet for the two draft general permits. This document refers to the draft general "permit" in the singular. The draft general permit, appendices and fact sheet are available at: *http://www.epa.gov/region1/npdes/dewatering.html.*

The draft General Permit establishes Notice of Intent (NOI) requirements, effluent limitations, standards, prohibitions, and management practices for facilities with construction dewatering of groundwater intrusion and/or storm water accumulation from sites less than one acre and short-term and long-term dewatering of foundation sumps. The draft permit includes effluent limitations based on best professional judgment (BPJ) and water quality considerations. When EPA has not promulgated effluent limitations for a category of discharges, or if an operator discharges a pollutant not covered by an effluent limitation guideline, effluent limitations may be based on the BPJ of the agency or permit writer. The BPJ limits in the general permit are in the form of non-numeric control measures, commonly referred to as best management practices (BMPs). The effluent limits established in the draft permit assures that the surface water quality standards of the receiving water are protected, maintained and/or attained. Discharges that contain pollutants in quantities which represent reasonable potential to cause or contribute to violations of water quality standards will not be granted coverage under this general permit. Those dischargers must either apply for an individual permit or seek coverage under EPA's Remediation General Permit.

Other Legal Requirements

Endangered Species Act (ESA)

The provisions related to the ESA have be updated from the 2008 general permit and new species of concern have been added. EPA has requested concurrence from the appropriate federal services (U.S Fish and Wildlife Service and National Marine Fisheries Service) in connection with this draft permit.

Authority: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: June 19, 2014.

H. Curtis Spalding,

Regional Administrator.

[FR Doc. 2014–16809 Filed 7–16–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:17 a.m. on Tuesday, July 15, 2014, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters related to the Corporation's supervision, corporate, and resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Thomas M. Hoenig, seconded by Director Jeremiah O. Norton (Appointive), concurred in by Director Thomas J. Curry (Comptroller of the Currency), Director Richard Cordray (Director, Consumer Financial Protection Bureau), and Chairman Martin J. Gruenberg, that Corporation business required its consideration of

the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. §§ 552b(c)(4), (c)(6), (c)(8), c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: July 15, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–16978 Filed 7–15–14; 4:15 pm]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 11, 2014.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Eagle Bancorp Montana, Inc.*, Helena, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of Opportunity Bank of Montana, Helena, Montana. Opportunity Bank of Montana is a state-chartered interim commercial bank that intends to merge with American Federal Savings Bank, Helena, Montana, with Opportunity Bank of Montana as the survivor. American Federal Savings Bank is currently a wholly-owned subsidiary of Eagle Bancorp Montana.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Northern Missouri Bancshares, Inc.*, Unionville, Missouri; to acquire 80 percent of the voting shares of Concordia Banc-Management, Inc., and thereby indirectly acquire voting shares of Concordia Bank, both in Concordia, Missouri.

C. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Catahoula Holding Company*, Jonesville, Louisiana; to acquire 100 percent of the voting shares of JBI Financial Corporation, and thereby indirectly acquire voting shares of Bank of Jena, both in Jena, Louisiana.

Board of Governors of the Federal Reserve System, July 14, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–16813 Filed 7–16–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier HHS–OS–0990–New–30D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before August 18, 2014.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

Information Collection Request Title: Title X Family Planning Outreach and Enrollment Data Collection Form.

Abstract: The Office of Population Affairs within the Office of the Assistant Secretary for Health seeks to collect data from the Title X service delivery grantees on efforts related to outreach and enrollment to assist individuals in obtaining health insurance available as a result of the Affordable Care Act (ACA). Grantees will be asked to collect and report information on the numbers of individuals who are; (1) Assisted by a trained health center worker; (2) number of individuals who receive an eligibility determination for the marketplace, Medicaid or CHIP with the assistance of a trained worker; and (3) number of individuals who enroll in an insurance program with the assistance of a trained worker. For each of the data points above, respondents will have the option to break out the data for partial Medicaid (i.e. waiver programs), full Medicaid, and private marketplace plans. The detailed data will be optional for those who are able to provide it. The information will be reported for all sites in their grantee network.

Need and Proposed Use of the Information: The Title X Family Planning Program ("Title X program" or "program") is the only Federal grant program dedicated solely to providing individuals with comprehensive family planning and related preventive health services (e.g., screening for breast and cervical cancer, sexually transmitted diseases (STDs), and human immunodeficiency virus [HIV]). By law, priority is given to persons from low-income families (Section 1006[c] of Title X of the Public Health Service Act, 42 USC 300). The Office of Population Affairs (OPA) within the Office of the Assistant Secretary for Health administers the Title X program.

In fiscal year 2013, Congress appropriated approximately $296.8

million for Title X family planning activities. In accordance with the statute and regulations (42 Code of Federal Regulations [CFR] Part 59), at least 90% of the appropriation is used for clinical family planning services. In 2012, 98 Title X grantees provided family planning services to five million women and men through a network of 4,400 community-based clinics that include state and local health departments, tribal organizations, and other public and private nonprofit agencies. There is at least one clinic that receives Title X funds and provides services as required under the Title X statute in 73% of U.S. counties.

Sixty percent of the clients seen at Title X funded service sites self-identify as being uninsured. Seventy percent of the total clients are under the age 30. Thus Title X service sites see a large proportion of young and uninsured individuals. Over the past years, OPA has encouraged grantees to develop enrollment programs to ensure that clients who are currently uninsured understand new health insurance options that are available as a result of the ACA. Some sites already assist individuals with enrolling in Medicaid and other public insurance programs. With the availability of the health insurance marketplace, many more service delivery sites are assisting clients enroll in health insurance programs.

OPA does not have any data on how many sites are assisting and enrolling clients into health insurance programs. Thus we seek to collect this data in order to understand the impact of Title X funded service sites on assisting and enrolling clients into insurance programs. We will utilize this information to guide strategic planning around how Title X service sites and prepare for, and assist with, the full implementation of the ACA. Through a separate data collection process called the Family Planning Annual Report (FPAR) (OMB No. 0990–0221, expiration January 31, 2016), OPA collects information on the insurance status of the clients served. With the implementation of the ACA, many of the traditional clients served by Title X service sites will qualify for health insurance.

Likely Respondents: This annual reporting requirement is for family planning services delivery projects authorized and funded by the Title X Family Planning Program.

Burden Statement: 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 ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Outreach and Enrollment Activities	4200 service sites	1	0.20	840

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2014–16765 Filed 7–16–14; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–14–14AOD]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Youth@Work—Talking Safety Curriculum Dissemination Project: Incentives for adoption among public school districts—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health

at work for all people through research and prevention. Working youth have long been a priority area for NIOSH. Approximately 17.5 million workers were less than 24 years of age in 2010, representing 13% of the workforce [NIOSH 2014]. For the period 1997 through 2003, nearly 80% of high school students reported working while still in high school [BLS 2005; NIOSH 2013]. During the 10-year period 1998–2007, an estimated 7.9 million nonfatal injuries to younger workers were treated in U.S. hospital emergency departments (EDs) [CDC 2010]. The nonfatal injury rate was 5.0 ED-treated injuries per 100 full-time equivalent (FTE) workers, approximately two times higher than among workers age 25 or over [CDC 2010]. One study estimates that work-related injuries for youths up to age 19 account for an annual cost of $5 billion, or 3.9% of all workplace injury costs in the United States [Miller and Waehrer 1998].

Given the disproportionate number of workplace injuries and illnesses suffered by young workers, occupational safety education is a critical and urgent concern [Chin et al. 2010]. Although the Occupational Safety and Health (OSH) Act of 1970 regulates that employers have the primary responsibility for providing a safe and healthy workplace, future working generations should be equipped with a foundation of workplace safety and health knowledge and skills. A mastery of general occupational safety and health competencies that protect workers from injury or illness are key to any work-readiness effort and to every job. NIOSH has developed fundamental workplace safety and health competencies that apply to all workplaces [NIOSH 2013; Schulte et al. 2014]. The eight core workplace safety and health competencies are general transferable skills that can apply across all industries. They can be used with the job-specific skills that workers gain through apprenticeship and career technical or vocational training programs. These core competencies/skills can be used to improve the health and safety of individuals in other places as well, such as in homes, schools, or communities.

The purpose of this study is, therefore, to conduct key informant interviews with a limited number of assistant superintendents and/or curriculum coordinators in school districts across the country to assess their openness to incorporating workplace safety and health skills for young workers into their programs as a vital component of their curricula in both academic and vocational education programs at the middle and high school level. The information will inform NIOSH on incentives barriers for the inclusion of work place safety and health competencies as the "missing life skill" in the curricula and programs of U.S. middle schools and high schools. Providing youth with foundational workplace health and safety skills enables young workers to better protect themselves and others and to contribute to safe and healthy working conditions.

For this project, twenty-eight (28) key informant interviews will be conducted. They will consist of seven (7) respondents from each of the four (4) regions of the United States (Northeast, Midwest, West, South) as defined by the U.S. Census Bureau. In each region, a sample of districts will be selected based on jurisdictional density, as defined by the National Center for Education Statistics (NCES). The participants for this data collection will be recruited with the assistance of a contractor who has successfully performed similar tasks for NIOSH in the past. The sample size is based on recommendations related to qualitative interview methods and the research team's prior experience. The interview discussion guide will be administered verbally by phone to participants in English. Once this study is complete, results will be made available via various means including print publications and the agency internet site. The information gathered by this project will inform NIOSH of the receptivity and barriers faced by these school districts for incorporating workplace safety and health competencies for young workers as a vital component of their curricula within academic and vocational education programs at the middle and high school level. There is no cost to respondents other than their time.

The total estimated annual burden hours are 14.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Public School Officials	Interview discussion guide	28	1	30/60	14
Total					14

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–16791 Filed 7–16–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–14–14AOO]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a)

Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Monitoring and Reporting System for the Division of Community Health's Cooperative Agreement Programs—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) established the Division of Community Health (DCH) to support multi-sectorial, community-based programs that promote healthy living. In 2014, DCH announced three new cooperative agreement programs authorized by the Public Health Service Act and the Prevention and Public Health Fund of the Affordable Care Act (Funding Opportunity Announcement (FOA) DP14–1417, FOA DP14–1418, and FOA DP14–1419PPHF14). The new programs are designed to address chronic diseases and risk factors for chronic diseases, including physical inactivity, poor diet, obesity, and tobacco use. The programs will provide support for implementation of broad, evidence- and practice-based policy and environmental improvements in large and small cities, urban rural areas, tribes, multi-sectorial community coalitions, and racial and ethnic communities experiencing chronic disease disparities. DCH programs align with the *National Prevention Strategy* and "Healthy People 2020" focus areas.

Awards under the new FOAs will be announced in the Fall of 2014. Awardees are expected to include a mix of approximately 57 state, local, and tribal government entities, and approximately 51 private sector entities including national organizations. CDC will seek OMB approval to collect information from these awardees.

Information collection will be conducted primarily via an electronic management information system (MIS) which will enable the accurate, reliable, uniform and timely submission to CDC of each awardee's work plans and progress reports, including objectives and milestones. The electronic MIS will also generate a variety of routine and customizable reports. Local level reports will allow each awardee to summarize its activities and progress towards meeting work plan objectives. CDC will use the information collected in the MIS to monitor each awardee's progress and to identify its strengths and weaknesses. Monitoring allows CDC to determine whether an awardee is meeting performance goals and to make adjustments in the type and level of technical assistance provided to them to support attainment of their objectives. CDC's monitoring and evaluation activities also allow CDC to provide oversight of the use of federal funds, and to identify and disseminate information about successful prevention and control strategies implemented by awardees. Finally, the information collection will allow CDC to monitor the increased emphasis on partnerships and programmatic collaboration, and is expected to reduce duplication of effort, enhance program impact and maximize the use of federal funds. The estimated burden of initial population of the MIS is 15 hours per awardee. Thereafter, the estimated burden of producing each semi-annual report is 3 hours.

Due to substantial interest in the new DCH programs from a variety of stakeholders, CDC may also seek OMB approval to conduct targeted, special-purpose information collections on an as-needed basis. CDC estimates that each DCH awardee could be asked to participate in one special purpose information collection per year. Methods for these data collections could include telephone interviews, in-person interviews, Web-based surveys, or paper-and-pencil surveys. Each special-purpose information collection request will be submitted to OMB for approval through the Change Request mechanism, and will include the data collection instrument(s) and a description of purpose and methods.

OMB approval is requested for three years. Participation in semi-annual progress reporting is required for cooperative agreement awardees, but could be voluntary for some special-purpose data collections. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
DCH Program Awardees (state, local and tribal government sector).	DCH MIS: Initial population	19	1	15	285
	DCH MIS: Semi-annual reporting	57	2	3	342
	Special Data Request	19	1	17	323
DCH Program Awardees (private sector).	DCH MIS: Initial population	17	1	15	255
	DCH MIS: Semi-annual reporting	51	2	3	306
	Special Data Request	17	1	17	289
Total					1,800

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–16840 Filed 7–16–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–14–0975]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Virtual Reality to Train and Assess Emergency Responders—Revision—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NIOSH, under Public Law 91–173 as amended by Public Law 95–164 (Federal Mine Safety and Health Act of 1977), and Public Law 109–236 (Mine Improvement and New Emergency Response Act of 2006) has the responsibility to conduct research to improve working conditions and to prevent accidents and occupational diseases in underground coal and metal/nonmetal mines in the U.S.

The turn of the 21st century started with much promise for the coal mining industry. Because there was only one underground disaster in the 1990s, it seemed that emergency response in the United States no longer needed to be a top research priority. However, major coal mine disasters between 2001 and 2010 have resulted in 65 fatalities. These events highlighted the critical need to balance investments to reduce low probability/high severity events with those that focus on frequent, but less severe injuries and illnesses.

The present research project seeks to determine optimal use of virtual reality (VR) technologies for training and assessing mine emergency responders using the Mine Rescue and Escape Training Laboratory (MRET Lab). Responders include specially trained individuals, such as mine rescue or fire brigade team members, and also managers and miners who may either be called upon to respond to an emergency situation or engage in self-protective actions in response to an emergency. This project is a step toward determining how new immersive virtual reality technologies should be used for miner training and testing in the U.S.

As stated previously in the original information collection request justification, research activities involving rank-and-file underground coal miners who participate in the mine escape training may occur at either the MRET Lab or in an off-site classroom or other typical instructional setting either at an above-ground mine safety training facility, mine administration building, or a university or academic environment (hereinto referenced as the "classroom setting"). Having these two subsamples allows us to better assess uses for VR training applications, determine the potential additive value of training provided in the MRET Lab, and the potential benefits of adapting simulation-based mine emergency training to a broader audience. To accommodate an appropriate amount of mine escape participants for both the MRET Lab modules and classroom settings, we are requesting adding 60 more participants to our 150 participant data collection cap, which would ideally leave us with 30 BG4 participants, 60 mine rescue participants (MRET Lab), 60 mine escape participants (MRET Lab), and 60 mine escape participants (classroom setting), for a new grand total of 210 participants.

The project objective will be achieved through specific aims in two related areas as illustrated below.

Training assessment:

1. Evaluate four training modules
2. Evaluate participant reactions
3. Develop guidelines

Training development:

4. Use 3D technologies to develop a prototype for a mine rescue closed-circuit breathing apparatus (e.g., Dräger BG4).

To accomplish these goals over the life of the project, researchers will utilize a variety of data collection strategies, including self-report pre- and post-test instruments for assessing trainee reaction and measuring learning. Data collection will take place with approximately 210 underground coal miners over three years. The respondents targeted for this study include rank-and-file miners, mine rescue team members, and mine safety and health professionals. All participants will be between the ages of 18 and 65, currently employed, and living in the United States. Findings will be used to improve the safety and health of underground coal miners by assessing the efficacy of immersive VR environments for teaching critical mine safety and health skills.

To assess learning as a result of training, each participant will complete a pre-training questionnaire, a post-simulation questionnaire, and a post-training questionnaire. Participants evaluating the closed-circuit breathing apparatus training will only complete a version of the pre-training questionnaire. There is no cost to respondents other than their time. The total estimated burden hours are 47.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)
Dräger BG4 participants (i.e., closed circuit breathing apparatus training participants).	Pre-Training Questionnaire	30	1	3/60
Mine Rescue participants	Pre-Training Questionnaire	60	1	3/60
	Post-Simulation Questionnaire	60	1	3/60
	Post-Training Questionnaire	60	1	3/60
Mine Escape participants	Pre-Training Questionnaire	120	1	3/60
	Post-Simulation Questionnaire (MRET Lab version).	60	1	3/60
	Post-Simulation Questionnaire (Field Test Version).	60	1	3/60
	Post-Training Questionnaire	120	1	3/60
Mine Escape/Longwall Mining participants	Pre/Post-Training Knowledge Test	60	1	6/60
Mine Escape/Continuous Mining participants	Pre/Post-Training Knowledge Test	60	1	6/60
Mine Rescue/Longwall Mining participants	Pre/Post-Training Knowledge Test	30	1	6/60
Mine Rescue/Continuous Mining participants	Pre/Post-Training Knowledge Test	30	1	6/60

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–16839 Filed 7–16–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–14–0607]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

The National Violent Death Reporting System (NVDRS) (0920–0607, Expiration 12/31/2015)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Violence is an important public health problem. In the United States, suicide and homicide are the second and third leading causes of death, respectively, in the 1–34 year old age group. Unfortunately, public health agencies do not know much more about the problem than the numbers and the sex, race, and age of the victims, or information obtainable from the standard death certificate. Death certificates, however, carry no information about key facts necessary for prevention such as the relationship of the victim and suspect and the circumstances of the deaths. Furthermore, death certificates are typically available 20 months after the completion of a single calendar year. Official publications of national violent death rates (i.e., those in Morbidity and Mortality Weekly Report) rarely use data that are less than two years old.

Local and Federal criminal justice agencies such as the Federal Bureau of Investigation (FBI) provide slightly more information about homicides, but they do not routinely collect standardized data about suicides, which are in fact much more common than homicides. The FBI's Supplemental Homicide Report (SHRs) does collect basic information about the victim-suspect relationship and circumstances related to the homicide. SHRs, do not link violent deaths that are part of one incident such as homicide-suicides. It also is a voluntary system in which some 10–20 percent of police departments nationwide do not participate. The FBI's National Incident Based Reporting System (NIBRS) provides slightly more information than SHRs, but it covers less of the country than SHRs. NIBRS also only provides data regarding homicides. Also, the Bureau of Justice Statistics Reports does not use data that are less than two years old.

CDC requests OMB approval in order to revise its state-based surveillance system for violent deaths to provide coverage across all U.S. states, territories, and the District of Columbia. The surveillance system captures case record information held by medical examiners/coroners, vital statistics (i.e., death certificates), and law enforcement, including crime labs. Data is collected by each state in the system and entered

into a web system administered by CDC. Information is collected from these records about the characteristics of the victims and suspects, the circumstances of the deaths, and the weapons involved. States use standardized data elements and software designed by CDC. Ultimately, this information will guide states in designing, targeting, and evaluating programs that reduce multiple forms of violence. Neither victim's families nor suspects are contacted to collect this information; it all comes from existing records and is collected by state health department staff or their subcontractors. The number of hours per death required for the public agencies working with NVDRS states to retrieve and then refile their records is estimated to be 0.5 hours per death.

The president has submitted plans to fund the expansion of the state-based surveillance system to collect information in all 50 U.S. states, the District of Columbia, and U.S. territories. This revision will allow 32 new state health departments, the health department of the District of Columbia, and 7 territorial governments to be added to the currently funded 18 state health departments, resulting in a total of 58 public health agencies, which include the 50 U.S. states, the District of Columbia, and territories to be included in the state-based surveillance system. Violent deaths include all homicides, suicides, legal interventions, deaths from undetermined causes, and unintentional firearm deaths. The average state will experience approximately 1,000 such deaths each year.

In the past, abstractors' time was included as burden as they were not compensated to abstract data from death certificates. Moving forward, we will no longer include state abstractors' time spent abstracting data in our estimates of public burden for NVDRS because state abstractors are funded by CDC to do this work. This significantly reduces the estimated public burden associated with NVDRS.

There are no costs to respondents other than their time. The total estimated annual burden hours are 29,000.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Responses per respondent	Average burden per response (in hrs.)
Public Agencies	NVDRS Web System	58	1,000	30/60

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–16841 Filed 7–16–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interagency Task Force on Antimicrobial Resistance (ITFAR) Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Centers for Disease Control and Prevention (CDC), Food and Drug Administration (FDA), and National Institutes of Health (NIH), all located within the Department of Health and Human Services, in collaboration with partner agencies, announce a public meeting concerning antimicrobial resistance. CDC, FDA, and NIH serve as Co-Chairs to the Interagency Task Force on Antimicrobial Resistance (ITFAR). The purpose of the meeting is to communicate the strategic direction of ITFAR in the fight against antimicrobial resistance, centering on current work and future direction in this area.

DATES: The public meeting will be held at the Ronald Reagan Building and International Trade Center in Washington, DC, on Thursday, September 4, 2014, from 1:00 p.m. to 5:00 p.m.

Deadline for Registration for all Attendees: All attendees must register by 12:00 p.m. EDT, Monday, August 18, 2014.

Deadline for Requests for Special Accommodation: Special accommodation requests must be submitted to *ITFAR@cdc.gov* by 12:00 p.m. EDT, Monday, August 18, 2014.

ADDRESSES: The public meeting will be held at the Ronald Reagan Building and International Trade Center, Horizon Ballroom, 1300 Pennsylvania Avenue NW., Washington, DC 20004; Telephone: 202–312–1300.

Participants should be aware that the meeting location is a Federal government building; therefore, Federal security measures are applicable. Please see Building and Security Guidelines for information on security requirements. Additional visitor information is available at *http://www.itcdc.com.*

FOR FURTHER INFORMATION CONTACT: Stephanie Gumbis, Office of Antimicrobial Resistance, National Center for Emerging and Zoonotic Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop A–28, Atlanta, GA 30329; Telephone 404–639–4000; Email *ITFAR@cdc.gov.*

SUPPLEMENTARY INFORMATION:

1. Background

The Interagency Task Force on Antimicrobial Resistance (ITFAR) was created in 1999 in recognition of the increasing importance of antimicrobial resistance (AR) as a public health threat. The ITFAR coordinates the activities of federal agencies in addressing antimicrobial resistance and is co-chaired by HHS/CDC, HHS/FDA, and HHS/NIH. Other HHS Task Force members include the Agency for Healthcare Research and Quality (AHRQ), the Centers for Medicare and Medicaid Services (CMS), the Health Resources and Services Administration (HRSA), the HHS Office of the Assistant Secretary for Preparedness and Response (HHS/ASPR) and the HHS Office of the Assistant Secretary of Health (HHS/OASH). Non-HHS Task Force members include the Department of Agriculture (USDA), the Department of Defense (DoD), the Department of Veterans Affairs (VA), and the Environmental Protection Agency (EPA).

In 2001, the ITFAR developed an initial action plan to combat AR. This plan, titled "A Public Health Action Plan to Combat Antimicrobial Resistance," outlined specific goals, actions, and implementation steps important for addressing the problem of

antimicrobial resistance. Action items were organized into focus areas: Surveillance, Prevention and Control, Research, and Product Development. The 2001 Action Plan was revised in 2011 and 2012 to address the evolving threat of antimicrobial resistance. A revised draft of the Action Plan is under development and will be available for public comment later this year.

2. Public Comment and Meeting

The public meeting process provides an opportunity for the public to comment on the activities of the ITFAR to date. The agenda will consist of welcome and introductory comments followed by sessions centering on specific topics in each of the three focus areas of the Action Plan: Surveillance, Prevention and Control of Antimicrobial Resistance; Research; and Regulatory Pathways to Promote Product Development. Each session will include presentations by the ITFAR members on the strategic direction of government agencies for that Focus Area followed by brief presentations from invited partner organizations. The session will end with a moderated question and answer session with the audience. The meeting will then be open for comments from the general public. The agenda is subject to change without notice.

Comments and suggestions from the public on the ITFAR or any of the focus areas of the Action Plan will be reviewed and carefully considered by the ITFAR. The public should be aware that this meeting agenda does not include development of consensus positions, guidelines, interrogatories, or discussions or endorsement of specific commercial products.

3. Registration To Attend or Participate in the Public Meeting

Participants are asked to preregister to ensure sufficient space. Seating capacity is limited to 200 persons. To register, please send an electronic mail message to *ITFAR@cdc.gov* by 12:00 p.m. EDT, Monday, August 18, 2014. Your email should include your name, and email address. Because of time restrictions, the moderated question and answer session with the audience and the time for comments from the general public will be limited by the time allotted on the agenda. However, additional comments may be submitted in writing following the public meeting; instructions for submission are listed in **ADDRESSES.**

4. Building and Security Guidelines

The meeting is being held in a Federal government building; therefore, Federal security measures are applicable. In planning your arrival, please take into account the need to clear security. All visitors entering the Ronald Reagan Building must procede as directed through security checkpoints and present government-issued photo identification (e.g., a valid Federal identification badge, state driver's license, state non-driver's license, or passport). All visitors entering the building must pass through a metal detector. All items brought to Ronald Reagan Building may be subject to inspection.

Dated: July 14, 2014.

Ron A. Otten,

Acting Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2014–16790 Filed 7–16–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0987]

Agency Information Collection Activities; Proposed Collection; Comment Request; Quantitative Testing as Used by the Food and Drug Administration Center for Tobacco Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on quantitative testing as used by the Food and Drug Administration Center for Tobacco Products.

DATES: Submit either electronic or written comments on the collection of information by September 15, 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, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate and other forms of information technology.

Quantitative Testing as Used by the Food and Drug Administration Center for Tobacco Products (OMB Control Number 0910—NEW)

In order to conduct educational and public information programs relating to tobacco use as authorized by section 1003(d)(2)(D) of the Federal Food Drug and Cosmetic Act (21 U.S.C. 393(d)(2)(D)), FDA's Center for Tobacco Products will create and use a variety of media to inform and educate the public, tobacco retailers, and health professionals about the risks of tobacco use, how to quit using tobacco products, and FDA's role in regulating tobacco.

To ensure that such health communication messages have the highest potential to be received, understood, and are accepted by those for whom they are intended, FDA's Center for Tobacco Products will conduct research and studies relating to the control and prevention of disease. In conducting such research, FDA will employ formative pretests. Formative pretests are conducted on a small scale, and their focus is on developing and assessing the likely effectiveness of communications with specific target audiences. This type of research involves (1) assessing audience knowledge, attitudes, behaviors, and other characteristics for the purpose of determining the need for and developing health messages, communication strategies, and public information programs; and (2) pretesting these health messages, strategies, and program components while they are in developmental form to assess audience comprehension, reactions, and perceptions.

Formative pretesting is a staple of best practices in communications research. Obtaining feedback from intended audiences during the development of messages and materials is crucial for the success of every communication program. The purpose of obtaining information from formative pretesting is that it allows FDA to improve materials and strategies while revisions are still affordable and possible. Formative pretesting can also avoid potentially expensive and dangerous unintended outcomes caused by audiences' interpreting messages in a way that was not intended by the drafters. By maximizing the effectiveness of messages and strategies for reaching targeted audiences, the frequency with which tobacco communication messages need to be modified should be greatly reduced.

The information collected will serve the primary purpose of providing FDA information about the perceived effectiveness of messages, advertisements, and materials in reaching and successfully communicating with their intended audiences. Quantitative testing messages and other materials with a sample of the target audience will allow FDA to refine messages, advertisements, and materials, including questionnaires or images, directed at consumers while they are still in the developmental stage.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Self-Administered Surveys	30,300	1	30,300	0.33 (20 minutes)	9,999

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The number of respondents to be included in each new survey will vary, depending on the nature of the material or message being tested and the target audience.

Dated: July 14, 2014.

Peter Lurie,

Associate Commissioner for Policy and Planning.

[FR Doc. 2014–16795 Filed 7–16–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Food Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Food Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 29 and 30, 2014, from 8:30 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm*; under the heading "Resources for You," click on "Public Meetings at the FDA White Oak Campus." Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Karen Strambler, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2589 or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting. If you are unable to join us in person, we encourage you to watch the Web cast. Visit the Food Advisory Committee Web site at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/FoodAdvisoryCommittee/default.htm*. The link will become active shortly before the open session begins at 8:30 a.m.

Agenda: The Food Advisory Committee will discuss risk ranking and risk prioritization approaches for specific regulatory purposes. The Committee will provide input to FDA in the development of the characteristics for data collections and risk ranking/risk prioritization models. These characteristics would be useful in framing the fundamental elements needed to design or evaluate FDA's food and veterinary programs.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is

available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before September 22, 2014. Oral presentations from the public will be scheduled between approximately 11 a.m. to 12 p.m. on September 30, 2014. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before September 12, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by September 15, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Karen Strambler at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 10, 2014.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–16777 Filed 7–16–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0889]

Site Tours Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Tobacco Products (CTP), Office of Science is announcing an invitation for participation in its Site Tours Program. This program is intended to give CTP staff an opportunity to visit facilities involved in the growing, processing, or manufacturing of tobacco or currently regulated tobacco products (i.e., cigarettes, roll-your-own, and smokeless tobacco). These visits are intended to provide CTP staff with the opportunity to gain a better understanding of the tobacco industry and its operations and are not intended as regulatory inspections or facility visits for the purposes of developing Tobacco Product Manufacturing Practice regulations. The purpose of this notice is to alert parties interested in participating in the Site Tours Program to submit requests to CTP.

DATES: Interested parties should submit either an electronic or written request for participation by September 15, 2014. The request should include a description of your facility, including as applicable, a list of all tobacco products processed and/or manufactured there. Please specify the physical address(es) of the site(s) for which you are submitting a request along with a proposed 1-day tour agenda.

ADDRESSES: If your facility is interested in offering a site visit, you should submit a request to participate in the program either electronically to *http://www.regulations.gov* or in writing to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Carolyn Dresler, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Document Control Center, Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 240–402–4067, *carolyn.dresler@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 22, 2009, the Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31) was signed into law, amending the Federal Food, Drug, and Cosmetic Act (the FD&C Act) and giving FDA authority to regulate tobacco product manufacturing, distribution, and marketing.

CTP's Office of Science is continuing the Site Tours Program to provide its scientific and regulatory staff the opportunity to gain a better understanding of the tobacco industry and its operations, including tobacco product manufacturing and aspects of tobacco growing, processing, and storage that may affect the physical and chemical properties of tobacco. Although FDA generally does not regulate tobacco farms and tobacco warehouses, the Agency believes that gaining a better understanding of the operations performed at these facilities may be helpful. The goals of the Site Tours Program are to: (1) Provide CTP firsthand exposure to industry's manufacturing processes; (2) learn about control measures used by tobacco product manufacturers to ensure product consistency; (3) understand the processing of different forms of tobacco and the manufacturing processes used for various types of tobacco products and their influences on product constituents; and (4) understand how growing conditions, curing, storage, and manufacturing processes might influence the levels of tobacco or tobacco smoke constituents.

II. Description of Site Tours Program

In the Site Tours Program, small groups of CTP staff plan to observe the operations of tobacco growers, tobacco warehouses, and tobacco product manufacturing facilities of cigarettes, roll-your-own, and smokeless tobacco companies, including the manufacturing of paper, filters, and pouch materials. Please note that the Site Tours Program is not intended to include official FDA inspections of facilities to determine compliance with the FD&C Act or for the purposes of developing Tobacco Product Manufacturing Practice regulations; rather, the program is meant to educate CTP staff and improve their understanding of the tobacco industry and its operations.

III. Site Selection

CTP plans to select one or more of each of the following types of facilities: A large cigarette manufacturing facility, a small cigarette manufacturing facility, a smokeless manufacturing facility, a burley tobacco farm, a flue-cured tobacco farm, a tobacco rolling paper facility, a tobacco warehouse and a tobacco processing facility. All travel expenses associated with the site tours

will be the responsibility of CTP. Final site selections will be based on the availability of CTP funds and resources for the relevant fiscal year, as well as the following factors: (1) Compliance status of the requesting facility and affiliated firm, if applicable; (2) whether the requesting facility is in arrears for user fees; (3) whether the requesting facility or affiliated firm, if applicable, has a significant request or marketing application or submission pending with FDA; and (4) whether the requesting facility will be engaged in active manufacturing or processing during the proposed time of the visit.

IV. Requests for Participation

Requests are to be identified with the docket number found in brackets in the heading of this document. Requests received by the Agency are available for public examination in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 14, 2014.

Peter Lurie,

Associate Commissioner for Policy and Planning.

[FR Doc. 2014–16794 Filed 7–16–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0021]

AbbVie Inc., et al.; Withdrawal of Approval of Abbreviated New Drug Applications for Prescription Pain Medications Containing More Than 325 Milligrams of Acetaminophen

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 7 abbreviated new drug applications (ANDAs) for prescription drug products containing more than 325 milligrams (mg) of acetaminophen. The holders of these ANDAs have waived their opportunity for a hearing.

DATES: Effective July 17, 2014.

FOR FURTHER INFORMATION CONTACT: Rachel Turow, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6236, Silver Spring, MD 20993–0002, 301–796–5094.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 14, 2011 (76 FR 2691), FDA announced its plans to reduce the maximum dosage unit strength of acetaminophen in prescription drug products. The notice announced FDA's conclusion that, based on a reevaluation of the relative risks and benefits of prescription acetaminophen products, fixed-combination prescription drugs containing more than 325 mg of acetaminophen per dosage unit (tablet, capsule, or liquid) do not provide a sufficient margin of safety to protect the public against the serious risk of acetaminophen-induced liver injury. Accordingly, we asked product sponsors to limit the maximum amount of acetaminophen per dosage unit to 325 mg and, for those products containing more than 325 mg of acetaminophen per dosage unit, to submit requests that FDA withdraw approval of their applications under § 314.150(d) (21 CFR 314.150(d)). FDA asked that all such requests be made before January 14, 2014, after which date the Agency planned to initiate proceedings under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(e)) to withdraw approval of any prescription drug products containing more than 325 mg of acetaminophen per dosage unit that remained on the market.

FDA did not receive a request for withdrawal of approval of an application containing more than 325 mg of acetaminophen per dosage unit from one sponsor. In addition, FDA received requests for withdrawal of approval of five applications for products containing more than 325 mg of acetaminophen per dosage unit for which sponsors either submitted requests under § 314.150(c) or failed to cite a relevant regulatory provision. FDA contacted all of these sponsors on multiple occasions to ask that they submit a request that FDA withdraw approval of their applications under § 314.150(d), but they failed to respond.

With respect to the application for which FDA received no request for withdrawal, FDA initiated proceedings under § 314.150(a) and (b) to withdraw approval. With respect to the requests for withdrawal of approval submitted under § 314.150(c), the Agency notes that because FDA has made a determination under § 314.150(a) that approval of these applications should be withdrawn for reasons of safety, application holders may not withdraw their applications under § 314.150(c). The text of § 314.150(c) expressly precludes withdrawal of an application under the subsection if FDA has made a safety determination under § 314.150(a). Similarly, when a request for withdrawal is made without a citation to any regulation, FDA does not consider it to be appropriately notified that an application holder has voluntarily waived the opportunity for a hearing. Accordingly, FDA decided to proceed with withdrawal of approval of applications for which sponsors either submitted requests under § 314.150(c) or failed to cite a relevant regulatory provision under the withdrawal procedures outlined in § 314.150 (a) and (b).

Thus, in a notice published in the **Federal Register** on March 27, 2014 (79 FR 17156), the Director of CDER offered an opportunity for a hearing on a proposal to issue an order, under section 505(e) of the FD&C Act and 21 CFR 314.150(a), withdrawing approval of 6 ANDAs for products containing more than 325 mg of acetaminophen for which the ANDA holders did not voluntarily request to withdraw their applications under § 314.150(d). The ANDA holders were provided an opportunity to request a hearing to show why approval of their ANDAs should not be withdrawn. None of the ANDA holders requested a hearing in response to the notice.

The ANDAs listed in table 1, other than ANDA 040148, were the subject of the March 27, 2014, **Federal Register** notice. Because the holders of these ANDAs failed to request a hearing by April 28, 2014, they are considered to have waived their opportunity for a hearing under § 314.200(a)(2) and FDA is now withdrawing approval of their applications.

In addition, table 1 includes ANDA 040148 for which the ANDA holder submitted a timely voluntary request for withdrawal under 314.150(d) and waived its opportunity for a hearing. However, ANDA 040148 was erroneously omitted from the March 27, 2014, **Federal Register** notice (79 FR 17163) announcing withdrawal of approval of 108 ANDAs. FDA is now withdrawing approval of ANDA 040148 as well.

TABLE 1—ANDAs FOR WHICH FDA IS WITHDRAWING APPROVAL

Application No.	Drug product(s)	Applicant or holder
ANDA 40117	Vicodin HP (Acetaminophen and Hydrocodone Bitartrate Tablets), 660 mg/10 mg.	AbbVie Inc., 1 N. Waukegan Rd., North Chicago, IL 60064.
ANDA 88058	Vicodin (Acetaminophen and Hydrocodone Bitartrate Tablets), 500 mg/5 mg.	AbbVie Inc.
ANDA 89736	Vicodin ES (Acetaminophen and Hydrocodone Bitartrate Tablets), 750 mg/7.5 mg.	AbbVie Inc.
ANDA 89166	SYNALGOS–DC–A (Acetaminophen, Caffeine, and Dihydrocodeine Bitartrate Capsules), 356.4 mg/30 mg/16 mg.	Leitner Pharmaceuticals LLC, 340 Edgemont Ave., Bristol, TN 37620.
ANDA 40366	Acetaminophen and Hydrocodone Bitartrate Oral Solution, 500 mg/15 milliliters (mL); 7.5 mg/15 mL.	Nesher Pharmaceuticals USA LLC, 13910 St. Charles Rock Rd., Bridgeton, MO 63044.
ANDA 040148	Acetaminophen and Hydrocodone Bitartrate Tablets, 500 mg/10 mg.	Watson Laboratories, 311 Bonnie Circle, Corona, CA 92880.
ANDA 040637	Acetaminophen, Caffeine, and Dihydrocodeine Bitartrate Tablets, 712.8 mg/60 mg/32 mg.	West-Ward Pharmaceutical Corp., 435 Industrial Way West, Eatontown, NJ 07724.

With respect to the ANDAs listed in table 1 (with the exception of ANDA 040148), for the reasons discussed in the January 14, 2011, and March 27, 2014, notices, the Director of CDER, under section 505(e)(2) of the FD&C Act and under authority delegated to her by the Commissioner of Food and Drugs (the Commissioner), finds that new evidence of clinical experience, not contained in the applications listed in table 1 and not available at the time the applications were approved, shows that prescription drugs containing more than 325 mg of acetaminophen per dosage unit are not safe for use under the conditions of use that formed the basis upon which the applications were approved (21 U.S.C. 355(e)(2)). Therefore, approval of the applications for the drug products listed in table 1 of this document (with the exception of ANDA 040148), and all amendments and supplements thereto, is withdrawn (see **DATES**). Distribution of these products in interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the FD&C Act (21 U.S.C. 355(a) and 331(d)).

With respect to ANDA 040148 listed in table 1, under § 314.150(d), and under authority delegated to the Director of CDER by the Commissioner, approval of ANDA 040148 and all amendments and supplements thereto, is withdrawn (see **DATES**).

The safety issue discussed in this document and the March 27, 2014, and January 14, 2011, **Federal Register** notices is limited to products containing more than 325 mg of acetaminophen per dosage unit. Thus, the withdrawal of approval of products containing more than 325 mg of acetaminophen per dosage unit listed in table 1 does not change the approval status of any products with 325 mg or less of acetaminophen per dosage unit that were approved under the same application. In addition, the withdrawal of approval of products containing more than 325 mg of acetaminophen per dosage unit does not change the approval status of products with 325 mg or less of acetaminophen per dosage unit that refer to or rely on the withdrawn products. For example, this withdrawal action will not affect the approval status of an ANDA for a product that contains 325 mg or less per dosage unit that references a product listed in table 1, but for which FDA approved a suitability petition for a lower strength under section 505(j)(2)(C) of the FD&C Act and § 314.93 (21 CFR 314.93)).

Dated: July 14, 2014.

Peter Lurie,

Associate Commissioner for Policy and Planning.

[FR Doc. 2014–16820 Filed 7–16–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Development of Chimeric Antigen Receptors Targeting B-Cell Maturation Antigen To Treat or Prevent Cancer and Autoimmune Disease

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 patent license to Bluebird Bio to practice the inventions embodied in US Provisional Patent Application Serial No. 61/622,600, entitled "Chimeric Antigen Receptors Targeting B-cell Maturation Antigen" [HHS Ref. E–040–2012/0–US–01], and International (PCT) Application No. PCT/US13/32029, entitled "Chimeric Antigen Receptors Targeting B-cell Maturation Antigen" [HHS Ref. E–040–2012/0–PCT–02], and all continuing applications and foreign counterparts. The patent rights in these inventions have been assigned to the Government of the United States of America.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to:

Use of the Patent Rights to make and have made, to sell, to offer for sale, to import, and to use in humans, human autologous peripheral blood T-cells modified by recombinant human immunodeficiency virus ("HIV")-based lentiviral vectors or murine leukemia virus ("MLV")-based gamma-retroviral vectors to express chimeric antigen receptors that recognize B-cell Maturation Antigen ("BCMA") for the treatment or prevention of cancer and autoimmune diseases.

DATES: Only written comments or applications for a license (or both) which are received by the NIH Office of Technology Transfer on or before August 18, 2014 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Patrick McCue, Ph.D., Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4632; Facsimile: (301) 402–0220; Email: *mccuepat@od.nih.gov.*

SUPPLEMENTARY INFORMATION: These inventions concern a series of chimeric antigen receptors (CARs) that specifically target BCMA, a protein that is highly expressed on the surface of

multiple myeloma cells. The pending patent application includes claims to compositions and vectors incorporating the CARs, as well as methods of destroying multiple myeloma cells using T-cells engineered to express a CAR.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license may be granted unless the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404 within thirty (30) days from the date of this published notice.

Applications for a license in the field of use that are filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 14, 2014.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–16764 Filed 7–16–14; 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 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 Mental Health Special Emphasis Panel; North American Prodrome Longitudinal Study-3 [NAPLS].

Date: July 25, 2014.

Time: 11:30 a.m. to 1:30 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: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: July 11, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–16746 Filed 7–16–14; 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; Small Grants Program for Epidemiology.

Date: July 23, 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 2E032, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Gerald G. Lovinger, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W266, Bethesda, MD 20892–8329, 240–276–6385, *lovingeg@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI U01 Review.

Date: August 26, 2014.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 3W032/034, Rockville, MD 20850.

Contact Person: Ben Prickril, Ph.D., Scientific Review Officer, Research Program and Review Branch, DEA, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W634, Rockville, MD 20850, 240–276–5794, *prickril@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project Meeting II (P01).

Date: September 30–October 1, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Rockville Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Majed M. Hamawy, Ph.D., MBA, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W120, Rockville, MD 20850, 240–276–6457, *mh101v@nih.gov*.

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee J—Career Development.

Date: October 29, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W640, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Ilda F. S. Melo, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W122, Rockville, MD 20850, 240–276–6468, *ilda.melo@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 an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 11, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–16744 Filed 7–16–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council; NHLBAC Closed Session Teleconference.

Date: September 3, 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, Room 9100, Bethesda, MD 20892.

Contact Person: Stephen C. Mockrin, Ph.D., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7100, Bethesda, MD 20892, (301) 435–0260 *mockrins@nhlbi.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nhlbi.nih.gov/meetings/nhlbac/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 11, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–16747 Filed 7–16–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, National Center for Biomedical Communications, December 2, 2014, 8:30 a.m. to 3:00 p.m., National Library of Medicine, Building 38, Board Room, 8600 Rockville Pike, Bethesda, MD 20892 which was published in the **Federal Register** on June 9, 2014, 79 FR 110, Page 32970.

The meeting of the Board of Scientific Counselors, National Center for Biomedical Communications, will be held on December 16, 2014 instead of December 2, 2014, at 8:30 a.m. and will end at 3:00 p.m. The meeting is partially closed to the public.

Dated: July 11, 2014.

Michelle Trout,

Program Analyst, Office of the Federal Advisory Committee Policy.

[FR Doc. 2014–16742 Filed 7–16–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Shared Instrumentation: Biomedical Imaging PAR14–073.

Date: August 14, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Chiayeng Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, Rockledge 2, Room 5213, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–2397, *chiayeng.wang@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Shared Instrumentation: Biomedical Imaging PAR14–073.

Date: August 14, 2014.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Eileen W Bradley, DSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@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: July 11, 2014.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–16763 Filed 7–16–14; 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; Social Science Learning to end Health Disparities.

Date: August 7, 2014.
Time: 3:30 p.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: Rita Anand, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd. Room 5B01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.
Date: August 12, 2014.
Time: 2:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 5B01, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Sherry L. Dupere, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–7510, 301–451–3415, *duperes@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Jillian Helman P01.
Date: August 13–14, 2014.
Time: 9:00 a.m. to 12:30 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, Scientific Review Branch, 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: July 11, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–16748 Filed 7–16–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cell, Computational and Molecular Biology.
Date: July 28, 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: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–435–1024, *allen.richon@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.
Date: August 6–7, 2014.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kenneth A Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.
Date: August 7–8, 2014.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kenneth A Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

(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: July 11, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–16745 Filed 7–16–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Risk, Prevention and Health Behavior.
Date: July 31, 2014.
Time: 11:00 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 (Telephone Conference Call).
Contact Person: Claire E Gutkin, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3106, MSC 7808, Bethesda, MD 20892, 301–594–3139, *gutkincl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Imaging, Biomarkers and Therapy of Mental and Neurologic Disorders.
Date: August 1, 2014.
Time: 2:00 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: Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@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: July 10, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–16743 Filed 7–16–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N066; FXES11130800000–145–FF08EVEN00]

Proposed Safe Harbor Agreement With the Bishop Paiute Tribe for Owens Pupfish, Inyo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of permit application.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received, from the Bishop Paiute Tribe (applicant), an application for an enhancement of survival permit for the federally endangered Owens pupfish, under the Endangered Species Act of 1973, as amended (Act). This permit application includes a proposed safe harbor agreement (agreement) between the applicant and the Service. The agreement and permit application are available for public comment.

DATES: To ensure we are able to consider your comments, please send them to us by August 18, 2014.

ADDRESSES: The documents are available on our Web site: *http://www.fws.gov/ventura.* A limited number of printed copies are available by request. You may request the documents or submit comments by any of the following methods.

- *Email: fw8SHABishopPaiuteTribe@fws.gov.* Include "Bishop Paiute Tribe SHA" in the subject line of the message.
- *U.S. Mail:* Field Supervisor; U.S. Fish and Wildlife Service; Ventura Fish and Wildlife Office; 2493 Portola Road, Suite B; Ventura, CA 93003.
- *Fax:* Attn: Field Supervisor, (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Eric Morrissette, Safe Harbor Coordinator, Ventura Fish and Wildlife Office at the address above or by telephone at (805) 644–1766.

SUPPLEMENTARY INFORMATION: We have received an application for an enhancement of survival permit for the federally endangered Owens pupfish (*Cyprinodon radiosus*) under the Act. This permit application includes a proposed safe harbor agreement (agreement) between the applicant and the Service. The agreement and permit application are available for public comment.

Availability of Documents

You may obtain copies of the documents for review by using one of the methods in **ADDRESSES**, or by contacting the individual named in the **FOR FURTHER INFORMATION CONTACT** section. You also may make an appointment to view the documents at the Ventura Fish and Wildlife Office (see **ADDRESSES**) during normal business hours.

Background

Under a safe harbor agreement, participating landowners voluntarily undertake management activities on their property to benefit species listed under the Act (16 U.S.C. 1531 *et seq.*). Safe harbor agreements, and the subsequent permits that are issued under section 10(a)(1)(A) of the Act, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased land use restrictions as a result of efforts to attract or increase the numbers or distribution of a listed species on their property. Application requirements and issuance criteria for permits through safe harbor agreements are found in 50 CFR 17.22(c) and 1732(c).

We have worked with the applicant to develop this proposed agreement for the conservation of the Owens pupfish on the property subject to the agreement (enrolled property), which is Tribal Trust Land held in trust for the Tribe by the United States and managed by the applicant. The enrolled property is the Bishop Paiute Reservation in Inyo County, California, which occurs within the historic range of the Owens pupfish. Within the 875 acres of land comprising the enrolled property, a pond in the 24.8-acre Conservation Open Space Area contains suitable habitat for the Owens pupfish. The Owens pupfish will be translocated into its suitable habitat at the enrolled property according to a written agreement between the applicant and Service. Under this written agreement, the existing habitat for Owens pupfish will be managed for the species, and additional habitat for the species may be created in the future. We expect that the activities proposed in the agreement will result in the establishment of the Owens pupfish in suitable habitat that will be maintained and remain relatively undisturbed, thus resulting in a net conservation benefit for the species.

The agreement provides for the translocation and establishment of the Owens pupfish at the enrolled property, and the management of its suitable habitat. The proposed duration of the agreement and term of the enhancement of survival permit is 10 years. The agreement fully describes the proposed management activities to be undertaken by the applicant and the net conservation benefits expected to be gained for the Owens pupfish.

Upon approval of this agreement and satisfactory completion of all other applicable legal requirements, and consistent with the Service's Safe Harbor Policy published in the **Federal Register** on June 17, 1999 (64 FR 32717), the Service would issue a permit to the applicant authorizing take of the Owens pupfish incidental to the implementation of the management activities specified in the agreement; incidental to other lawful uses of the enrolled property, including normal, routine land management activities; and incidental to the return to pre-agreement conditions (baseline).

Management activities included in the agreement will provide for the translocation and establishment of the Owens pupfish and management of its habitat within the enrolled property. The objective of such activities is to establish a self-sustaining population of Owens pupfish within its historic range in the suitable habitat at the enrolled property. Take of Owens pupfish in the form of capture would occur during translocation activities, thereby necessitating take authority under the permit. Take incidental to activities associated with the management of Owens pupfish habitat is unlikely; however, it is possible that in the course of such activities or other lawful activities on the enrolled property, the applicant could incidentally take individuals of Owens pupfish, thereby necessitating take authority under the permit.

Baseline conditions at the enrolled property, as described in the agreement, have been established consisting of two elements, the current area of suitable habitat for Owens pupfish and the elevated presence of a population of Owens pupfish. Under the agreement, an elevated baseline for the population of Owens pupfish means that, in anticipation that translocation and establishment of the Owens pupfish is successful, the population of Owens pupfish would remain at the enrolled property at the end of the agreement term where there currently is no population of Owens pupfish and under other circumstances the baseline for the species presence could be zero. The

elevated baseline has been established to aid in reaching recovery objectives for the Owens pupfish with the intent to create and maintain a self-sustaining population of the Owens pupfish at the enrolled property. The applicant must maintain baseline on the enrolled property in order to receive coverage regarding incidental take of Owens pupfish. The agreement and requested permit would allow the applicant to return the enrolled property to baseline conditions for habitat, and to the elevated baseline for the Owens pupfish population, after the end of the term of the agreement and prior to the expiration of the 10-year permit, if so desired by the applicant.

Public Review and Comments

The Service has made a preliminary determination that the proposed agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). We explain the basis for this determination in an Environmental Action Statement, which also is available for public review.

Individuals wishing copies of the permit application, copies of our draft Environmental Action Statement, and copies of the agreement, including a map of the proposed permit area, should contact the Ventura Fish and Wildlife Office (see **ADDRESSES**).

If you wish to comment on the permit application or the agreement, you may submit your comments to one of the addresses listed in the **ADDRESSES** section of this document. Comments and materials received, including names and addresses of respondents, will be available for public review, by appointment, during normal business hours at the address in the **ADDRESSES** section above and will become part of the public record, under section 10(c) of the 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.

We will evaluate this permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations. If we determine that the requirements are met, we will sign the proposed agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the applicant for take of the Owens pupfish incidental to otherwise lawful activities in accordance with the terms of the agreement. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments we receive during the comment period.

The Service provides this notice under section 10(c) of the Act and under implementing regulations for NEPA (40 CFR 1506.6).

Stephen P. Henry,

Field Supervisor, Ventura Fish and Wildlife Office.

[FR Doc. 2014–16827 Filed 7–16–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0010]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Submission for OMB Approval: U.S. Official Order Forms—Schedules I & II (DEA Form 222)

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration, 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.

DATES: Comments are encouraged and will be accepted for 60 days until September 15, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Erika Gehrmann, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. 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 Drug Enforcement Administration, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* U.S. Official Order Forms—Schedules I & II

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is DEA Form 222. The applicable component within the Department of Justice is the Drug Enforcement Administration, in the Office of Diversion Control.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Not-for-profit; State, local, or tribal government.

Abstract: The Controlled Substances Act (CSA) (21 U.S.C. 801–971) requires the Drug Enforcement Administration (DEA) to establish a closed system of distribution for substances that have a potential for abuse. Section 828 of the CSA mandates that no person may distribute a controlled substance in schedule I or II except in response to an order issued on a DEA provided form. The DEA regulations implementing 21 USC 828 can be found in 21 CFR part 1305.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that

152,609 registrants participate in this information collection, taking an estimated 6.17 hours per registrant annually.

6. *An estimate of the total public burden (in hours) associated with the collection:* The DEA estimates the total public burden (in hours) associated with this collection: 942,315 annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: July 14, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–16805 Filed 7–16–14; 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 revision of the "Current Population Survey (CPS)." 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 below on or before September 15, 2014.

ADDRESSES: Send comments to Carol Rowan, 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: Carol Rowan, BLS Clearance Officer, 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The CPS has been the principal source of the official Government statistics on employment and unemployment for over 70 years. The labor force information gathered through the survey is of paramount importance in keeping track of the economic health of the Nation. The survey is the only source of monthly data on total employment and unemployment. The Employment Situation news release contains data from this survey and is designated as a Principal Federal Economic Indicator (PFEI). Moreover, the survey also yields data on the characteristics of persons not in the labor force. The CPS data are used monthly, in conjunction with data from other sources, to analyze the extent to which, and with what success, the various components of the American population are participating in the economic life of the Nation.

The labor force data gathered through the CPS are provided to users in the greatest detail possible, in conjunction with the demographic information obtained in the survey. In brief, the labor force data can be broken down by sex, age, race, ethnicity, marital status, family composition, educational level, disability status, and other characteristics. Through such breakdowns, one can focus on the employment situation of specific population groups as well as on general trends in employment and unemployment. Information of this type can be obtained only through demographically oriented surveys such as the CPS.

The basic CPS data also are used as an important platform on which to base the data derived from the various supplemental questions that are administered in conjunction with the survey. By coupling the basic data from the monthly survey with the special data from the supplements, one can get valuable insights on the behavior of American workers and on the social and economic health of their families.

There is wide interest in the monthly CPS data among Government policymakers, legislators, economists, the media, and the general public. While the data from the CPS are used in conjunction with data from other surveys in assessing the economic health of the Nation, they are unique in various ways. Specifically, they are the basis for much of the monthly Employment Situation report, a PFEI. They provide a monthly, nationally representative measure of total employment, including farm work, self-employment, and unpaid family work; other surveys are generally restricted to the nonagricultural wage and salary sector, or provide less timely information. The CPS provides data on all job seekers, and on all persons outside the labor force, while payroll-based surveys cannot, by definition, cover these sectors of the population. Finally, the CPS data on employment, unemployment, and on persons not in the labor force can be linked to the demographic characteristics of the many groups that make up the Nation's population, while the data from most other surveys are devoid of demographic information. Many groups, both in the government and in the private sector, are eager to analyze this wealth of demographic and labor force data.

II. Current Action

Office of Management and Budget clearance is being sought for the Current Population Survey (CPS). A revision of a currently approved collection is needed to provide the Nation with timely information about the labor force status of the population. The CPS questionnaire has been revised to add three questions on certification/licensure and remove three questions on educational attainment to avoid increasing the cost of the CPS and to limit the increase in respondent burden. These proposed changes would be permanent changes to the survey.

Certification/licensure is a topic that aligns closely with the CPS goal of collecting information about factors that impact labor market success, and it is a topic of interest to researchers and policy makers. The three additional questions will identify whether respondents have a currently active professional certification or license; whether any of those credentials were issued by the Federal, State, or local government; and whether the credential is required for an individual's main job.

The three educational attainment items that are proposed for removal were added in 1996 to enable researchers to construct a measure of continuous years of education. (There were seven educational attainment

questions on the 2014 CPS, and the main educational attainment question, which is widely used, would remain.) All three of the questions proposed for elimination are about graduate education—specifically, whether individuals have taken any graduate or professional school courses since completing a bachelor's degree, whether they'd completed six or more courses, and whether their master's degree program was a 1-year, 2-year, or 3-year program. After conducting a literature search and consulting with stakeholders, BLS determined that these questions are rarely used.

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: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Current Population Survey (CPS).

OMB Number: 1220–0100.

Affected Public: Households.

Total Respondents: 55,000 per month.

Frequency: Monthly.

Total Responses: 660,000.

Average Time per Response: 7.6 minutes.

Estimated Total Burden Hours: 83,600 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $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 11th day of July 2014.

Kimberley Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2014–16774 Filed 7–16–14; 8:45 am]

BILLING CODE 4510–24–P

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Merit Systems Protection Board.

ACTION: Notice and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery, the Merit Systems Protection Board (MSPB) submitted a Generic Information Collection Request (Generic ICR), "Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery," to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et. seq.).

DATES: Consideration will be given to all comments received by August 18, 2014.

ADDRESSES: Written comments may be submitted to William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; by fax: (202) 653–7130; or by email: *mspb@mspb.gov.*

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; phone: (202) 653–7200; fax: (202) 653–7130; or email: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: 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 changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between MSPB 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 for assessing potential non-response 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.

MSPB did not receive any comments in response to the 60-day notice published in the **Federal Register** on April 10, 2014 (79 FR 19929).

Below we provide MSPB's projected average estimates for the next three years:

Current Actions: New collection of information.

Type of Review: New collection.

Affected Public: Individuals and households, businesses and organizations, State, Local or Tribal Government.

Average Expected Annual Number of Activities: 12.

Average Number of Respondents per Activity: 500.

Annual Responses: 3,000.

Frequency of Response: Once per request.

Average Minutes per Response: 30.

Burden Hours: 1,500.

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.

William D. Spencer,

Clerk of the Board.

[FR Doc. 2014–16762 Filed 7–16–14; 8:45 am]

BILLING CODE 7400–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–58; Order No. 2120]

Change of Rates for Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning a change of rates for Inbound EMS 2 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 21, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission hereby provides notice that on July 11, 2014, the Postal Service filed a Notice, pursuant to 39 CFR 3015.5, announcing its intention to change rates for Inbound EMS 2, effective January 1, 2015.[1]

The Postal Service states that Governors' Decision Nos. 08–20 and 11–6 establish prices and classifications for this product and identify subsequent dockets addressing price changes. *Id.* at 1–2. It asserts that the new rates for Inbound EMS 2 are in compliance with the requirements of 39 U.S.C. 3633(a)(2) and that it has met its burden of providing notice to the Commission of changed rates within the scope of Governors' Decision Nos. 08–20 and 11–6, as required by 39 U.S.C. 3632(b)(3). *Id.* at 4.

The Postal Service filing includes four attachments as follows:

- Attachment 1—an application for non-public treatment of materials filed under seal;
- Attachments 2A and 2B—redacted copies of Governors' Decision Nos. 08–20 and 11–6;
- Attachment 3—a redacted set of the new rates; and
- Attachment 4—a certification addressing costs and prices.

II. Notice of Commission Action

The Commission establishes Docket No. CP2014–58 for consideration of matters raised by the Notice. Pursuant to 39 U.S.C. 505, it appoints Pamela A. Thompson to serve as an officer of the Commission (Public Representative) representing the interests of the general public in these proceedings.

Public portions of the Postal Service's filing can be accessed via the Commission's Web site (*http://www.prc.gov*). Access to non-public documents is governed by 39 CFR part 3007.

Interested persons may submit comments on whether the changes announced in the Notice are consistent with 39 U.S.C. 3632, 3633, 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than July 21, 2014. Comments are to be submitted via the Commission's Filing Online system at *http://www.prc.gov* unless a waiver is obtained. Information on how to obtain a waiver may be found by contacting the Commission's docket section at 202–789–6846.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2014–58 for consideration of the Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Inbound EMS 2, filed July 11, 2014.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Pamela A. Thompson to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than July 21, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register.**

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–16835 Filed 7–16–14; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Inbound EMS 2, July 11, 2014 (Notice).

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

Title and Purpose of information collection: Pension Plan Reports; OMB 3220–0089.

Under Section 2(b) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) pays supplemental annuities to qualified RRB employee annuitants. A supplemental annuity, which is computed according to Section 3(e) of the RRA, can be paid at age 60 if the employee has at least 30 years of creditable railroad service or at age 65 if the employee has 25–29 years of railroad service. In addition to 25 years of service, a ''current connection'' with the railroad industry is required. Eligibility is further limited to employees who had at least one month of rail service before October 1981 and were awarded regular annuities after June 1966. Further, if an employee's 65th birthday was prior to September 2, 1981, he or she must not have worked in rail service after certain closing dates (generally the last day of the month following the month in which age 65 is attained). Under Section 2(h)(2) of the RRA, the amount of the supplemental annuity is reduced if the employee receives monthly pension payments, or a lump-sum pension payment from a private pension from a railroad employer, to the extent the payments

are based on contributions from that employer. The employee's own contribution to their pension account does not cause a reduction. A private railroad employer pension is defined in 20 CFR 216.42.

The RRB requires the following information from railroad employers to calculate supplemental annuities: (a) The current status of railroad employer pension plans and whether such plans cause reductions to the supplemental annuity; (b) whether the employee receives monthly payments from a private railroad employer pension, elected to receive a lump-sum in lieu of month pension payments from such a plan; (c) the date monthly pension payments began or a lump-sum payment was received; and (d) the amount of the payments attributable to the railroad employer's contributions. The requirement that railroad employers furnish pension information to the RRB is contained in 20 CFR 209.2.

The RRB currently utilizes Form G–88p, *Employer's Supplemental Pension Report*, and Form G–88r, *Request for Information About New or Revised Employer Pension Plan*, to obtain the necessary information from railroad employers. One response is requested of each respondent. Completion is mandatory.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (79 FR 24762 on May 1, 2014) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Pension Plan Reports.

OMB Control Number: 3220–0089.

Forms submitted: G–88p and G–88r.

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

Affected public: Businesses or other for-profits.

Abstract: The Railroad Retirement Act provides for payment of a supplemental annuity to a qualified railroad retirement annuitant. The collection obtains information from the annuitant's employer to determine (a) the existence of railroad employer pension plans and whether such plans, if they exist, require a reduction to supplemental annuities paid to the employer's former employees and (b) the amount of supplemental annuities due railroad employees.

Changes proposed: The RRB proposes to revise Forms G–88p and G–88r to remove information related to the reporting of 401(k) savings plans and to make other editorial changes. The RRB also proposes the implementation of an Internet equivalent version of Form G–88p that can be submitted through the Employer Reporting System

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–88p	100	8	13
G–88p (Internet)	200	6	20
G–88r	10	8	1
Total	310		34

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2014–16784 Filed 7–16–14; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72597; File No. SR–OCC–2014–12]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change To Make Its Existing Policy Concerning Specified Concentration Limits Related to Deposits of Certain Letters of Credit Applicable to All Letters of Credit

July 11, 2014.

I. Introduction

On May 20, 2014, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR–OCC–2014–12 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on June 6, 2014.[3] The Commission received no comment letters in response to the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

OCC proposed to amend OCC Rule 604 in order to make its existing policy concerning specified concentration limits related to deposits of certain letters of credit ("LC") applicable to all letters of credit. Currently, OCC imposes concentration limits on clearing member margin deposits of LCs issued by certain non-U.S. institutions.[4] Specifically, OCC limits a clearing member's margin deposits of LCs issued by such non-U.S. institutions to no more than 50% of a clearing member's total margin deposit at any given time, and no more than 20% of a clearing member's margin

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 72294 (June 2, 2014), 79 FR 32801 (June 6, 23, 2014) (SR–OCC–2014–12).

[4] These concentration limits, however, are not currently applied to LCs issued by non-U.S. institutions that qualify as financial holding companies under Federal Reserve Board of Governors Regulation Y or have an affiliate that is so qualified. *See* 17 CFR 225. In order to be deemed a financial holding company under Regulation Y, among other things, the institution must make certain certifications regarding the capitalization of the depository institutions controlled by the holding company. *See* OCC Rule 604, Interpretation and Policy .02. *See also* Securities Exchange Act Release No. 5037 (November 6, 2001), 66 FR 57143 (November 14, 2001) (SR–OCC–2001–03).

deposit may include an LC issued by any one of these non-U.S. institutions.[5]

Pursuant to review and analysis performed by OCC's Risk Committee, OCC is applying the existing concentration limits related to the deposit of LCs, as set forth in OCC Rule 604, Interpretation and Policy .02, applicable to all margin deposits of LCs regardless of issuer. As a result of this change, no more than 50% of a clearing member's margin on deposit may include LCs and no more than 20% of a clearing member's margin may include an LC from a single issuer. This change is intended to reduce OCC's overall credit risk exposure to LCs deposited as margin by a single clearing member and the potential adverse consequences should an LC issuer not perform upon its payment commitment after receiving a demand for payment.

OCC believes that the rule change will have a minimal impact on its clearing members because LCs comprise less than one percent of OCC's total margin deposits and are currently used by only 13 clearing members. OCC estimates that the proposal will impact three clearing members and .13% of OCC's total margin deposits. Each of these three clearing members has been advised by OCC of the proposed change and OCC stated that all of the affected clearing members have indicated that they will be able to modify its margin deposit practices to reduce its LC deposits without undue difficulty.

OCC has indicated that prior to implementation of this rule change it will publish an information memorandum to inform all clearing members of the rule change. In addition, OCC stated that it contacted clearing members with LCs on deposit that are directly affected by the filing and all clearing members will have access to information, as necessary, to better understand any potential impact the proposed rule change may have on their margin deposits at OCC.

III. Discussion

Section 19(b)(2)(C) of the Act[6] directs the Commission to approve a self-regulatory organization's proposed rule change if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act[7] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and to the extent applicable derivative agreements, contracts and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The Commission finds that the proposed rule change to enhance concentration limits related to deposits of LC and making those limits applicable to all LC is consistent with Section 17A(b)(3)(F) of the Act.[8] The Commission believes the limitations on the concentration of LC as margin deposits generally and the concentration of LCs by a particular issuer should reduce the credit risk and settlement risk to OCC associated with LCs as margin deposits by reducing the risk that an LC issuer would not be able to provide funds to OCC to close out a defaulting clearing member's positions. By reducing the risk that OCC will not be able to use the deposited LC in the event of a clearing member default, the limitations promote the prompt and accurate clearance and settlement of securities transactions and other transactions by OCC and help OCC assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.[9]

IV. Conclusion

On the basis of the foregoing, the Commission concludes that the proposal is consistent with the requirements of the Act, particularly the requirements of Section 17A of the Act,[10] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–OCC–2014–12) be and hereby is APPROVED.[12]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–16786 Filed 7–16–14; 8:45 am]

BILLING CODE 8011–01–P

[5] *Id.*

[6] 15 U.S.C. 78s(b)(2)(C).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] *See id.*

[10] 15 U.S.C. 78q–1.

[11] 15 U.S.C. 78s(b)(2).

[12] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72596; File No. SR–ICC–2014–07]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change To Revise End-of-Day Price Discovery Policies and Procedures

July 11, 2014.

I. Introduction

On May 22, 2014, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR–ICC–2014–07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on June 10, 2014.[3] The Commission received no comment letters regarding the proposed change. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

ICC is proposing to amend the ICC End-of-Day Price Discovery Policies and Procedures ("EOD Pricing Policy") to revise the expectations surrounding the unwind of any Firm Trade transaction.

ICC contends that the proposed revision to ICC's EOD Pricing Policy is intended to make the policy more readily enforceable, while maintaining the same or similar level of incentive for ICC Clearing Participants to provide quality price submissions.

ICC contends that ICC Clearing Participants ("CPs") may be required from time to time, under the ICC EOD Pricing Policy, to enter into trades with other CPs as part of the ICC end-of-day price discovery process ("Firm Trade"). ICC contends that it does not require CPs to maintain Firm Trades as outstanding positions for any particular length of time. Prior to the operation of this proposed rule change, ICC has stated that the ICC EOD Pricing Policy requires CPs that elect to unwind a Firm Trade to do so "at the then-current market price." ICC contends that there are practical difficulties with objectively determining whether an unwind transaction was executed at the "then-current market price" and therefore such policy is difficult to enforce. ICC proposes via this rule change to revise

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–72306 (June 4, 2014), 79 FR 33243 (June 10, 2014) (SR–ICC–2014–07).

the ICC EOD Pricing Policy to replace references to the "then-current market price" with the requirement that unwind transactions be executed in a competitive manner. Further, ICC proposes via this rule change to add the requirement that, upon request, CPs be able to demonstrate to ICC's satisfaction that such unwind transaction was executed in a competitive manner. Additionally, ICC proposes to add a non-exclusive list of examples of how CPs may be able to demonstrate competitive execution of unwind transactions, for example: (i) Execution on an available trading venue (e.g., a SEF or DCM); (ii) multiple dealer quotes received and execution of the unwind transaction at the best quoted price; or (iii) placement of the unwind transaction with an interdealer broker with price terms and instructions commensurate with a competitive execution.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[4] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act[5] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that the proposed revision to ICC's EOD Pricing Policy is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F).[6] The Commission finds that the update to ICC's EOD Pricing Policy regarding Firm Trade unwind transactions clarifies the policy while maintaining the same or similar level of incentive for CPs to provide quality price submissions. Because of the clarification of the Firm Trade unwind requirements and the potential increase in the enforceability thereof, CPs may have a greater incentive to submit quality price submissions. Since quality price submissions are an integral part of the end-of-day pricing process, the Commission finds that the proposed rule change therefore promotes the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions and contributes to the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible in a manner consistent with the Act and the regulations thereunder applicable to ICC.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[7] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–ICC–2014–07) be, and hereby is, approved.[9]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–16785 Filed 7–16–14; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78s(b)(2)(C).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] Id.

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(2).

[9] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72595; File No. SR–FINRA–2014–032]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7710 Relating to Fees for the OTC Reporting Facility and Delete Rule 7740 Relating to Historical Research and Administrative Reports

July 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 July 2, 2014, Financial Industry Regulatory Authority, Inc. ("FINRA") 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 FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] 17 CFR 230.144A.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Rule 7710 (OTC Reporting Facility) relating to fees for the OTC Reporting Facility ("ORF") and delete Rule 7740 (Historical Research and Administrative Reports) upon migration of the ORF to FINRA's Multi-Product Platform ("MPP").

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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 ORF is the FINRA facility used by members to report transactions in OTC Equity Securities, as defined in Rule 6420 (*i.e.,* equity securities that are not NMS stocks), and transactions in Restricted Equity Securities, as defined in Rule 6420, effected pursuant to Securities Act Rule 144A.[4] Currently, the ORF utilizes technology provided by The NASDAQ OMX Group, Inc. ("NASDAQ") that is based on NASDAQ's proprietary Automated

Confirmation Transaction ("ACT") platform.

The MPP is a platform owned by FINRA and developed by NASDAQ, as FINRA's technology service provider, that consolidates FINRA's technology for gathering and disseminating trade execution and, where applicable, quotation data, conducting trade comparisons and gathering associated regulatory data for debt and equity securities. FINRA's Alternative Display Facility ("ADF"), which is a quotation display and trade reporting facility for OTC transactions in NMS stocks, and FINRA's Trade Reporting and Compliance Engine ("TRACE"), which is the facility for reporting OTC transactions in eligible fixed income securities, currently operate on the MPP. Prior to migration to the MPP, TRACE, ADF and ORF operated on separate technology platforms.[5] As described more fully below, member firms currently can elect to access TRACE and the ADF via a web browser on the MPP and also have the option of receiving ADF and TRACE data via trade journals through FINRA's Automated Data Delivery Service ("FINRA ADDS"). FINRA will expand these optional services to the ORF upon migration to the MPP.

The ORF will migrate to the MPP on September 15, 2014 and as of that date will no longer operate on the ACT platform.[6] Accordingly, FINRA is proposing to (1) adopt fees for web browser access to the ORF and for real-time "time and sales" ORF data through the web browser; (2) enhance FINRA ADDS to include ORF data for ORF participants and clearing firms and to adopt fees for such services; (3) amend Rule 7710 relating to transaction reporting fees to clarify the application of the rule, without modifying the fee amounts specified in the rule; and (4) delete Rule 7740 relating to historical reports.

[5] While TRACE, ADF and ORF will operate completely on the MPP, including their front-end user-facing systems, two additional FINRA facilities—the FINRA/Nasdaq Trade Reporting Facility ("FINRA/Nasdaq TRF") and FINRA/NYSE Trade Reporting Facility ("FINRA/NYSE TRF"), established in conjunction with NASDAQ and NYSE, as the Business Members, respectively, for reporting OTC transactions in NMS stocks—will use the MPP only to submit audit trail data to FINRA Market Regulation. The front-end user-facing systems of the TRFs will not be on the MPP, but instead will continue to be separately provided by the TRF Business Members.

[6] FINRA has provided firms with extensive information relating to ORF migration on its Web site at *www.finra.org/Industry/Compliance/MarketTransparency/ORF/P470179*.

Proposed Web Browser Access Fees

Today, most firms report trades to the ORF on an automated basis via a computer-to-computer interface ("CTCI"). However, firms also have the option of reporting trades to the ORF through a web browser. Any firm that chooses to use the web browser today must subscribe to NASDAQ's ACT Workstation product and pay the associated fees charged by NASDAQ under NASDAQ rules.[7] Following migration of the ORF from the ACT platform to the MPP, ORF participants will use FINRA's web browser for accessing the ORF on the MPP; firms will no longer use the ACT Workstation.[8] As noted above, FINRA currently offers web browser access to TRACE and the ADF on the MPP. FINRA provides two levels of web browser access for TRACE (with Level I offering trade reporting and trade management functionality, and Level II offering trade reporting and trade management functionality plus access to real-time "time and sales" TRACE data). For the ADF, FINRA provides one level of web browser access, *i.e.*, trade reporting and trade management functionality.[9]

FINRA is proposing to offer two levels of web browser access to the ORF: Level I (Trade Report or Clearing Firm View Only) access and Level II (Full Service) access. Level I access permits a member to report transactions to the ORF via the web browser. In addition to reporting trades through the web browser, members will be able to access Trade Management functions, such as trade reconciliation, cancel and correct, will have access to reference data such as the Security Daily List and will be able to access their trade data for the current trading day plus three prior days.

Clearing member firms also can subscribe to Level I web browser access to view data regarding their correspondents' trades reported to the ORF associated with the subscribing clearing firm's Clearing Number.[10] Clearing firms have this ability today via the ACT Workstation and have requested similar functionality upon migration of the ORF to the MPP. With Level I web browser access, clearing firms will be able to access their correspondents' trade data for the current trading day plus three prior days.[11] Clearing firms will only be able to view their correspondents' data, including, *e.g.*, trades for which their correspondents are the reporting party as well as the contra party, open trades, declined trades, etc., and also reference data. Level I web browser access for clearing firms will not include the other Trade Management functions described above, *e.g.*, a clearing firm will not be able to cancel or correct trades on behalf of its correspondents. FINRA notes that clearing firms currently do not have web browser access to view their correspondents' ADF and TRACE trade data.

Pursuant to proposed Rule 7710(b)(1), FINRA is proposing to charge $20 per month per user ID for Level I (Trade Report or Clearing Firm View Only) web browser access to the ORF. The proposed fee is identical to the fee currently charged under Rule 7510(c)(1) for web browser access and similar trade management functionality for the ADF, and under Rule 7730(a)(1) for Level I Trade Report Only web browser access and trade management functionality for TRACE.[12]

Level II (Full Service) web browser access permits the reporting of

[7] *See, e.g.*, NASDAQ Rule 7015 (Access Services).

[8] In addition to web browser access, members can report trades to the ORF via CTCI (as noted above), a Financial Information eXchange ("FIX") line or indirectly via third party intermediaries (e.g., service bureaus). Today, firms utilize NASDAQ's services (e.g., for CTCI) and pay the associated fees under NASDAQ rules. *See, e.g.*, NASDAQ Rule 7015. FINRA notes that, following migration to the MPP, members will continue to be able to connect to the ORF using any of these three methods; however, FINRA is not proposing to charge a connectivity fee under FINRA rules at this time. Firms that report to the ORF via CTCI or FIX—either directly or indirectly through third party intermediaries—will pay NASDAQ, as FINRA's technology service provider for the MPP, charges associated with FIX and CTCI ports to connect to the ORF data center, as they do today.

[9] As discussed in FINRA's proposed rule change relating to ADF fees, FINRA does not offer Level II web browser access for the ADF. *See* Securities Exchange Act Release No. 71528 (February 12, 2014), 79 FR 9550 (February 19, 2014) (Notice of Filing and Immediate Effectiveness; File No. SR–FINRA–2014–007). As described in that filing, TRACE is the sole platform for the reporting of fixed income trades and therefore, the transaction data that is provided through the Level II access is already available to FINRA. In contrast, offering all real-time NMS transaction data through the ADF web browser would entail gathering such information from the relevant Securities Information Processors ("SIPs").

As with TRACE, the ORF is the sole platform for reporting transactions in OTC Equity Securities, and as such, the transaction data is already available to FINRA. Therefore, FINRA is able to offer Level II web browser access for the ORF.

[10] Clearing member firms have unique Clearing Numbers that their correspondents use to identify the clearing firm associated with each trade.

[11] FINRA notes that under the terms of the FINRA Participant Agreement signed by members prior to reporting to the ORF, FINRA has ownership of the data submitted to the ORF and may use it for any purpose FINRA deems necessary. Thus, FINRA does not believe it would be necessary to obtain additional specific permission from correspondents before providing their ORF trade data to their clearing firms.

[12] FINRA notes that a member that utilizes the TRACE web browser, the ADF web browser and the ORF web browser would pay three separate fees under Rules 7730(a)(1), 7510(c)(1) and 7710(b).

transactions to the ORF and related Trade Management functionality, as discussed above, as well as access to real-time "time and sales" ORF data for a given security through the web browser. Specifically, firms will be able to query—by security symbol and trade date—for the following real-time ORF data: (1) Trade details for disseminated trades in a given time period, which data will include the 52-week high and low prices and the dates such prices were attained; (2) the daily high price, low price, last sale price, most recent trade price and volume in a given time period; and (3) the weekly high price, low price and volume in a given time period, including the dates the high and low prices were attained.[13] As noted above, FINRA currently offers Level II web browser access for TRACE, which enables firms to conduct similar queries (by CUSIP and trade date) for TRACE transaction data.

Pursuant to proposed Rule 7710(b)(2), FINRA is proposing to charge $25 per month per user ID for Level II web browser access to the ORF, *i.e.*, $20 for Level I access plus an additional $5 for access to the "time and sales" function of the web browser. While the data query functionality of the web browser will be comparable for ORF and TRACE data, FINRA is not proposing to mirror the fee structure for TRACE Level II access. Among other things, the fees for TRACE Level II access reflect the fact that there are multiple data sets available for TRACE (e.g., Corporate Bond Data Set, Agency Data Set, etc.).[14] Since there is only one data set for ORF, FINRA believes that a flat fee is appropriate. In addition, given that there are other sources for ORF data, *i.e.*, the above-referenced UTP SIP Level I entitlement, and given the current fees for such data, FINRA believes that the proposed fee of $25 for Level II web browser access for the ORF (i.e., $20 for Level I access plus an additional $5 for data access) is reasonable.

Proposed Fees for ORF Data Through FINRA's Automated Data Delivery Service

FINRA ADDS is a secure Web site that provides members, by market participant identifier ("MPID"), access to trade journal files containing key information regarding the member's trades reported to FINRA. Members use the trade journal files to reconcile the trade information captured by their own systems against the information captured by the FINRA trade reporting systems. Currently, FINRA ADDS makes recent ADF and TRACE trade journals available for free through the FINRA ADDS Web site and offers subscribers the option of receiving historical data and retrieving data automatically via Secure File Transfer Protocol ("SFTP") for a fee. FINRA is proposing to enhance FINRA ADDS to include ORF data, to be delivered in the same format and via the same two methods currently used for TRACE and ADF data, and charge fees for such data pursuant to proposed paragraph (c) of Rule 7710.

Under proposed Rule 7710(c)(1), FINRA will provide member subscribers with their own trade data (as FINRA ADDS currently does for TRACE and the ADF). The ORF trade journals provided through FINRA ADDS will replace the equity trade journals for ORF currently provided by NASDAQ. Through the FINRA ADDS Web site, a member will have access to ORF trade data associated with its MPID for the three prior business days free of charge without having to subscribe to the additional optional data services discussed below. As noted above, firms that have web browser access will also be able to download up to three days' worth of their prior day ORF trade data through the Trade Management functionality on the MPP at no additional charge (once the firm has paid any applicable fees, e.g., for ORF web browser access); however, the data will not be in same format as available through FINRA ADDS.[15]

Through FINRA ADDS, members can access their own data for dates older than the most recent three business days for a monthly fee, if they elect to subscribe to receive this additional data through FINRA ADDS (referred to as "ORF Data Delivery Plus" service).[16] The fee will be charged per month to an MPID that is a subscriber for ORF Data Delivery Plus reports ("Plus Reports"), which will be provided in response to requests by the MPID.[17] The proposed fees under Rule 7710(c)(1)(A) are based on (1) the average number of transactions reported to the ORF per month to which the MPID was a party in the prior calendar year, which number is used to assign the MPID to one of four tiers [18] and (2) the number of Plus Reports the subscriber receives in a month.[19] The proposed fees range from a low of $10 (for a member in the lowest tier [20] requesting up to five Plus Reports per month) to a high of $100 a month (for a member in the highest tier [21] requesting more than 25 Plus Reports per month). The proposed fee schedule for ORF data is identical to the current fee schedule for TRACE data through FINRA ADDS under Rule 7730(g)(1); however, given the significantly higher volume of trades reported to the ORF, the proposed tiers under Rule 7710(c)(1)(A) are not

[13] FINRA notes that firms that subscribe to the UTP SIP Level I entitlement receive the real-time OTC Bulletin Board ("OTCBB") quote feed (or BBDS) and real-time ORF transaction feed (or TDDS), in addition to other data. The proposed rule change would not impact a firm's subscription to UTP SIP Level I data or fees for such data. Effective January 1, 2014, the professional subscriber fee was increased from $20 to $23 per subscriber per month. *See* UTP Vendor Alert #2013—10 (September 26, 2013), available at *www.nasdaqtrader.com/TraderNews.aspx?id=uva2013-10.*

While a Level II web browser subscriber will be able to see all ORF trades at the time of the query in a specific security, the subscriber will not see the continuous TDDS data feed, and the web browser will not include quote data from the BBDS. Thus, FINRA believes that subscribers most likely will use the ORF "time and sales" data for middle and back office functions such as trade reconciliation and compliance.

[14] Under Rule 7730(a)(1)(B), the fee for Level II Full Service web browser access for TRACE is $50 per month for one data set or $80 per month for two data sets for the first or a single user ID; and for additional user IDs, the fee is $80 per month per user ID for one data set or $140 per month per user ID for two data sets.

[15] Specifically, the Trade Management data through the web browser will be "living" for three days after trade date (T+3), whereas FINRA ADDS files will be produced at the end of the trading day and will not change (*e.g.*, to reflect trades that were subsequently canceled or corrected). For example, on Wednesday, a member firm cancels a trade that it executed on Monday. Through FINRA ADDS, the member will see the trade from Monday, with no indication that the trade was subsequently canceled. Through Trade Management, the status of the trade will be updated from "New" to "Canceled." FINRA notes that firms that report trades via CTCI, a FIX line or a third party intermediary may have additional options for accessing their trade data, e.g., a firm that uses FIX could elect to receive "drop copies" of individual trade reports.

[16] Subscribers ultimately will be able to access up to two years of trade journal files.

[17] To access trade information for multiple MPIDs, a firm must obtain a subscription for each MPID.

[18] Once assigned to a tier, a subscriber remains in the tier for the remainder of the calendar year. For example, an MPID that subscribes in September 2014 will be assigned to a tier based upon the ORF transactions reported in 2013 in which the MPID was a party, and will remain in that tier until December 31, 2014. In 2015, the MPID will be re-evaluated and assigned to a tier for 2015 fee purposes, based upon the MPID's ORF trades in 2014. Where there is no historical data associated with an MPID (*e.g.*, the MPID is new), the lowest tier would apply.

[19] A subscriber's fee will be assessed each month and accordingly may vary during a calendar year, depending on the number of reports FINRA makes available to the subscriber in response to the subscriber's requests. The ORF Data Delivery Plus fee is based upon the number of reports provided to avoid charging for data requests that FINRA may be unable to provide (*e.g.*, a request for data that pre-dates migration of the ORF to the MPP).

[20] The lowest tier, Tier 4, applies to members with an average of fewer than 1,000 transactions per month to which the member was a party in the prior calendar year.

[21] The highest tier, Tier 1, applies to members with an average of 50,000 or more transactions per month to which the member was a party in the prior calendar year.

identical to the tiers under Rule 7730(g).[22]

Members also will have the option of subscribing to the SFTP service for ORF trade data, which will enable them to automate the process of retrieving their daily trade journal files. Files will be made available on a daily basis to firms that subscribe to the ORF Data Delivery SFTP service, and firms will be able to connect to FINRA ADDS via SFTP to download their data. Pursuant to proposed Rule 7710(c)(1)(B), FINRA is proposing to charge the following fees to members that elect to receive ORF data via SFTP: (1) A one-time set up fee of $250 for each MPID that subscribes to the service and (2) a monthly fee of $200 per MPID that subscribes to the service. The proposed fees are identical to the current fees charged under Rules 7510(d)(2) and 7730(g)(2) for SFTP delivery of ADF and TRACE data, respectively, through FINRA ADDS.

Thus, firms have the option of subscribing to FINRA ADDS for their ORF, ADF and TRACE trade data and can select the data delivery method that best suits their needs.[23] For example, a firm may subscribe to the ORF Data Delivery SFTP service for automated retrieval of its data to enable its back office to reconcile transaction and clearing data captured by its own systems and the ORF, while another firm may subscribe to the ORF Data Delivery Plus service if it does not need automated data retrieval, but wants the ability to look up its historical trade data and does not have all of that data stored in its own systems.

Under proposed Rule 7710(c)(2), member clearing firms that elect to subscribe to FINRA ADDS will have access to data regarding their correspondents' clearing eligible trades reported to the ORF associated with the subscribing clearing firm's Clearing Number. FINRA is providing this data at the request of clearing firms, and it will replace the clearing firm trade journal files for ORF currently provided by NASDAQ. Similar to the ORF data provided to firms under proposed Rule 7710(c)(1), ORF data for clearing firms will be available through the FINRA ADDS Web site and via SFTP. Through the FINRA ADDS Web site, a clearing firm will have access to its correspondents' ORF trade data associated with its Clearing Number for the three prior business days free of charge without having to subscribe to the additional optional data services discussed below.[24]

Through FINRA ADDS, clearing firms can access their correspondents' data for dates older than the most recent three business days for a monthly fee. Pursuant to proposed Rule 7710(c)(2)(A), clearing firms that subscribe to access data via the Web site ("Clearing Data Delivery Plus" access) will be charged a flat fee of $150 per Clearing Number[25] per month, irrespective of the number of reports received. FINRA believes that it is appropriate to charge a flat fee for Clearing Data Delivery Plus; the small number of clearing firms relative to the number of ORF participants is not conducive to establishing tiers based on transaction activity or number of correspondents. Pursuant to proposed Rule 7710(c)(2)(B), clearing firms that subscribe to the SFTP service ("Clearing Data Delivery SFTP") will be charged a one-time start-up fee of $250 per Clearing Number and a fee of $300 per month per Clearing Number. The one-time start-up fees under proposed paragraphs (c)(1)(B)(i) and (c)(2)(B)(i) for firms receiving their own ORF trade data and clearing firms receiving their correspondents' ORF trade data are identical. However, the higher monthly fee for receiving automated clearing firm trade journals via SFTP under proposed paragraph (c)(2)(B)(ii) (compared to the fee for receiving firm trade journals via SFTP under proposed paragraph (c)(1)(B)(ii)) reflects the more complex queries, and in some cases, larger data sets associated with clearing firm trade journals. FINRA notes that clearing firm trade journals are not offered for TRACE or the ADF because currently these facilities do not send any of their participants' trades to clearing.[26]

The proposed fees for ORF web browser access, including access to real-time "time and sales" data, and ORF data via FINRA ADDS would allow FINRA to recoup some of the costs of developing and maintaining these services for the ORF on the MPP. Although FINRA already provides web browser access and data for TRACE and the ADF through FINRA ADDS, FINRA will incur additional development and maintenance costs to add ORF to these services. Any time that a new type of data—in this instance ORF data—is added, there is additional development cost to modify the Web site so that users can access that data. Additionally, each new type of data increases the volume of data that FINRA's systems must store in order to make it available for subscribers, *i.e.*, there would be no need for FINRA ADDS to consume and store ORF data if it were not being made available to firms. FINRA believes that extending the availability of these optional services to ORF participants and their clearing firms will provide firms with the enhanced tools to meet their trade reporting and trade management obligations without placing significant financial or operational burdens on them.

FINRA staff discussed the proposed fees under Rules 7710(b)(1) and (c)(1) with several of FINRA's industry advisory committees. The committees were supportive and had a few clarifying questions. One committee member asked whether the proposed fees effectively are a fee reduction for firms, given that the proposed fees are lower than the current NASDAQ fees. FINRA notes that it will be a reduction for members that only report trades to the ORF; however, members that also report trades to the FINRA/Nasdaq TRF[27] would still be subject to NASDAQ's fees (*e.g.*, for the ACT Workstation for purposes of reporting to the FINRA/Nasdaq TRF). Another committee member asked whether FINRA would reduce the proposed fees, if they were considered to be too high. FINRA notes that it evaluates its fees on an ongoing basis, and if any fees are determined to be unreasonable or not equitably allocated among members, FINRA would revisit them.

Proposed Amendments to Existing Transaction Reporting Fees

FINRA is proposing to amend Rule 7710 to clarify the rule's application without modifying the transaction

[22] FINRA notes that the fee schedule for ADF data through FINRA ADDS under Rule 7510(d)(1) is identical to the proposed fee schedule for Tier 1 ORF data and the existing fee schedule for Tier 1 TRACE data through FINRA ADDS; however, FINRA did not further divide the ADF fees into tiers, as there is not currently a baseline of transaction activity from which FINRA can establish such thresholds. *See* Securities Exchange Act Release No. 71528 (February 12, 2014), 79 FR 9550 (February 19, 2014) (Notice of Filing; File No. SR–FINRA–2014–007).

[23] FINRA notes that a member that subscribes to FINRA ADDS for TRACE, ADF and ORF data would pay three separate fees under Rules 7730(g), 7510(d) and 7710(c).

[24] As discussed above, clearing firms that subscribe to Level I web browser access under proposed Rule 7710(b) also will be able to download up to three days' worth of their correspondents' prior day ORF trade data at no additional charge.

[25] To access trade information for multiple Clearing Numbers, a firm must obtain a subscription for each Clearing Number.

[26] FINRA further notes that the proposed fees are less than the current fees for clearing firm trade journals provided by NASDAQ, which fees range from $750 per month to $1,750 per month under NASDAQ Rule 7060, although these fees also include data for a larger universe of transactions (*i.e.*, ORF, FINRA/Nasdaq TRF and NASDAQ Market Center).

[27] As previously noted, the FINRA/Nasdaq TRF is a FINRA facility for reporting OTC trades in NMS stocks. The front-end user-facing system is provided by NASDAQ, as the TRF Business Member, and operates on NASDAQ's ACT technology platform.

reporting fee amounts specified in the rule.[28] First, FINRA is proposing to clarify that in the case of trades where the same market participant is on both sides of a trade report (*e.g.*, a cross transaction, which can be reported with the Executing Party's MPID on both sides of the trade), applicable fees assessed on a "per side" basis will be assessed once, rather than twice, and the market participant will be assessed applicable charges as the Executing Party side only.[29] The proposed rule text is identical to the text of current Rule 7620A relating to fees for reporting to the FINRA/Nasdaq TRF and is consistent with the manner in which trades reported to the ORF are billed today.

Second, FINRA is proposing to clarify that trades reported for regulatory purposes only (*i.e.*, trades that are submitted neither for public dissemination nor clearing through the ORF, also referred to as "non-tape, non-clearing reports") are not assessed a fee. The proposed amendment would codify FINRA's current billing methodology as set forth in NASD *Notice to Members* ("NTM") 00–79 (November 2000).[30]

Third, FINRA is proposing to amend the provision of Rule 7710 that imposes a "Late Report—T+N" fee of $0.288 on each party to a late trade report that is submitted one or more days after trade date (T+N).[31] Under the proposed rule change, the Late Report—T+N fee (which will remain set at $0.288) will be imposed only on the "Executing Party," as defined for purposes of Rule 7710 in the proposed Supplementary Material. The responsibility for reporting trades is imposed on only one party to the trade, and as such, FINRA believes that the Late Report—T+N trade report fee should only be imposed on one party to the trade as well. The proposed rule change would ensure that the contra party to a trade is not subject to a fee due to late trade reporting by the Executing Party. The proposed amendment is identical to Rule 7620A relating to fees for the FINRA/Nasdaq TRF.

Fourth, FINRA is proposing to delete the "Query" charge under Rule 7710, which relates to functionality that is specific to ACT and will not apply on the MPP. Upon migration of the ORF to the MPP, members will be able to search for their trades, but there will be no charge for such functionality. In addition, FINRA is proposing to amend Rule 7710 to clarify that the Corrective Transaction Charge applies to "Cancel/Correct" transactions only. The ORF will no longer support "Error, Inhibit, Kill, or No/Was" transactions, which are ACT-specific.

Finally, FINRA notes that Rule 7710 currently provides that transactions that are not subject to comparison [32] through the ORF will be charged a fee of $0.029 per side. FINRA is not proposing to amend the text of this provision. However, in the course of a recent review of ORF billing methodology, FINRA determined that, with respect to a limited subset of trades, this fee currently is not charged in strict conformance with the rule. Specifically, for "tape only" transactions between two FINRA members (*i.e.*, transactions that are reported for public dissemination purposes and are not cleared through the ORF or locked-in via AGU or QSR), only the reporting party currently is charged. The contra party is not charged for such transactions, notwithstanding that the rule states that the fee applies to both sides of the transaction. Upon migration of the ORF to the MPP, FINRA intends to charge this fee in accordance with the express terms of the rule. Accordingly, both sides of the trade will be charged for all transactions reported to the ORF that are not subject to comparison, including all "tape only" trades that are not cleared through the ORF, as well as trades that are cleared through the ORF and locked-in via AGU or QSR agreements.[33] Although the rule language will remain unchanged, some firms that are identified as the contra party on trade reports submitted to the ORF may see an increase in their fees.[34] FINRA will contact the firms that will be most affected by the change in billing methodology to make them aware of the potential increase in their invoices.[35]

Proposed Deletion of Rule 7740

Rule 7740 sets forth the fees to be paid by the purchaser of Historical Research Reports regarding OTC Bulletin Board ("OTCBB") securities through the OTCBB Web site. As the OTCBB has lost quotation activity in recent years (today, there is virtually no quotation data available through the OTCBB Web site), the value of these reports has declined significantly, and FINRA believes that users have found alternative ways to obtain this data.[36] FINRA has determined that in light of this decline, FINRA will no longer provide these reports once the ORF has migrated to the MPP because the value of the reports does not outweigh the cost of development work to provide them on the new platform. Accordingly,

[28] FINRA also is proposing to designate the current text of Rule 7710 as new paragraph (a) (Transaction Related Charges).

[29] FINRA also is proposing to adopt Supplementary Material that defines "Executing Party (EP)" for purposes of Rule 7710 as the member with the trade reporting obligation under FINRA rules. Under Rule 6622(b), in a trade between a member and non-member or customer, the member has the obligation to report the trade, and in a trade between two members, the member that receives an order for handling or execution or is presented an order against its quote, does not subsequently re-route the order, and executes the transaction, has the obligation to report the trade.

[30] NTM 00–79 announced new requirements for riskless principal trade reporting and noted that "[n]o ACT fee will be assessed for the non-tape, non-clearing report. An ACT fee will be assessed for the clearing-only report, however, because the firm is receiving clearing services in connection with the report."

[31] Under FINRA rules, trades that are executed between 8:00 p.m. and midnight and trades that are executed on non-business days (pursuant to amendments approved, but not yet effective, under SR–FINRA–2013–050) must be reported by 8:15 a.m. the next business day following execution. Such T+N trades are timely and will not be assessed the late fee under Rule 7710. All other T+N trades are late under FINRA rules and as such are subject to this fee.

[32] Transactions that are not subject to comparison include trades that are not cleared through the ORF and trades that are locked-in for clearing at the time of submission via an automatic give-up agreement ("AGU") or qualified special representative ("QSR") agreement.

[33] As noted above, for trades that are submitted for regulatory purposes only, *i.e.*, non-tape, non-clearing reports, neither side will be charged a fee.

[34] FINRA reviewed ORF monthly invoices for the period from July 2013 through February 2014 and determined that fewer than a dozen member firms that receive invoices for ORF trade reporting are regularly identified as the contra party on trades for which they are not charged a fee. Most of these firms would see a relatively modest increase in their invoices for any given month. Firms with very small invoices may see a larger percentage increase; however, the actual dollar increase would be relatively small, on average less than $100. Several firms may see a larger dollar increase; however, given the average amount of their total monthly invoices, such increase would represent only a small percentage (e.g., 2% to 3%) increase in their overall fees. In addition, FINRA notes that during this same eight-month period, there were approximately 60 firms that received no invoices for ORF trade reporting but were identified as the contra party on trades. These firms will begin to receive ORF invoices. Of these firms, all but two were parties to a small number of trades in any given month, and as such, the change in billing methodology will not have a significant impact on them.

[35] Given that the amounts at issue are relatively modest in terms of FINRA's overall revenues and ORF revenues, FINRA does not intend to retroactively bill affected contra parties in accordance with the rule.

[36] For example, there were 274 requests for reports pursuant to Rule 7740 in 2012, and that number fell to 92 through November of 2013. FINRA notes that the main consumers of these reports have historically been issuers that used them to get basic quote and trade data for their securities. Member firms have generally not relied on these reports as a source of market data. These reports provide only aggregate data by security, while, for example, the equity trade journals offer detailed trade information for all trades to which a firm's MPID was a party.

FINRA is proposing to delete Rule 7740 in its entirety.[37]

FINRA has filed the proposed rule change for immediate effectiveness. The operative date will be the date of ORF migration to the MPP. The ORF is scheduled to migrate to the MPP on September 15, 2014.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[38] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(5) of the Act,[39] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed fees are reasonable in light of FINRA's regulatory and operational costs, including personnel, infrastructure and technology costs, and that they are equitably allocated and not unfairly discriminatory because they will apply uniformly to members that are parties to trades submitted to the ORF or that choose to purchase the optional services discussed herein.

FINRA further believes that the proposed fees for web browser access for the ORF under proposed Rule 7710(b) are consistent with the Act because the web browser is one of a number of options available to members for meeting their trade reporting and trade management obligations (other options include CTCI, FIX and third party service providers). Members can elect the option that they determine is the most cost-effective and best suits their business model, and the proposed fees for the web browser would only be charged to member participants and clearing firms that elect to subscribe. The proposed fee for ORF Level I web browser access is identical to the existing fee for web browser access for the ADF under Rule 7510(c)(1) and Level I web browser access for TRACE under Rule 7730(a)(1), which fees were adopted pursuant to proposed rule changes filed with the SEC. Thus, members will pay the same fee for the same trade reporting and trade management functionality offered through the web browser for the ORF, TRACE and ADF on the MPP. The ORF Level I web browser also will provide clearing firms with access to their correspondents' trades for the same fee.

Level II web browser access also is optional and members can obtain real-time ORF transaction data from other sources (*e.g.*, the UTP SIP Level 1 entitlement discussed above). FINRA believes that it is appropriate to charge a lower fee for ORF Level II access than TRACE Level II access, given that there is only one data set for the ORF and there are multiple data sets for TRACE. In addition, FINRA believes that the proposed fee is reasonable in light of the current costs of ORF data through the UTP SIP Level 1 entitlement, which is an alternative source for ORF data, albeit in a different format than that presented through the web browser. For these reasons, FINRA believes that the proposed Level I and Level II web browser access fees are reasonable, equitably allocated and not unfairly discriminatory, and they should not be an undue burden on firms while allowing FINRA to recover some of the cost of developing and maintaining the web browser system for the ORF.

FINRA also believes that the proposed fees for ORF data through FINRA ADDS under proposed Rule 7710(c) are consistent with the Act because FINRA ADDS is an optional service, and the fees would only be charged to member participants and clearing firms that elect to subscribe. The fees for members that subscribe to their own ORF trade data are identical to existing fees for TRACE data through FINRA ADDS under Rule 7730(g), and the Tier 1 fees are also identical to existing fees for ADF data through FINRA ADDS under Rule 7510(d). Such fees were adopted pursuant to proposed rule changes filed with the SEC. FINRA believes it is appropriate to charge identical fees for identical data services for the ORF, TRACE and ADF on the MPP; however, given the larger trading volume reported to the ORF, it is appropriate to have a different tier structure for the ORF as compared to TRACE and the ADF. For these reasons, FINRA believes that the proposed fees for ORF data through FINRA ADDS are reasonable, equitably allocated and not unfairly discriminatory. In addition, FINRA believes that the proposed fees for clearing firms that elect to subscribe to their correspondents' clearing eligible ORF trade data are reasonable, equitably allocated and not unfairly discriminatory. While the proposed fees for clearing firms are higher than the proposed fees for firms subscribing to receive their own trade data, they reflect the more complex queries and, in some cases, larger data sets associated with clearing firm trade journals.

FINRA further believes that the proposed clarifying amendments to Rule 7710 are consistent with the Act because FINRA is not proposing to modify the fee amounts specified in the rule, but rather is proposing to clarify the application of the fees and to accurately reflect the functionality of the ORF upon migration from NASDAQ's ACT platform to the MPP. While the amount of the "Late Report—T+N" fee will continue to be $0.288, contra parties to trades reported late on a T+N basis by the Executing Party will no longer be charged for the late report, and thus some members will see a reduction in fees as a result of the proposed rule change. The amount of the non-comparison fee also will remain unchanged (at $0.029); however, contra parties on "tape only" trade reports will start to be charged the non-comparison fee, and thus some members will see an increase in fees as a result of the proposed rule change. FINRA believes that the overall impact of the proposed rule change on any given firm's fees will be relatively modest. For these reasons, FINRA believes that the proposed clarifying changes to Rule 7710 are appropriate and consistent with the Act, in that they are reasonable, equitably allocated and not unfairly discriminatory.

Finally, FINRA believes that the proposed deletion of Rule 7740 is consistent with the Act because FINRA is proposing to eliminate fees for historical reports that FINRA believes are of little value today and not relied on by market participants as a source of market data.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will not affect all FINRA members, but only those members that use the ORF. Trade reporting in OTC equity securities tends to be highly concentrated with the top 20 firms reporting approximately 87% of all trades to the ORF annually. There are approximately 430 firms that have reported trades to the ORF in a given year, and approximately 275 firms that have reported trades to the ORF each month, over the past several years. FINRA believes that most of the approximately 275 firms that report trades every month will utilize at least

[37] FINRA notes that any future proposal to provide historical quote and trade information for OTC Equity Securities would be subject to a separate proposed rule change.

[38] 15 U.S.C. 78*o*–3(b)(6).

[39] 15 U.S.C. 78*o*–3(b)(5).

one user ID for web browser access with the most active firms possibly utilizing several.[40]

Because the proposed fee for web browser access for trade reporting is reasonable in amount and identical to existing fees for the same access to other FINRA facilities, FINRA does not believe that payment of such fee by any member, or any group or class of members, will result in a burden on competition to such members. Similarly, with respect to the proposed fees for ORF data through the web browser and FINRA ADDS, because the proposed fees are both optional and reasonable in amount and comparable to existing fees for the same data relating to different products through other FINRA facilities, FINRA does not believe that the payment of such fees by any member, or any group or class of members, will result in a burden on competition to such industry members relative to other industry members that elect not to subscribe to the optional services.[41] With respect to the proposed clarifying changes to the transaction reporting fees set forth in Rule 7710 (to be designated as 7710(a)), as discussed above, some members may see an increase in fees, while others may see a decrease. However, the overall change is likely to be relatively modest. Thus, because the proposed rule change is not expected to have a significant impact on the fees paid by market participants, FINRA does not believe that the change will affect the competitive standing of members that report trades to the ORF (*e.g.*, the cost of reporting transactions to the ORF would not make trading in OTC Equity Securities cost-prohibitive).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[42] and Rule 19b–4(f)(6) thereunder.[43]

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–FINRA–2014–032 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–032. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2014–032, and should be submitted on or before August 7, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[44]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–16824 Filed 7–16–14; 8:45 am]

BILLING CODE 8011–01–P

[40] FINRA notes that, given the compressed time frame for reporting (*i.e.*, 10 seconds or less), it is anticipated that many firms will choose an automated mechanism to report trades to the ORF.

[41] FINRA notes that today, the number of subscribers for TRACE data through FINRA ADDS is small: 16 firms subscribe to the Plus Reports and five firms subscribe to the SFTP service. FINRA anticipates that there will be much more interest in ORF data through FINRA ADDS, given the differences in the equity versus fixed income markets, but we are unable to provide an estimate of the number of firms that are likely to subscribe at this time.

[42] 15 U.S.C. 78s(b)(3)(A).

[43] 17 CFR 240.19b–4(f)(6).

[44] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72600; File No. SR–MIAX–2014–38]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Change Its Procedure for Processing Fingerprints Under Existing Rule 807

July 11, 2014.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 1, 2014, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to change its procedure for processing fingerprints under its existing Rule 807.

The text of the proposed rule change is available on the Exchange's Web site

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change the procedure under its existing Rule 807 (Fingerprint-Based Background Checks of Exchange Employees and Independent Contractors) regarding its current practice of conducting fingerprint-based criminal records checks of (i) all prospective and current employees of the Exchange (ii) all prospective and current independent contractors who have or are anticipated to have access to the facilities of the Exchange for ten (10) business days or longer ("contractors") and (iii) all prospective and current temporary employees who have or are anticipated to have access to facilities of the Exchange for ten (10) business days or longer ("temporary employees").[4] A number of securities markets have filed rules and procedures with the Securities and Exchange Commission ("Commission" or "SEC") to obtain fingerprints from certain enumerate [sic] parties.[5] MIAX's proposal to change its procedure under its Rule 807 is consistent with these rules. Specifically, the Exchange is proposing to: (1) Discontinue the current method of manual fingerprinting via fingerprint cards and (2) utilize a Live-Scan [6] electronic system for the taking of fingerprints. All of the proposed changes are consistent with the requirements of other options exchanges.[7]

Access to the Federal Bureau of Investigation's ("FBI") (the fingerprint processing arm of the Office of the Attorney General of the United States) database of fingerprint-based records is permitted only when authorized by law. Section 17(f)(2) of the Act explicitly directs the Attorney General of the United States (*i.e.,* the FBI) to provide SROs designated by the Commission with access to criminal history record information. The Exchange has conducted its fingerprint-based record checks of (i) employees of the Exchange, (ii) contractors, and (iii) temporary employees since Rule 807 was adopted on December 3, 2012. Under the current fingerprinting procedure, the Exchange staff manually rolls the fingerprints and submits the fingerprint cards to the FBI.[8] The Exchange understands that the FBI is no longer accepting card stocks of fingerprints due to the high costs associated with processing these submissions, thereby requiring that all fingerprints be submitted in an electronic format for processing. The FBI requires a minimum of 3,000 submissions per year in order to maintain a direct FBI connection for electronic fingerprint processing. However, the Exchange's annual volume of fingerprint submissions is approximately 100 per year. Because this is a mere fraction of the minimum requirement set forth by the FBI, it is necessary that MIAX engage an FBI-authorized Channel Partner for these services in order to comply with applicable federal law.[9] Accordingly, the Exchange is now proposing to utilize a Live-Scan electronic fingerprinting system, as mentioned above. Any Live-Scan system utilized by the Exchange will have been certified by the FBI for compliance with the FBI's Integrated Automated Fingerprint Identification System ("IAFIS") [10] image quality specifications. The Live-Scan system will electronically capture and transmit fingerprints to the FBI for processing and transmit fingerprint reports back to the MIAX.[11] The Live-Scan system will be maintained by an FBI-approved Channel Partner [12] and operated by a qualified Channel Partner representative. The Exchange notes that at least two other exchanges employ the same method for processing fingerprints electronically.[13]

The procedural change that MIAX is proposing under its existing Rule is concerned with the constitution [sic] of a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing Rule of MIAX and MIAX believes that it is therefore eligible to be filed pursuant to

[3] The Commission notes that there is no text for this proposed rule change. Rather, MIAX is changing its procedure for processing fingerprints.

[4] *See* Rule 807.

[5] *See* Securities Exchange Act Release No. 69496 (May 2, 2013), 78 FR 26671 (May 7, 2013), (Notice of filing and immediate effectiveness of a proposed Chicago Board Options Exchange ("CBOE") rule change relating to fingerprint-based background checks (SR–CBOE–2013–044)); Rule 28 of the New York Stock Exchange ("NYSE"); Rule 0140 of the Nasdaq Stock Market, Inc. ("Nasdaq"); 71066 (December 12, 2013) 78 FR 76667 (December 18, 2013) (SR–ISE–2013–66); and Securities Exchange Act Release No. 50157 (August 5, 2004), 69 FR 49924 (August 12, 2004) (policy adopted by the Financial Industry Regulatory Authority ("FINRA"), formerly known as National Association of Securities Dealers, Inc. ("NASD"), to conduct fingerprint-based background checks of NASD employees and independent contractors).

[6] Live-Scan refers to the process of capturing fingerprints directly into a digitized format as opposed to traditional ink and paper methods. Using Live-Scan technology, images are captured and transmitted to a central location and/or interface for identification processing. Certified Live-Scan systems produce consistent high quality fingerprint images, thereby reducing rejection rates and lowering turnaround times. Live-Scan systems are used by law enforcement agencies for processing criminal fingerprint records and in government and commercial markets for applicant employment background checks.

[7] *See supra* note 5.

[8] The Exchange notes that one to two weeks generally elapses between the time when MIAX submits fingerprint cards and when MIAX received [sic] fingerprint reports.

[9] 15 U.S.C. 78q(f)(2); 17 CFR 240.17f–2(c).

[10] The IAFIS, which was launched in July 1999, was developed to offer rapid suspect identification to law enforcement agencies and organizations where criminal background histories are a critical factor in consideration for employment. Because fingerprint cards must be physically transported and processes [sic], substantial delays can be experienced in the identification cycle. To improve the speed and accuracy of the fingerprint identification process and eliminate the need for contributing agencies to create and mail paper fingerprint cards to the FBI for processing, the FBI Criminal Justice Information Services Division developed the IAFIS to support the paperless submission of fingerprint records. IAFIS provides Federal, state and local criminal justice agencies the ability to electronically transmit fingerprint information, vastly improving response time.

[11] The Exchange estimates that under this proposed change approximately two days will elapse between when MIAX submits electronic fingerprints and when the FBI returns fingerprint reports to the MIAX.

[12] FBI-approved Channel Partners receive the fingerprint submission and relevant data, collect the associated fee(s), electronically forward the fingerprint submission with the necessary information to the FBI Criminal Justice Information Services Division ("CJIS") for a national Criminal History Summary check, and receive the electronic summary check result for dissemination to the individual. An FBI-approved Channel Partner simply helps expedite the delivery of Criminal History Summary information on behalf of the FBI. The process for making a request through an FBI-approved Channel Partner is consistent with FBI submission procedures.

[13] *See* Securities Exchange Act Release Nos. 46467 (September 6, 2002), 67 FR 58088 (September 13, 2002), (Approval of CBOE using electronic system for submitting fingerprints under its fingerprinting plan), as corrected by 46467A (December 19, 2002), 67 FR 79195 (December 27, 2002). *See also* Securities Exchange Act Release No. 71066 (December 12, 2013) 78 FR 76667 (December 18, 2013) (SR–ISE–2013–66).

section 19(b)(3)(A)(i) of the Act[14] and Rule 19b–4(f)(1)[15] thereunder. The Exchange believes that this proposed procedural change under the existing rule is necessary in order to ensure the Exchange's continued compliance with its Rules and applicable federal law.[16]

2. Statutory Basis

The Exchange believes that its proposal is consistent with the Securities Exchange Act of 1934 (the "Act")[17] and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act. Specifically, the Exchange believes the proposed procedural change under Rule 807 is consistent with the Section 6(b)(5)[18] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to 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.

In particular, the Exchange believes that fingerprint-based background checks via a Live-Scan system of employees, contractors, and temporary employees is consistent with the foregoing requirements of Section 6(b)(5) in that it will allow MIAX to remain compliant with the requirements of its Rule 807 and applicable federal law.[19] Continuing to run fingerprint-based background checks is imperative for the Exchange as they help MIAX identify and exclude persons with felony or misdemeanor conviction records that may pose a threat to the safety of Exchange personnel or the security of facilities and records, thereby enhancing business continuity, workplace safety and the security of the Exchange's operations and helping to protect investors and the public interest. Additionally, the proposed procedural change will allow MIAX to employ the same fingerprinting method currently employed by at least two other SR0s [sic].[20]

For the foregoing reasons, the Exchange believes that the proposed procedural change under the existing rule is appropriate in order to ensure continued compliance with applicable state and federal laws.[21]

[14] 15 U.S.C. 78s(b)(3)(A)(i).
[15] 17 CFR 240.19b–4(f)(1).
[16] *See supra* note 9.
[17] 15 U.S.C. 78f(b).
[18] 15 U.S.C. 78f(b)(5).
[19] *See supra* note 9.
[20] *See supra* note 13.
[21] *See supra* note 9.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX does not believe that the proposed procedural change under the rule will impose any burden on competition that is not necessary or appropriate in the furtherance of the purposes of the Act. The proposed procedural change under the rule would enhance the security of the Exchange's facilities and records without adding any burden on market participants and allow the Exchange continued compliance with its fingerprinting rules and with Section 17(f)(2) of the Act as amended by the Dodd-Frank Act.[22]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act[23] and Rule 19b–4(f)(1)[24] thereunder, because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

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–MIAX–2014–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2014–38. 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–MIAX–2014–38, and should be submitted on or before August 7, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–16787 Filed 7–16–14; 8:45 am]

BILLING CODE 8011–01–P

[22] *See* Section 929S of the Dodd-Frank Act.
[23] 15 U.S.C. 78s(b)(3)(A).
[24] 17 CFR 240.19b–4(f)(1).
[25] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 8797]

Overseas Security Advisory Council (OSAC) Meeting Notice: Closed Meeting

The Department of State announces a meeting of the U.S. State Department—

Overseas Security Advisory Council on August 19–20, 2014. Pursuant to Section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(7)(E), it has been determined that the meeting will be closed to the public. The meeting will focus on an examination of corporate security policies and procedures and will involve extensive discussion of trade secrets and proprietary commercial information that is privileged and confidential, and will discuss law enforcement investigative techniques and procedures. The agenda will include updated committee reports, a strategic planning session, and other matters relating to private sector security policies and protective programs and the protection of U.S. business information overseas.

For more information, contact Marsha Thurman, Overseas Security Advisory Council, U.S. Department of State, Washington, DC 20522–2008, phone: 571–345–2214.

Dated: July 1, 2014.

Bill A. Miller,

Director of the Diplomatic Security Service, U. S. Department of State.

[FR Doc. 2014–16823 Filed 7–16–14; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA- 2014–0103]

Qualification of Drivers; Application for Exemptions; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces that 10 individuals have applied for a medical exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). In accordance with the statutory requirements concerning applications for exemptions, FMCSA requests public comments on these requests. The statute and implementing regulations concerning exemptions require that exemptions must provide an equivalent or greater level of safety than if they were not granted. If the Agency determines the exemptions would satisfy the statutory requirements and decides to grant theses requests after reviewing the public comments submitted in response to this notice, the exemptions would enable 10 individuals to operate CMVs in interstate commerce.

DATES: Comments must be received on or before August 18, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0103 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The Federal Motor Carrier Safety Administration has authority to grant exemptions from many of the Federal Motor Carrier Safety Regulations (FMCSRs) under 49 U.S.C. 31315 and 31136(e), as amended by Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, June 9, 1998, 112 Stat. 107, 401). FMCSA has published in 49 C.F.R. part 381, subpart C final rules implementing the statutory changes in its exemption procedures made by section 4007, 69 FR 51589 (August 20, 2004).[1] Under the rules in part 381, subpart C, FMCSA must publish a notice of each exemption request in the **Federal Register**. The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted and any research reports, technical papers and other publications referenced in the application. The Agency must also provide an opportunity to submit public comment on the applications for exemption.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved without the exemption. The decision of the Agency must be published in the **Federal Register**. If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed.

The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person

First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not

[1] This action adopted as final rules the interim final rules issued by FMCSA's predecessor in 1998 (63 FR 67600 (Dec. 8, 2008)), and adopted by FMCSA in 2001 [66 FR 49867 (Oct. 1, 2001)].

have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA also issues instructions for completing the medical examination report and includes advisory criteria on the report itself to provide guidance for medical examiners in applying the hearing standard. See 49 CFR 391.43(f). The current advisory criteria for the hearing standard include a reference to a report entitled "Hearing Disorders and Commercial Motor Vehicle Drivers" prepared for the Federal Highway Administration, FMCSA's predecessor, in 1993.[2]

FMCSA Requests Comments on the Exemption Applications

FMCSA requests comments from all interested parties on whether a driver who cannot meet the hearing standard should be permitted to operate a CMV in interstate commerce. Further, the Agency asks for comments on whether a driver who cannot meet the hearing standard should be limited to operating only certain types of vehicles in interstate commerce, for example, vehicles without air brakes. The statute and implementing regulations concerning exemptions require that the Agency request public comments on all applications for exemptions. The Agency is also required to make a determination that an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption before granting any such requests.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number "FMCSA–2014–0103" and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number "FMCSA–2014–0103" and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to the proposed rulemaking.

Information on Individual Applicants

Kevin S. Beacham

Mr. Beacham, 41, holds an operator's license in Maryland.

Tyler R. Carter

Mr. Carter, 22, holds an operator's license in Louisiana.

Stephen K. Gensmer

Mr. Gensmer, 28, holds an operator's license in Minnesota.

Nathaniel W. Godfrey

Mr. Godfrey, 40, holds an operator's license in Kentucky.

Jared Y. Katakurd

Mr. Katakurd, 39, holds an operator's license in Hawaii.

Ervin E. Mitchell

Mr. Mitchell, 35, holds a Class A commercial driver's license (CDL) in Alabama.

Robert L. Parrish, Jr.

Mr. Parrish, 49, holds an operator's license in California.

Matthew B. Skelton

Mr. Skelton, 35, holds a Class A commercial driver's license (CDL) in Texas.

Charles A. Whitworth

Mr. Whitworth, 44, holds a Class A commercial driver's license (CDL) in Louisiana.

Jesse W. Shelander

Mr. Shelander, 37, holds a Class A commercial driver's license (CDL) in Texas.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business August 18, 2014. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: July 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–16800 Filed 7–16–14; 8:45 am]

BILLING CODE 4910–EX–P

[2] This report is available on the FMCSA Web site at *http://www.fmcsa.dot.gov/facts-research/research-technology/publications/medreport_archives.htm.*

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–2006–24015; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2008–0266; FMCSA–2009–0154; FMCSA–2010–0082]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 40 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has

concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective August 18, 2014. Comments must be received on or before August 18, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1998–4334; FMCSA–2006–24015; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2008–0266; FMCSA–2009–0154; FMCSA–2010–0082], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 40 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 40 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Catarino Aispuro (WA)
Gary R. Andersen (NE)
Edwin A. Betz (IN)
Donald L. Carman (OH)
Christopher R. Cone (GA)
Walter O. Connelly (WA)
Armando P. D'Angeli (PA)
Louis A. DiPasqua, Jr. (NY)
Henry L. Donivan (WV)
Randy J. Doran (OR)
Roger D. Elders (MI)
James F. Epperson (IN)
Lucious J. Erwin (TX)
Riche D. Ford (CO)
Kelly L. Foster (UT)
Kevin K. Friedel (NY)
Steven G. Harter (OR)
George F. Hernandez, Jr. (AZ)
Andrew C. Kelly (WV)
Jason W. King (MT)
James T. Leek (WA)
Billy J. Lewis (LA)
Larry McCoy, Sr. (OH)
Robert W. McMillian (MA)
Richard A. Peterson (OR)
Chad M. Quarles (AL)
Carroll G. Quisenberry (KY)
Daniel S. Rebstad (FL)
Ryan J. Reimann (WI)
Jacob H. Riggle (OK)
Brandon J. See (IA)
Ricky L. Shepler (PA)
LeTroy D. Sims (SC)
John L. Stone (PA)
William R. Thomas (MS)
Nils S. Thornberg (OR)
Daniel W. Toppings (WV)
Christopher R. Whitson (NC)
Charles A. Winchell (OK)
Aaron E. Wright (MI).

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 40 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66227; 64 FR 16520; 71 FR 14567; 71 FR 30228; 73 FR 28187; 73 FR 35195; 73 FR 35196; 73 FR 35197; 73 FR 35198; 73 FR 35199; 73 FR 35200; 73 FR 35201; 73 FR 38497; 73 FR 38498; 73 FR 38499; 73 FR 48273; 73 FR 48275; 73 FR 51689; 73 FR 63047; 74 FR 37299; 74 FR 48344; 75 FR 25919; 75 FR 39729; 75 FR 44051; 76 FR 8809; 77 FR 40946; 77 FR 46153). Each of these 40

applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by August 18, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 40 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–1998–4334; FMCSA–2006–24015; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2008–0266; FMCSA–2009–0154; FMCSA–2010–0082 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–1998–4334; FMCSA–2006–24015; FMCSA–2008–0106; FMCSA–2008–0174; FMCSA–2008–0266; FMCSA–2009–0154; FMCSA–2010–0082 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to the proposed rulemaking.

Issued on: July 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–16802 Filed 7–16–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0018]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 88 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. At the end of the comment period, the Agency will grant exemptions to the applicants listed herein if there are no adverse comments that indicate the driver's ability will not achieve a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the regulations. All comments will be reviewed and evaluated by FMCSA. Some individuals appearing in this notice may not receive exemptions based on comments submitted during the comment period. Individuals not granted an exemption may either be published at a future date based on further evaluation, or may not be deemed to meet the aforementioned level of safety if granted an exemption. These individuals will be published in a quarterly notice of exemption denials. As always, any adverse comments received after the exemption is granted will be evaluated, and if they indicate that the driver is not achieving a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the regulation, the exemption will be revoked. When granted, the exemptions will allow these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before August 18, 2014. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0018 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200

New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 88 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency has evaluated the qualifications of each applicant and determined that granting the exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Charles Ackerman Jr.

Mr. Ackerman, age 58, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ackerman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ackerman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from New Jersey.

William J. Applebee

Mr. Applebee, 66, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Applebee understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Applebee meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Matthew D. Barney

Mr. Barney, 27, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Barney understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Barney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Iowa.

Benjamin L. Baxter

Mr. Baxter, 39, has had ITDM since 1992. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Baxter understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Baxter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Stephen M. Berggren

Mr. Berggren, 48, has had ITDM since 1995. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Berggren understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Berggren meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

Robert A. Boyle

Mr. Boyle, 59, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Boyle understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Boyle meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Idaho.

Patrick J. Burns

Mr. Burns, 65, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Burns understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Burns meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Mathew A. Cardon

Mr. Cardon, 55, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cardon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cardon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Arizona.

Robert L. Caudill

Mr. Caudill, 56, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Caudill understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Caudill meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Vernon R. Cornish

Mr. Cornish, 64, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cornish understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cornish meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

Charles L. Cran

Mr. Cran, 66, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cran understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cran meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

John W. Crook Jr.

Mr. Crook, 52, has had ITDM since 1977. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Crook understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Crook meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Iowa.

Michael A. Dinkel

Mr. Dinkel, 54, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dinkel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dinkel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

William C. Dixon

Mr. Dixon, 76, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dixon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Dixon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Donald R. Dunaway

Mr. Dunaway, 63, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dunaway understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dunaway meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Kevin W. Elder

Mr. Elder, 40, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Elder understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Elder meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Michael J. Eldridge, Sr.

Mr. Eldridge, 55, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Eldridge understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Eldridge meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

Johnathon C. Ely

Mr. Ely, 23, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ely understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ely meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Kevin D. Erickson

Mr. Erickson, 51, has had ITDM since 1978. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Erickson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Erickson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Wisconsin.

Wayne D. Erickson

Mr. Erickson, 69, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Erickson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Erickson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

Walter C. Evans

Mr. Evans, 53, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Evans understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Evans meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Connecticut.

Joby E. Foshee, IV

Mr. Foshee, 24, has had ITDM since 1998. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Foshee understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Foshee meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Mississippi.

Lawrence H. Fox

Mr. Fox, 50, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function

that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fox understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fox meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Hampshire.

Troy C. Frank

Mr. Frank, 43, has had ITDM since 1989. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Frank understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Frank meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Nebraska.

Robert T. Frankfurter

Mr. Frankfurter, 55, has had ITDM since 2001. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Frankfurter understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Frankfurter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Colorado.

Koby L. Garman

Mr. Garman, 25, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Garman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Garman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Dale A. Godejohn

Mr. Godejohn, 51, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Godejohn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Godejohn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from North Dakota.

Robert R. Gonzales

Mr. Gonzales, 34, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gonzales understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gonzales meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from California.

Norman D. Groves

Mr. Groves, 61, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Groves understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Groves meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Kenneth F. Gwaltney

Mr. Gwaltney, 56, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gwaltney understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gwaltney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a chauffeur's license from Indiana.

Mathew R. Hale

Mr. Hale, 45, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hale understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hale meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does

not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Donald K. Hamilton

Mr. Hamilton, 61, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hamilton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hamilton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

John L. Holtzclaw

Mr. Holtzclaw, 41, has had ITDM since 1976. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Holtzclaw understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Holtzclaw meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Missouri.

Christopher H. Horn

Mr. Horn, 55, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Horn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Horn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Hampshire.

Donald L. Howard

Mr. Howard, 75, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Howard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Howard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Texas.

Jared E. Hubbard

Mr. Hubbard, 42, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hubbard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hubbard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

Roger C. Hulce

Mr. Hulce, 48, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hulce understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hulce meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Utah.

Kip J. Kauffman

Mr. Kauffman, 44, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kauffman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kauffman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Wisconsin.

Christopher J. Kittoe

Mr. Kittoe, 28, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kittoe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kittoe meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Wisconsin.

Joshua L. Kroetch

Mr. Kroetch, 33, has had ITDM since 1985. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kroetch understands diabetes management and monitoring, has stable control of his diabetes using

insulin, and is able to drive a CMV safely. Mr. Kroetch meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Minnesota.

Wesley S. Langham

Mr. Langham, 63, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Langham understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Langham meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Andrew K. Lofton

Mr. Lofton, 52, has had ITDM since 1983. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lofton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lofton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Alabama.

Salvador Lopez

Mr. Lopez, 54, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lopez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lopez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arizona.

Joseph M. Macias

Mr. Macias, 45, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Macias understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Macias meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Mexico.

Robert J. Marino

Mr. Marino, 40, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Marino understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marino meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from New Jersey.

Kasey L. Martin

Mr. Martin, 21, has had ITDM since 2000. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Martin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Martin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Texas.

David J. McCoy

Mr. McCoy, 49, has had ITDM since 1996. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McCoy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McCoy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Utah.

William E. Medlin

Mr. Medlin, 56, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Medlin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Medlin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Anthony J. Miller

Mr. Miller, 31, has had ITDM since 1998. His endocrinologist examined him in 2014 and certified that he has had no

severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

Charles A. Napoles, Jr.

Mr. Napoles, 22, has had ITDM since 2002. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Napoles understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Napoles meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from New Jersey.

Kathryn J. Nelms

Ms. Nelms, 43, has had ITDM since 2014. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Nelms understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Nelms meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Kansas.

Antonio C. Oliveira

Mr. Oliveira, 58, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Oliveira understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Oliveira meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Kent E. Oswald

Mr. Oswald, 52, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Oswald understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Oswald meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Christopher P. Overton

Mr. Overton, 44, has had ITDM since 1992. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Overton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Overton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Ronald E. Patrick

Mr. Patrick, 47, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Patrick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Patrick meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Ronald E. Patterson, Jr.

Mr. Patterson, 37, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Patterson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Patterson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Tennessee.

Stephen J. Pelton

Mr. Pelton, 63, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pelton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pelton meets the

requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Bryant S. Perry

Mr. Perry, 43, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Perry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Perry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Kenneth R. Perschon

Mr. Perschon, 59, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Perschon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Perschon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from IL.

Joseph R. Polhamus

Mr. Polhamus, 58, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Polhamus understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Polhamus meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Louisiana.

Brian J. Rajkovich

Mr. Rajkovich, 39, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rajkovich understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rajkovich meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from California.

Joseph E. Resetar

Mr. Resetar, 41, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Resetar understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Resetar meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Donnell T. Rhone

Mr. Rhone, 59, has had ITDM since 2000. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rhone understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rhone meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Tennessee.

Charles E. Rich

Mr. Rich, 56, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rich understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rich meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kansas.

Rodney B. Roberts

Mr. Roberts, 48, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Roberts understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Roberts meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Mississippi.

Arlan M. Roesler

Mr. Roesler, 67, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the

past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Roesler understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Roesler meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Mark J. Rone

Mr. Rone, 46, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rone understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rone meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Illinois.

Ronny J. Sanders

Mr. Sanders, 75, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sanders understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sanders meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Utah.

Barry J. Sanderson

Mr. Sanderson, 61, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sanderson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sanderson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Montana.

Russell E. Shipp

Mr. Shipp, 51, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Shipp understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shipp meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Rhode Island.

David J. Standley

Mr. Standley, 47, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Standley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Standley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

John J. Steigauf

Mr. Steigauf, 55, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Steigauf understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Steigauf meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

Berton W. Stroup

Mr. Stroup, 48, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stroup understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stroup meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Scott W. Stutts

Mr. Stutts, 42, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stutts understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stutts meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His

ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

Jason B. Taylor

Mr. Taylor, 42, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Taylor understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Taylor meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Ronnie P. Thomas

Mr. Thomas, 59, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thomas understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thomas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

William L. Thompson

Mr. Thompson, 44, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thompson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thompson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

Juan Villanueva

Mr. Villanueva, 49, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Villanueva understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Villanueva meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Robert D. Watts

Mr. Watts, 61, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Watts understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Watts meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Cindy L. Wells

Ms. Wells, 55, has had ITDM since 2013. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Wells understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Wells meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds a Class C CDL from New York.

Charles W. White

Mr. White, 63, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. White understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. White meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Herman D. Whitehurst

Mr. Whitehurst, 70, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Whitehurst understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Whitehurst meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

Kermit D. Williams

Mr. Williams, 55, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or

more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Williams understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Williams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kentucky.

Michael D. Worl

Mr. Worl, 40, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Worl understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Worl meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Montana.

Tommy W. Wornick

Mr. Wornick, 48, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wornick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wornick meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Texas.

Robert T. Yeftich

Mr. Yeftich, 56, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Yeftich understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Yeftich meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Alan C. Yeomans

Mr. Yeomans, 65, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Yeomans understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Yeomans meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Connecticut.

Chad C. Yerkey

Mr. Yerkey, 39, has had ITDM since 1988. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Yerkey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Yerkey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

FMCSA has evaluated the eligibility of the 88 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3). Absent the receipt of comments indicating that a driver's ability would not achieve the aforementioned level of safety, the Agency will grant the drivers an exemption the day after the comment period closes.

Diabetes Mellitus and Driving Experience of the Applicants

The agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441) **Federal Register** notice, in conjunction with the November 8, 2005 (70 FR 67777) **Federal Register** notice, provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 88 applicants have had ITDM over a range of 1 to 37 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

Basis for Exemption Determination

Under 49 U.S.C 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to

achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the granted applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0018 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, to submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0018 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to the proposed rulemaking.

Issued on: July 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–16799 Filed 7–16–14; 8:45 am]

BILLING CODE 4910–EX–P

[1] Section 4129(a) refers to the 2003 notice as a "final rule." However, the 2003 notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0161]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 7 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective August 29, 2014. Comments must be received on or before August 18, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2012–0161], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 7 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 7 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Rickey W. Goins (TN)
Michael J. Hoffarth (WA)
Boyd M. Kinzer Jr. (TN)
Clayton Schroeder (MN)
James C. Sharp (PA)
Ronald J. VanHoof (WA)
Scott C. Westphal (MN)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 7 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (77 FR 41879; 77 FR 52391). Each of these 7 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by August 18, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 7 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications.

The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2012–0161 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2012–0161 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to the proposed rulemaking.

Issued on: July 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–16798 Filed 7–16–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0008]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 5 individuals for exemption from the vision requirement for operating a commercial motor vehicle (CMV) in the Federal Motor Carrier Safety Regulations. The applicants are unable to meet the vision requirement in one eye for various reasons. The exemptions will allow these individuals to operate CMVs in interstate commerce without meeting the prescribed vision requirement in one eye. At the end of the comment period, the Agency will grant exemptions to the applicants listed herein if there are no adverse comments that indicate the driver's ability will not achieve a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the regulations. All comments will be reviewed and evaluated by FMCSA. Some individuals appearing in this notice may not receive exemptions based on comments received during the comment period. Individuals not granted an exemption may either be published at a future date based on further evaluation or may not be deemed to meet the aforementioned level of safety if granted an exemption. These individuals will be published in a quarterly notice of exemption denials. As always, any adverse comments received after the exemption is granted will be evaluated, and if they indicate that the driver is not achieving a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the regulation, the exemption will be revoked. When granted, the exemptions will allow these individuals with vision deficiencies in one eye to operate in interstate commerce.

DATES: Comments must be received on or before August 18, 2014. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0008 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA,

Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 5 individuals listed in this notice have recently requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency has evaluated the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Christopher D. Bolomey

Mr. Bolomey, 40, has strabismus, a cataract, and optic nerve damage in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, "Needs to be checked for Federal DOT exemption. No changes to vision. Snce [*sic*] LEE [*sic*] 12–31–2013 . . . Pass for DOT or Fed Driving w/[*sic*] correcton [*sic*]." Mr. Bolomey reported that he has driven tractor-trailer combinations for 10 years, accumulating 875,500 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Leamon V. Manchester

Mr. Manchester, 46, has complete loss of vision in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, "Mr. Manchester [*sic*] vision status meets the requirements to operate a commercial motor vehicle." Mr. Manchester reported that he has driven straight trucks for 20 years, accumulating 1.75 million miles, and tractor-trailer combinations for 20 years, accumulating 2 million miles. He holds an operator's license from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Leverne F. Schulte Jr.

Mr. Schulte, 57, has a large corneal scar resulting in poor vision in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, "I examined Mr. Schulte on April 3, 2014. He wanted to get an interstate CDL. Currently he has intrastate license only. He has a history of an injury to his right cornea . . . Since he is presently driving in the state and has no trouble [*sic*] I don't see any danger in him driving across the state line." Mr. Schulte reported that he has driven straight trucks for 21 years, accumulating 42,000 miles, and tractor-trailer combinations for 37 years, accumulating 277,500 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Clark D. Workman

Mr. Workman, 56, has had Coats' disease and a branch retinal artery occlusion resulting in a macular scar in his left eye since 2009. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his optometrist stated, "I certify in my medical opinion the Mr [*sic*] Workman has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Workman reported that he has driven straight trucks for 36 years, accumulating 72,000 miles, and tractor-trailer combinations for 38 years, accumulating 190,000 miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Paul M. Wooton

Mr. Wooton, 36, has a macular scar in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his ophthalmologist stated, "I have recommended that he is safely about to operate [*sic*] the commercial motor vehicle as he has good peripheral vision and fairly decent central vision with the left eye." Mr. Wooton reported that he has driven straight trucks for 5 years, accumulating 150,000 miles, and tractor-trailer combinations for 2 years, accumulating 150,000 miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

FMCSA has evaluated the eligibility of the 5 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10). Absent the receipt of comments indicating that a driver's ability would not achieve the aforementioned level of safety, the Agency will grant the drivers an exemption the day after the comment period closes.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

MCSA recognizes that some drivers do not meet the vision requirement but have adapted Ftheir driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 5 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, and in most cases their eye conditions were not recently developed. Four of the applicants were either born with their vision impairments or have had them since childhood. The one individual that sustained his vision condition as an adult has had it for 5 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to

evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 5 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. The qualifications, experience, and medical condition of each applicant is stated and discussed in detail above.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and non-concurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 5 applicants, none of the drivers were involved in crashes or convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

FMCSA believes that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 5 applicants listed in this notice.

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 5 individuals consistent with the Grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the

exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business August 18, 2014. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0008 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0008 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to the proposed rulemaking.

Issued on: July 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–16796 Filed 7–16–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2004–17195; FMCSA–2011–0380; FMCSA–2012–0160]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 5 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective August 27, 2014. Comments must be received on or before August 18, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2004–17195; FMCSA–2011–0380; FMCSA–2012–0160], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved

absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 5 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 5 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Manuel A. Almeida (MA)
Kerry L. Baxter (UT)
Tyrane Harper (AL)
Gregory S. Smith (AR)
Scotty W. Sparks (KY)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 5 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (69 FR 17263; 69 FR 31447; 71 FR 43557; 73 FR 42403; 75 FR 38602; 77 FR 17109; 77 FR 27845; 77 FR 38381; 77 FR 40946; 77 FR 51846). Each of these 5 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by August 18, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 5 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2004–17195; FMCSA–2011–0380; FMCSA–2012–0160 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2004–17195; FMCSA–2011–0380; FMCSA–2012–0160 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to the proposed rulemaking.

Issued on: July 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–16797 Filed 7–16–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities; Proposed Revision; Comment Request; Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions With Total Consolidated Assets of $10 Billion to $50 Billion Under the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on this continuing information collection, as required by the Paperwork Reduction Act of 1995. Under the Paperwork Reduction Act, 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. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment on proposed revisions to the regulatory reporting templates and documentation for covered institutions with total consolidated assets of $10 billion to $50 billion.

DATES: Comments must be received by September 15, 2014.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0311, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: You can request additional information from or a copy of the collection from Johnny Vilela or Mary H. Gottlieb, Clearance Officers, (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, copies of the templates referenced in this notice can be found on the OCC's Web site under Tools and Forms (*http://www.occ.gov/tools-forms/forms/bank-operations/stress-test-reporting.html*).

SUPPLEMENTARY INFORMATION:

The OCC is requesting comment on a revision to the following information collection:

Title: Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $10 Billion to $50 Billion under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

OMB Control No.: 1557–0311.

Description: Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act[1] (Dodd-Frank Act) requires certain financial companies, including national banks and Federal savings associations, to conduct annual stress tests[2] and requires the primary financial regulatory agency[3] of those financial companies to issue regulations implementing the stress test requirements.[4] A national bank or Federal savings association is a "covered institution," and therefore subject to the stress test requirements if its total consolidated assets exceed $10 billion. Under section 165(i)(2), a covered institution is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[5] On October 9, 2012, the OCC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirements.[6] On October 22, 2013 the OCC published in the **Federal Register** a notice describing the reports and information required under section 165(i)(2) for covered institutions with average total consolidated assets between $10 to $50 billion.[7]

On October 11, 2013, the OCC published in the **Federal Register** revised risk-based and leverage capital requirements that implement the Basel III regulatory capital reforms and certain changes required by the Dodd-Frank Act (revised regulatory capital rule).[8] The revised regulatory capital rule introduces the new common equity tier 1 capital component and a new common equity tier 1 capital ratio, changes the definition of regulatory capital items, and changes the calculation of risk-weighted assets. All banking organizations must comply with the revised regulatory capital rule beginning on January 1, 2015.

The OCC proposes to revise the reporting templates for institutions with $10 to $50 billion in assets to reflect the changes to the revised regulatory capital rule. Specifically, the OCC proposes to add a common equity tier 1 capital data item to the Balance Sheet and a common equity tier 1 risk-based capital ratio data item to the Summary Schedule and Balance Sheet Schedules (baseline, adverse, and severely adverse scenarios) in order to reflect the requirements of the revised regulatory capital rule. These revisions would be effective for the 2015 stress test cycle (using September 2014 data and November 2014 scenarios with submission of results in March 2015).[9] In addition, the OCC proposes to clarify the accompanying instructions to emphasize that institutions should transition to the revised regulatory capital rule requirements in its company-run stress test projections in the quarter in which the requirements become effective. Specifically, institutions would be required to transition to the revised regulatory capital rule and begin including the common equity tier 1 capital data item and common equity tier 1 risk-based

[1] Public Law 111–203, 124 Stat. 1376, July 2010.

[2] 12 U.S.C. 5365(i)(2)(A).

[3] 12 U.S.C. 5301(12).

[4] 12 U.S.C. 5365(i)(2)(C).

[5] 12 U.S.C. 5365(i)(2)(B).

[6] 77 FR 61238, October 9, 2012.

[7] 78 FR 62942.

[8] 78 FR 62018.

[9] The OCC, the Board, and the Federal Deposit Insurance Corporation recently proposed revisions to the schedule of the annual stress test. 79 FR 37231 (July 1, 2014). If the agencies adopt these revisions, the OCC expects to adjust its reporting instructions accordingly.

capital ratio data item in projected quarters two (1st quarter 2015) through nine (4th quarter 2016) for each scenario for the 2015 stress test cycle.

The OCC also proposes several clarifications to the reporting instructions including: Indicating that the Scenario Variables Schedule would be collected as a reporting form in Reporting Central (instead of as a file submitted in Adobe Acrobat PDF format) and clarifying how the supporting qualitative information should be organized.

The OCC has worked closely with the Board and the Federal Deposit Insurance Corporation to make the agencies' respective rules implementing the annual stress testing requirements under the Dodd-Frank Act consistent and comparable by requiring similar standards for scope of application, scenarios, data collection and reporting forms. The OCC also has worked to minimize any potential duplication of effort related to the annual stress test requirements.

Type of Review: Revision to an existing collection.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 29.

Estimated Total Annual Burden: 13,601 hours.

The burden for each $10 to $50 billion covered institution that completes the revised results template is estimated to be 445 hours for a total of 12,905 hours. The proposed revisions are estimated to add 5 hours of additional burden per respondent, increasing the burden from 440 hours to 445 hours. This burden includes 20 hours to input these data and 425 hours for work related to modeling efforts. The estimated revised burden for each $10 to $50 billion covered institution that completes the annual DFAST Scenarios Variables Template is estimated to be 24 hours for a total of 696 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and,

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 14, 2014.

Stuart Feldstein,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 2014–16832 Filed 7–16–14; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (DBQs—Group 1)]

Proposed Information Collection (Disability Benefits Questionnaires—Group 1) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each revision, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to obtain medical evidence to adjudicate a claim for disability benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 15, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov*. Please refer to "OMB Control No. 2900-New (DBQs—Group 1)" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Hematologic and Lymphatic Conditions, Including Leukemia Disability Benefits Questionnaire, VA Form 21–0960B–2.

b. Amyotrophic Lateral Sclerosis (Lou Gehrig's Disease) Disability Benefits Questionnaire, VA Form 21–0960C–2.

c. Peripheral Nerve Conditions (Not Including Diabetic Sensory-Motor Peripheral Neuropathy) Disability Benefits Questionnaire, VA Form 21–0960C–10.

d. Persian Gulf and Afghanistan Infectious Diseases Disability Benefits Questionnaire, VA Form 21–0960I–1.

e. Tuberculosis Disability Benefits Questionnaire, VA Form 21–0960I–6.

f. Kidney Conditions (Nephrology) Disability Benefits Questionnaire, VA Form 21–0960J–1.

g. Male Reproductive Organ Conditions Disability Benefits Questionnaire, VA Form 21–0960J–2.

h. Prostate Cancer Disability Benefits Questionnaire, VA Form 21–0960J–3.

l. Eating Disorders Disability Benefits Questionnaire, VA Form 21–0960P–1.

m. Mental Disorders (other than PTSD and Eating Disorders) Disability Benefits Questionnaire, VA Form 21–0960P–2.

n. Review Post Traumatic Stress Disorder (PTSD) Disability Benefits Questionnaire, VA Form 21–0960P–3.

OMB Control Number: 2900–New (DBQs—Group 1).

Type of Review: Revised collection.

Abstract: Data collected on VA Form 21–0960 series will be used obtain

information from claimants treating physician that is necessary to adjudicate a claim for disability benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 127,917 hours.

Estimated Average Burden per Respondent:

a. VA Form 21–0960B–2—15 minutes.
b. VA Form 21–0960C–2—30 minutes.
c. VA Form 21–0960C–10—45 minutes.
d. VA Form 21–0960I–1—15 minutes.
e. VA Form 21–0960I–6—30 minutes.
f. VA Form 21–0960J–1—30 minutes.
g. VA Form 21–0960J–2—15 minutes.
h. VA Form 21–0960J–3—15 minutes.
l. VA Form 21–0960P–1—15 minutes.
m. VA Form 21–0960P–2—30 minutes.
n. VA Form 21–0960P–3—30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: TOTAL: 307,000

a. VA Form 21–0960B–2—10,000.
b. VA Form 21–0960C–2—2,000.
c. VA Form 21–0960C–10—55,000.
d. VA Form 21–0960I–1—50,000.
e. VA Form 21–0960I–6—5,000.
f. VA Form 21–0960J–1—25,000.
g. VA Form 21–0960J–2—25,000.
h. VA Form 21–0960J–3—25,000.
i. VA Form 21–0960M–13—50,000.
j. VA Form 21–0960M–14—50,000.
k. VA Form 21–0960O–1—25,000.
l. VA Form 21–0960P–1—5,000.
m. VA Form 21–0960P–2—50,000.
n. VA Form 21–0960P–3—55,000.

Dated: July 11, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–16751 Filed 7–16–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0075]

Proposed Information Collection (Statement in Support of Claim); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to ensure statements submitted by or on behalf of a claimant are true and correct.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 15, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to "OMB Control No. 2900–0075" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Statement in Support of Claim, VA Form 21–4138.

OMB Control Number: 2900–0075.

Type of Review: Revision of a currently approved collection.

Abstract: Statements submitted by or on behalf of a claimant must contain a certification by the respondent that the information provided to VA is true and correct in support of various types of benefit claims processed by VA. VA Form 21–4138 is to used collect the statement in support of such claims.

Affected Public: Individuals or households.

Estimated Annual Burden: 188,000 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 752,000.

Dated: July 11, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–16736 Filed 7–16–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Amendment to System of Records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), notice is hereby given that the Department of Veterans Affairs (VA) is amending a system of records in its inventory titled "Supervised Fiduciary/Beneficiary and General Investigative Records—VA" (37VA27). VA is amending the system of records by updating it to reflect current program terminology, policies, and procedures, and revising the name, purpose(s), system manager and address, categories of individuals, types of information, and routine uses of records maintained in the system. VA is republishing the system notice in its entirety.

DATES: Comments on this amended system of records must be received no later than August 18, 2014. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the amended system of records will become effective on August 18, 2014.

ADDRESSES: Written comments concerning this amended system of records may be submitted through *www.Regulations.gov;* by mail or hand-delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll free

number.) Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Chad Phillips, Program Analyst, Pension and Fiduciary Service, Veterans Benefits Administration (VBA), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or *chad.phillips@va.gov*. Mr. Phillips may also be reached by telephone at (202) 632–8863. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: This system of records contains guidelines for the administration of benefits in regards to beneficiaries who have been deemed unable to manage their financial affairs by VA or a court. VA is amending this system of records to change the system name and location, update storage methods, and add categories of individuals covered by the system and categories of records maintained in the system. VA is also amending the routine uses of records maintained in the system, including the categories of users and the purposes of such uses, as well as the record sources to protect the confidentiality and govern the release of VA records subject to 38 U.S.C. 5701, which permits disclosure in accordance with valid routine uses.

VA is changing the system's name to reflect our retirement of the legacy system, Fiduciary Beneficiary System, and deployment of the current system, Beneficiary Fiduciary Field System. VA is also updating the location of the system to reflect the Veterans Benefits Administration's consolidation of fiduciary work from 56 regional offices to 6 fiduciary hubs. Further, VA is revising the storage method for records to highlight the transfer of program documentation from paper records stored at individual regional offices to electronic records stored in a repository.

VA is amending the categories of individuals covered by the system, to clarify that the system pertains to records regarding current, former, and prospective VA-appointed fiduciaries. VA is also adding a category for those individuals designated as a beneficiary's preference for appointment by VA, regardless of whether VA is able to appoint the individual.

VA is amending the categories of records in the system to update the language used to describe the categories and records consistent with current fiduciary program policies and procedures. The amendments add category numbers 7 and 8, which pertain, respectively, to individuals who previously served as a VA fiduciary and individuals who VA considered for appointment as a VA fiduciary but who were not selected for service. Historical information regarding past fiduciaries and their performance provides VA the ability to ensure that only the best qualified fiduciaries serve our beneficiary population and that VA does not appoint a fiduciary that VA had previously removed. Including information related to the qualification and appointment of individuals seeking to serve as fiduciary is also an important addition. It will allow VA to share with beneficiaries, prospective fiduciaries, and other qualified individuals the reasons for selection or non-selection of an individual as fiduciary for a particular beneficiary.

VA is amending its routine uses to add a new number 22, which authorizes disclosure of information to the beneficiary regarding VA's reasons for selection or non-selection of an individual as fiduciary for a beneficiary. An April 2011 court decision held that a beneficiary may appeal VA's fiduciary appointment decisions to the Board of Veterans' Appeals. Accordingly, VA must inform beneficiaries of the reasons for its appointment decisions, to include, in some cases, the reasons why VA decided not to appoint the individual designated by the beneficiary as his or her preference. This information may include the results of a criminal background check, credit history check, ability to obtain a surety bond, or any other information regarding a prospective fiduciary that is relevant to VA's best-interest determination.

VA is further amending routine uses to add a new number 23. It authorizes VA to disclose information about allegations, investigations, and determinations of misuse by a fiduciary to a beneficiary. VA intends to allow a beneficiary to appeal VA's decisions regarding misuse to include the misuse determination, any request for reconsideration submitted by the fiduciary, and negligence determinations that affect the reissuance of benefits to the beneficiary or his or her current fiduciary. This information could include personal information about the fiduciary relevant to the possible misuse of a beneficiary's funds.

VA is also expanding the record source categories to include information from individuals who previously served as fiduciaries, persons considered by VA for appointment as a fiduciary but who were not selected, and additional categories of VA personnel. A correction is also being made to reflect a VA position title change from "estate analyst" to "legal instruments examiner."

These additions and amendments will greatly enhance VA's ability to manage program records and, in turn, better meet the needs of this beneficiary population.

Signing Authority

The Acting Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veteran Affairs, approved this document on June 26, 2014, for publication.

Dated: July 14, 2014.

Robert C. McFetridge,

Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

37VA27

SYSTEM NAME:

Beneficiary Fiduciary Field System (BFFS)-VA.

SYSTEM LOCATION:

Records are maintained at the Department of Veterans Affairs (VA) fiduciary hub that has jurisdiction over the geographical area in which the VA beneficiary resides, and the Austin Data Processing Center in Austin, Texas. The BFFS system and associated electronic records are maintained at a private Federal hosting facility. Addresses of VA fiduciary hubs and the Data Processing Center are listed in VA Appendix 1.

Documents and information pertaining to program issues and categories of individuals covered by the system are stored in an electronic record repository.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals are covered by this system:

1. VA beneficiaries (i.e., a veteran or a non-veteran adult who receives VA monetary benefits, lacks the mental capacity to manage his or her own financial affairs regarding disbursement of funds without limitation, and is

either rated incapable of managing his or her financial affairs or adjudged to be under legal disability by a court of competent jurisdiction; or a child who has not reached majority under State law and receives VA monetary benefits).

2. Current, former, and prospective VA-appointed fiduciaries (i.e., a VA Federal fiduciary appointed by VA to serve as fiduciary of VA monetary benefits for a VA beneficiary determined unable to manage his or her financial affairs; or a person or legal entity appointed by a State or foreign court to supervise the person and/or payee of a VA beneficiary adjudged to be under a legal disability). The statutory title of a court-appointed fiduciary may vary from State to State.

3. A chief officer of a hospital, domiciliary, institutional or nursing home care facility where a beneficiary, who VA has determined is unable to manage his or her financial affairs, is receiving care and who has contracted to use the veteran's VA funds in a specific manner.

4. Supervised Direct Payment (SDP) (i.e., an adult beneficiary in the fiduciary program who manages his or her VA benefits with limited and temporary supervision based upon a field examination and subsequent to determination by the hub manager pertaining to benefits eligibility and other issues; or, to develop evidence for further investigations of potential criminal issues).

5. Physicians named in treatment records and financial managers or attorneys who help disperse funds for VA beneficiaries deemed unable to manage those funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the electronic fiduciary folder are the primary records in this system. Social Security Administration (SSA) derived records, as needed, are also contained in this system. These records may contain the following types of information:

1. Field examination reports (i.e., VA Form 27–4716a or 27–3190, Field Examination Request and Report, which contains a VA beneficiary's name, address, Social Security number, VA file number, an assessment of the beneficiary's ability to handle VA and non-VA funds, description of family relationships, economic and social adjustment information, information on the beneficiary's activities, and the name, address, and assessment of the performance of a VA-appointed fiduciary).

2. Correspondence from and to a VA beneficiary, a VA-appointed fiduciary, and other interested third parties.

3. Medical records (i.e., medical and social work reports generated in VA, State, local, or private medical treatment facilities or private physicians' offices indicating the medical history of a VA beneficiary, including diagnosis, treatment and nature of any physical or mental disability).

4. Financial records (e.g., accountings regarding a fiduciary's management of a beneficiary's income, investments, and accumulated funds, amount of monthly benefits received, amounts charged for fees by the fiduciary, certificates of balance on accounts from financial institutions, and withdrawal agreements between VA, financial institutions, and the fiduciary).

5. Court documents (e.g., petitions, court orders, letters of guardianship, inventories of assets, and depositions).

6. Agreements to serve as a VA Federal fiduciary.

7. Information pertaining to individuals, including companies and other entities, who previously served as a VA-appointed fiduciary.

8. Information related to the qualification and appointment of individuals, including companies and other entities, considered by VA for appointment as a fiduciary.

9. Photographs of people (beneficiaries who VA has determined are unable to manage their financial affairs, fiduciaries, and other persons who are the subject of a VA investigation), places, and things.

10. Fingerprint records.

11. SSA records containing information about the type and amount of SSA benefits paid to beneficiaries who are eligible to receive benefits under both VA and SSA eligibility criteria, records containing information developed by SSA about SSA beneficiaries who are in need of representative payees, accountings provided to SSA, and records containing information about SSA representative payees. Also contained in this system are copies of non-fiduciary program investigation records. These records are reports of field examinations or investigations performed at the request of any organizational element of VA about any subject under the jurisdiction of VA other than a fiduciary issue. In addition to copies of the reports, records may include copies of exhibits or attachments such as photographs of people, places, and things; sworn statements; legal documents involving loan guaranty transactions, bankruptcy, and debts owed to VA; accident reports; birth, death, and divorce records; certification of search for vital statistics documents; beneficiary's financial statements and tax records; immigration information; and newspaper clippings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 501(a), (b), and chapter 55 of Title 38, United States Code.

PURPOSE(S):

This system will collect a limited amount of personally identifiable information to provide authorized individuals access to or interaction with VA. The information collected by the system will include: Name, mailing address, Social Security number, medical record information, and financial information. The system also enables VA to maintain the name, mailing address, Social Security or tax identification number, and credit and criminal histories of individuals who are currently VA-appointed fiduciaries, who previously served as VA-appointed fiduciaries, or who were considered for service as VA-appointed fiduciaries, for the purpose of qualifying the individual for service as a fiduciary and providing oversight of fiduciaries. See the statutory provisions cited in "Authority for maintenance of the system." VA gathers or creates these records in order to enable it to administer these statutory benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system, except for the name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, may be disclosed to a Federal, State, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, at the initiative of VA.

3. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, may be disclosed to a Federal agency charged with the

responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order issued pursuant thereto, in response to its official request, when that information is for law enforcement investigation purposes, and such request is in writing and otherwise complies with subsection (b)(7) of the Privacy Act.

4. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law concerning public health or safety, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to any foreign, State, or local governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such organization, agency or instrumentality has made a written request that such name and address be provided for a purpose authorized by law, and, if the information is sought for law enforcement investigation purposes, and the request otherwise complies with subsection (b)(7) of the Privacy Act.

5. The name and address of a veteran may be disclosed to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under title 38 (such disclosures include computerized lists of names and addresses).

6. Any information in this system, including name, address, Social Security number, VA file number, medical records, financial records, and field examination reports of a VA beneficiary, and the name, address, and information regarding the activities of a VA-appointed fiduciary or beneficiary may be disclosed at the request of a VA beneficiary or fiduciary to a Federal, State, or local agency in order for VA to obtain information relevant to a VA decision concerning the payment and usage of funds payable by VA on behalf of a beneficiary, or to enable VA to assist a beneficiary or VA-appointed fiduciary in obtaining the maximum amount of benefits for a VA beneficiary from a Federal, State, or local agency.

7. Any information in this system, including name, address, Social Security number, VA file number, medical records, financial records, and field examination reports of a VA beneficiary who is in receipt of VA and SSA benefits concurrently, and the name, address, and information regarding the activities of a VA-supervised fiduciary may be disclosed to a representative of the SSA to the extent necessary for the operation of a VA program, or to the extent needed as indicated by such representative.

8. The name and address of a VA beneficiary, the VA rating that indicates the beneficiary is unable to manage his or her financial affairs, and the field examination report upon which the rating was based may be disclosed to a Federal agency, upon its official request, in order for that agency to make decisions on such matters as competency and dependency in connection with eligibility for that agency's benefits. This information may also be disclosed to a State or local agency, upon its official request, in order for that agency to make decisions on such matters as competency and dependency in connection with eligibility for that agency's benefits, if the information pertains to a VA beneficiary who is not a veteran, or if the name and address of the veteran is provided beforehand.

9. Any information in this system, including medical records, financial records, field examination reports, correspondence and court documents may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal in matters of guardianship, inquests and commitments, and to probation and parole officers in connection with court required duties.

10. Only so much information, including information in VA records obtained from the SSA, and the name and address of a VA beneficiary, fiduciary, or other person under investigation, as is necessary to obtain a coherent and informed response may be released to a third party who may have information bearing on an issue under VA investigation.

11. Any information in this system may be disclosed to a VA-appointed fiduciary in order for that fiduciary to perform his or her duties, provided this information will only be released when the disclosure is for the benefit of the beneficiary. Any information in this system may also be disclosed to a proposed fiduciary in order for the fiduciary to make an informed decision with regard to accepting fiduciary responsibility for a VA beneficiary.

12. Any information in this system, including medical records, correspondence records, financial records, field examination reports, and court documents may be disclosed to an attorney employed by the beneficiary, or to a spouse, relative, next friend, or to a guardian ad litem representing the interests of the beneficiary, provided the name and address of the beneficiary is given beforehand and the disclosure is for the benefit of the beneficiary, and the release is authorized by 38 U.S.C. 7332, if applicable. Records subject to 38 U.S.C. 7332 contain information on medical treatment for drug abuse, alcoholism, sickle cell anemia, and HIV.

13. Any information in this system may be disclosed to the Department of Justice and to U.S. Attorneys for litigation involving the United States and to Federal agencies upon their official request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672, as well as other claims.

14. Any information in this system including available identifying information regarding the debtor, such as the name of the debtor, last known address of the debtor, name of debtor's spouse, Social Security number, VA insurance number, VA file number, place of birth and date of birth of debtor, name and address of debtor's employer or firm, and dates of employment may be disclosed to other Federal agencies, State probate courts, State driver's license bureaus, State automobile title and license bureaus, and the General Accounting Office in order to obtain current address, locator, and credit report assistance in the collection of unpaid financial obligations owed the United States. The purpose is consistent with the Federal Claims Collection Act of 1966 and 38 U.S.C. 5701(b)(6).

15. Any information in this system relating to the adjudication of a VA beneficiary's ability to manage his or her VA benefits, either by a court of competent jurisdiction or by VA, may be disclosed to a lender or prospective lender participating in the VA Loan Guaranty Program who is extending credit or proposing to extend credit on behalf of a veteran for VA to protect veterans in this category from entering into unsound financial transactions which might deplete the resources of the veteran and to protect the interest of the Government giving credit assistance to a veteran.

16. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on

its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

17. Disclosure of relevant information may be made to individuals, organizations, public or private agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

18. VA may disclose on its own initiative any information in this system, except the names and mailing addresses of veterans and their dependents, that is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto to a Federal, State, local, Tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order.

19. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

20. VA may on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) VA has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to the economic or property interests, identity theft or fraud, or harm to the programs (whether maintained by VA or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out VA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by VA to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

21. The name and mailing address of a VA beneficiary, and other information as is reasonably necessary to identify such a beneficiary, who has been adjudicated as incapable of managing his or her financial affairs under 38 CFR 3.353, may be provided to the Attorney General of the United States or his/her designee, for use by DoJ in the National Instant Criminal Background Check System mandated by the Brady Handgun Violence Prevention Act, Public Law 103–59.

22. The name, mailing address, and any other information obtained by VA pertaining to the qualification of an individual seeking appointment as a VA fiduciary may be released to the beneficiary or his or her accredited representative or court-appointed guardian for the purpose of notifying the beneficiary of the reasons for selection or non-selection of the individual.

23. The name, mailing address, and any other information obtained by VA pertaining to the allegation, investigation, determination of misuse by a fiduciary, or determination of negligence on the part of VA may be released to the beneficiary or his or her accredited representative or court-appointed guardian for the purpose of notifying the beneficiary of the reasons for VA's decision regarding misuse.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

VA electronically maintains fiduciary program beneficiary and fiduciary information in electronic fiduciary folders in BFFS at the VA Data Processing Center in Austin, Texas. Non-fiduciary program investigations and related information are maintained on paper documents and stored at the fiduciary hubs and at VA Central Office.

Records (or information contained in records) are also maintained in electronic file folders (e.g., Virtual VA). Such information may be accessed through data telecommunication terminal systems designated for the Benefits Delivery Network (BDN), Virtual VA, and Veterans Service Network (VETSNET). BDN, Virtual VA, and VETSNET terminal locations include VA Central Office, regional offices, VA health care facilities, Veterans Integrated Service Networks, Department of Defense Finance and Accounting Service Centers, and the U.S. Coast Guard Pay and Personnel Center. Remote online access is also made available to authorized remote sites and claimants' representatives, to include VA-accredited representatives of VA-recognized veterans service organizations, and VA-accredited attorneys and claims agents. A VA claimant must execute a prior written consent or a power of attorney authorizing access to his or her claims records before VA will allow the representative to have access to the claimant's automated claims records. Representatives may use the access solely for the purpose of assisting an individual claimant whose records are accessed in a claim for benefits administered by VA. Information relating to receivable accounts owed to VA, designated the Centralized Accounts Receivable System (CARS), is maintained on magnetic tape, microfiche and microfilm. CARS is accessed through a data telecommunications terminal system at St. Paul, Minnesota.

RETRIEVABILITY:

Paper documents and automated storage media are indexed by name and file number of VA beneficiary or other individual.

SAFEGUARDS:

1. Historical individual case folder and computer lists are generally kept in steel cabinets when not in use. The cabinets are located in areas which are locked after work hours. Access to these records is restricted to authorized VA personnel on a "need to know" basis.

2. Access to the computer rooms within the regional office with jurisdiction over fiduciary hubs is generally limited by appropriate locking devices and restricted to authorized VA employees and vendor personnel. Automatic Data Processing peripheral devices are generally placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Information in the BFFS may be accessed by authorized VA employees. Access to file information is controlled at two levels; the system recognizes authorized employees by a series of individually unique passwords/codes, and the employees are limited to only the information in the file which is needed in the performance of their official duties.

3. Access to the VA data processing center is generally restricted to center employees, custodial personnel, Federal Protective Service, and other security personnel. Access to the computer rooms is restricted to authorized operational personnel through electronic locking devices. All other

persons gaining access to the computer rooms are escorted.

4. Access to records in VA Central Office is only authorized to VA personnel on a "need to know" basis. Records are maintained in manned rooms during working hours. During non-working hours, there is limited access to the building with visitor control by security personnel.

RETENTION AND DISPOSAL:

Paper documents received are scanned into VA's electronic document repository and subsequently destroyed after 90 days. Electronic records are not purged.

SYSTEM MANAGER(S) AND ADDRESS

Director, Pension and Fiduciary Service (21PF), VA Central Office, Washington, DC 20420.

NOTIFICATION PROCEDURE:

Any individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the content of such records, should submit a written request or apply in person to the nearest VA regional office or center. Addresses for VA regional offices and centers may be found in VA Appendix 1. All inquiries must reasonably identify the type of records involved, e.g., fiduciary file. Inquiries should include the individual's full name, VA file number, and return address. If a VA file number is not available, then as much of the following information as possible should be forwarded: Full name, branch of service, dates of service, service numbers, Social Security number, and date of birth.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to or contesting VA records in this system may write, call, or visit the nearest VA regional office or center.

CONTESTING RECORD PROCEDURE:

See records access procedures above.

RECORD SOURCE CATEGORIES:

VA beneficiary, VA beneficiary's dependents, VA-appointed fiduciaries, individuals who were previously VA-appointed fiduciaries, individuals who VA considered for service as a VA-appointed fiduciary but did not select, field examiners, legal instrument examiners, fiduciary program personnel, third parties, other Federal, State, and local agencies, and VA records.

Appendix 1: VA Regional Offices With Fiduciary Activity

Please send address and telephone number corrections to: Department of Veterans Affairs, Pension and Fiduciary Service (21PF), 810 Vermont Avenue NW., Washington, DC 20420.

Columbia Fiduciary Hub

Jurisdiction for Florida, Georgia, North Carolina, South Carolina

Office/Mail: 6437 Garners Ferry Road, Columbia, SC 29209
Phone: 1–888–407–0144; press #1

Indianapolis Fiduciary Hub

Jurisdiction for Asia, Australia, Canada, Connecticut, Delaware, Europe, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont

Office/Mail: 575 North Pennsylvania Street, Indianapolis, IN 46204
Phone: 1–888–407–0144; press #2

Lincoln Fiduciary Hub

Jurisdiction for Central America, Kansas, Mexico, Nebraska, North Dakota, Oklahoma, South America, South Dakota, Texas

Office: 3800 Village Drive, Lincoln, NE 68501
Mail: P.O. Box 5444, Lincoln, NE 68505
Phone: 1–888–407–0144; press #3

Louisville Fiduciary Hub

Jurisdiction for Alabama, Kentucky, Mississippi, Tennessee, Puerto Rico, Virginia, Washington, DC, West Virginia

Office: 321 West Main Street, Suite 390, Louisville, KY 40202
Mail: P.O. Box 3487, Louisville, KY 40201
Phone: 1–888–407–0144; press #4

Manila Regional Office

Jurisdiction for Philippines

Office: U.S. Embassy, 1501 Roxas Boulevard, Pasay City, Philippines, 1302
Mail: PSC 501, DPO AP 96515

Milwaukee Fiduciary Hub

Jurisdiction for Arkansas, Illinois, Iowa, Louisiana, Minnesota, Missouri, Wisconsin

Office: 5400 West National Avenue, Milwaukee, WI 53214
Mail: P.O. Box 14975, Milwaukee, WI 53214
Phone: 1–888–407–0144; press #5

Salt Lake City Fiduciary Hub

Jurisdiction for Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, Wyoming

Office: 500 Foothill Drive, Salt Lake City, UT 84158
Mail: P.O. Box 58086, Salt Lake City, UT 84158
Phone: 1–888–407–0144; press #6

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Part II

Environmental Protection Agency

40 CFR Part 60
Oil and Natural Gas Sector: Reconsideration of Additional Provisions of New Source Performance Standards; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2010–0505, FRL–9913–40–OAR]

RIN 2060–AS01

Oil and Natural Gas Sector: Reconsideration of Additional Provisions of New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; Notice of Public Hearing.

SUMMARY: On August 16, 2012, the Environmental Protection Agency (EPA) published final new source performance standards for the oil and natural gas sector. The Administrator received petitions for administrative reconsideration of certain aspects of the standards. Among issues raised in the petitions were time-critical issues related to certain storage vessel provisions and well completion provisions. On September 23, 2013, the EPA published final amendments as a result of reconsideration of issues related to implementation of the storage vessel provisions. Following that action, the Administrator again received petitions for administrative reconsideration pertaining to the storage vessel provisions. In this notice, the EPA is announcing proposed amendments and clarifications as a result of reconsideration of certain issues related to well completions and additional issues pertaining to storage vessels. The proposed amendments also address other issues raised for reconsideration and make technical corrections and amendments to further clarify the rule.

DATES: *Comments.* Comments must be received on or before August 18, 2014, unless a public hearing is requested by July 22, 2014. If a hearing is requested on this proposed rule, written comments must be received by September 2, 2014.

Public Hearing. If anyone contacts the EPA requesting a public hearing by July 22, 2014 we will hold a public hearing on August 1, 2014.

If a public hearing is requested by July 22, 2014, it will be held on August 1, 2014 at the EPA's Research Triangle Park Campus, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. The hearing will convene at 10:00 a.m. (Eastern Standard Time) and end at 5:00 p.m. (Eastern Standard Time). A lunch break will be held from 12:00 p.m. (Eastern Standard Time) until 1:00 p.m. (Eastern Standard Time). Please contact Virginia Hunt at (919) 541–0832, or at *hunt.virginia@epa.gov* to request a hearing, to determine if a hearing will be held and to register to speak at the hearing, if one is held. If a hearing is requested, the last day to pre-register in advance to speak at the hearing will be July 30, 2014. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, please let us know at the time of registration. If no one contacts the EPA requesting a public hearing to be held concerning this proposed rule by July 22, 2014, a public hearing will not take place.

If a hearing is held, it will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA will make every effort to accommodate all speakers who arrive and register. Because these hearings are being held at U.S. government facilities, individuals planning to attend the hearing should be prepared to show valid picture identification (e.g., driver's license or government-issued ID) to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. These requirements will take effect July 21, 2014. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma or Washington State, you must present an additional form of identification to enter the federal buildings where the public hearings will be held. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses and military identification cards. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. If a hearing is held on August 1, 2014, written comments on the proposed rule must be postmarked by September 2, 2014. Commenters should notify Ms. Hunt if they will need specific equipment, or if there are other special needs related to providing comments at the hearing. The EPA will provide equipment for commenters to show overhead slides or make computerized slide presentations if we receive special requests in advance. Oral testimony will be limited to 5 minutes for each commenter. Verbatim transcripts of the hearings and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. Information regarding the hearing (including information as to whether or not one will be held) will be available at: *http://www.epa.gov/airquality/oilandgas/actions.html.* Again, all requests for a public hearing to be held must be received by July 22, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2010–0505, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: A-and-R-Docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2010–0505 in the subject line of the message.
- *Fax:* (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2010–0505.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, Attention Docket ID No. EPA–HQ–OAR–2010–0505, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503
- *Hand/Courier Delivery:* EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2010–0505. 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: All submissions must include agency name and respective docket number or Regulatory Information Number (RIN) for this rulemaking. All comments will be posted without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA's Docket Center, Public Reading Room, EPA WJC West Building, Room Number 3334, 1301 Constitution Avenue NW., Washington, DC 20004. This docket facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Moore, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5460; facsimile number: (919) 541–3470; email address: *moore.bruce@epa.gov.*

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

I. Preamble Acronyms and Abbreviations

Several acronyms and terms are included in this preamble. While this may not be an exhaustive list, to ease the reading of this preamble and for reference purposes, the following terms and acronyms are defined here:

API American Petroleum Institute
BSER Best System of Emissions Reduction
CAA Clean Air Act
CFR Code of Federal Regulations
EPA Environmental Protection Agency
Mcf Thousand Cubic Feet
NESHAP National Emissions Standards for Hazardous Air Pollutants
NSPS New Source Performance Standards
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
OVA Olfactory, Visual and Auditory
PTE Potential to Emit
RFA Regulatory Flexibility Act
tpy Tons per Year
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act
VCS Voluntary Consensus Standards
VOC Volatile Organic Compounds
VRU Vapor Recovery Unit

II. General Information

A. Does this proposed rule apply to me?

Categories and entities potentially affected by today's *proposed rule* include:

TABLE 1—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS ACTION

Category	NAICS code [1]	Examples of regulated entities
Industry	211111	Crude Petroleum and Natural Gas Extraction.
	211112	Natural Gas Liquid Extraction.
	221210	Natural Gas Distribution.
	486110	Pipeline Distribution of Crude Oil.
	486210	Pipeline Transportation of Natural Gas.
Federal government		Not affected.

TABLE 1—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS ACTION—Continued

Category	NAICS code [1]	Examples of regulated entities
State/local/tribal government		Not affected.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather is meant to provide a guide for readers regarding entities likely to be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative as listed in 40 CFR 60.4 or 40 CFR 63.13 (General Provisions).

B. What should I consider as I prepare my comments to the EPA?

We seek comment only on the aspects of the final new source performance standards for the oil and natural gas sector specifically identified in this notice. We are not opening for reconsideration any other provisions of the new source performance standards (NSPS) at this time.

Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Docket ID Number EPA–HQ–OAR–2010–0505. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

C. How do I obtain a copy of this document and other related information?

In addition to being available in the docket, electronic copies of these proposed rules will be available on the World Wide Web through the TTN. Following signature, a copy of this proposed rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/airquality/oilandgas/actions.html.*

III. Background

On August 16, 2012, the EPA published the Oil and Natural Gas Sector NSPS (40 CFR part 60 subpart OOOO) in the **Federal Register** at 77 FR 49490. Following promulgation of the final rule, the Administrator received petitions for administrative reconsideration of several provisions of the NSPS pursuant to Clean Air Act (CAA) section 307(d)(7)(B). Copies of the petitions are provided in rulemaking docket EPA–HQ–OAR–2010–0505. On September 23, 2013, the EPA published final amendments primarily related to implementation of the storage vessel provisions. In the petitions for reconsideration of the 2012 final rule, petitioners raised several issues regarding clarification of the well completion provisions, some of which have a compliance deadline of January 1, 2015. In addition, the Administrator received petitions for reconsideration of several provisions of the 2013 storage vessel implementation amendments.

IV. Today's Action

Today, we are granting reconsideration of, proposing and requesting comment on the following limited set of issues raised in the petitions described above: (1) Provisions for well completions that clarify existing requirements for handling of flowback gases and liquids; (2) definition of "low pressure gas well" ; (3) requirements pertaining to determining the potential emission of storage vessels that employ vapor recovery; (4) requirements for thief hatches; (5) provisions for storage vessels that are removed from service; (6) routing of emissions from reciprocating compressor rod packing to a process; (7) leak detection requirements at small natural gas processing plants and natural gas processing plants located on the Alaskan North Slope; (8) equipment subject to leak detection requirements under the NSPS; and (9) definition of "responsible official" for compliance certification purposes. In addition, we are proposing to remove the affirmative defense provisions from the startup, shutdown and malfunction provisions of the 2012 NSPS. Finally, we are proposing to correct technical errors in the 2012 NSPS.

This notice is limited to the specific issues identified in this notice. We will not respond to any comments addressing any other provisions of the Oil and Natural Gas Sector NSPS. We will address any other issues for which we intend to grant reconsideration at a later time.

The impacts of today's proposed revisions on the costs and the benefits of the final rule are minor, but cost-saving. We expect that affected facility owners and operators will install and operate the same or similar control technologies to meet the proposed revised standards in this notice as they would have chosen to comply with the standards in the August 2012 final rule, and revisions to the rule will not significantly impact emission reductions.

V. Executive Summary

The purpose of this action is to propose amendments to 40 CFR part 60, subpart OOOO, Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution. This proposal was developed to address certain issues primarily related to well completion and storage vessel provisions that have been raised by different stakeholders through several administrative petitions for reconsideration of the 2012 NSPS and the 2013 storage vessel amendments to the NSPS. The EPA is proposing to amend the NSPS to address these issues.

We are proposing to amend the standards for gas well affected facilities to provide greater clarity concerning what owners and operators must do during well completion operations, especially the provisions for reduced emissions completions which have a compliance date of January 1, 2015. While the 2012 NSPS focused mainly on handling of flowback emissions, we did not provide extensive detail concerning requirements for handling of liquids during the well completion operation. In this action, we are proposing to identify three distinct stages of a well completion operation and specific requirements for handling of gases and liquids for each stage. The "initial flowback stage" begins with the onset of

flowback following hydraulic fracturing or refracturing and ends when there is sufficient gas present in the flowback for a separator to operate. At that time, the operator must direct the flowback to the separator, and the "separation flowback stage" begins. It is at this stage where recovery of the gas begins, unless the gas is unsuitable for entering the flow line, or infrastructure to convey the gas to market is not available, in which case the gas is required to be combusted unless combustion poses a safety hazard. Once the flowback volume has subsided and stabilized such that the well is producing gas continuously to the flow line or is shut in, and any crude oil, condensate and produced water in the flowback can be separated, the "production stage" begins and continues as ongoing production of the well. At that time, the separated and recovered crude oil, condensate and produced water must be routed to storage vessels. At the beginning of the production stage, the operator must begin the 30-day process of estimating storage vessel volatile organic compound (VOC) potential to emit (PTE) and must control emissions no later than 60 days after the beginning of the production stage. Beginning with the production stage, the rule prohibits venting or flaring of gas.

We are re-proposing for comment the definition of "low pressure gas well," as related to the well completion provisions. We added this definition in the 2012 NSPS in response to public comments. Petitioners asserted that the definition is unnecessarily complicated and would pose difficulty for smaller operators. The petitioners provided a very straightforward alternative on which we are also soliciting comment.

We are proposing several amendments related to the storage vessel provisions of the NSPS. First, we are proposing to amend the provisions for determining PTE for storage vessels with vapor recovery to clarify that the provisions allowing sources to exclude emissions captured through vapor recovery if certain specified control requirements are met do not apply to storage vessels whose PTE is limited to below the 6 tons per year (tpy) applicability threshold under a legally and practically enforceable permit or other limitation under federal, state or tribal authority. We are also proposing to amend the storage vessel closed cover requirements to allow other mechanisms besides weighted lid thief hatches to ensure that the thief hatch lid remains properly seated. In addition, we are proposing to amend slightly the requirements for storage vessels to clarify notification and other requirements under the NSPS for storage vessels that are removed from service.

We are proposing to amend the requirements for reciprocating compressors to add a third alternative to the two existing work practice options for controlling emissions from rod packing venting. We are proposing a third alternative that would be to route emissions from the rod packing through a closed vent system to a process.

We are proposing two amendments to the equipment leaks requirements for natural gas processing plants. One is to correct an inadvertent omission we made in the 2012 NSPS concerning an exemption from routine leak detection in small gas processing plants and gas processing plants located on the Alaskan North Slope. In the 2012 NSPS, we inadvertently failed to include connectors in the list of equipment under this exemption. In addition, we are proposing to amend the definition of "equipment" to clarify that the term, as used in relation to the equipment leaks requirements under the NSPS, refers only to equipment at onshore natural gas processing plants.

We are proposing to amend the definition of "responsible official" that is used in conjunction with the compliance certification provisions of the 2012 NSPS. We are proposing to amend the definition of "responsible official" to provide for delegation of authority after advance notification rather than after approval, which is currently required for delegation to authorities responsible for facilities that employ 250 or fewer employees and have less than $25 million gross annual sales or expenditures (in second quarter 1980 dollars). Requirements for delegation to representatives responsible for one or more facilities that employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars) are unchanged from the 2012 NSPS (i.e., there is no advance notification or approval required for such delegations).

Finally, we are proposing to remove the "affirmative defense" provisions from the startup, shutdown and malfunction provisions of the 2012 NSPS. We are also proposing to correct technical errors in the 2012 NSPS. Details and rationale for all the above proposed amendments are presented in section VI below.

VI. Discussion of Provisions Subject to Reconsideration

As summarized above, the EPA is proposing to address a number of issues that have been raised by different stakeholders through several administrative petitions for reconsideration of the 2012 NSPS final action and 2013 storage vessel amendments. The following sections discuss the issues that the EPA is addressing in this action and how the EPA proposes to resolve the issues.

A. Well Completions

Several petitioners raised issues with regard to the well completion provisions in the 2012 NSPS, including handling of flowback gases and liquids and definition of "low pressure well." While the 2012 NSPS focused mainly on handling of flowback gases, we did not provide extensive detail concerning requirements for handling of liquids during the various stages of well completion. The proposed amendments to the regulatory text discussed below provide clarity concerning what owners and operators must do during completion operations, and the proposed amendments to the requirements would maintain the same level of reduction as the 2012 NSPS.

1. Handling of Flowback Gases and Liquids

The petitioners asserted that the rule is unclear with regard to requirements in § 60.5375 for handling of gases and liquids during flowback and that, as written, compliance with the existing language cannot be achieved. Specifically, petitioners asserted that § 60.5375(a)(1) which states "(F)or the duration of flowback, route the recovered liquids into one or more storage vessels . . . and route the recovered gas into a gas flow line or collection system . . . with no direct release to the atmosphere" could be interpreted to prohibit venting of gases at any time during the flowback period. According to petitioners, at the beginning of the flowback period, the flowback consists initially of water, fracturing fluids and proppant (sand) with no gas present. At some point, sporadic slugs of gas begin to appear in the flowback in increasing amounts until enough gas is present to approach flammability and to enable a separator to function. Petitioners explained that operators usually locate a monitor on the vessel receiving the initial flowback to sense the gas concentration. When the gas concentration approaches flammability, the flowback is then directed to a separator. For a separator to function, enough gas must be flowing to maintain a gaseous phase and one or more liquid phases within the separator. In addition, petitioners explained that the requirement to "route the recovered liquids into one or more storage vessels"

is not feasible because of the composition and high volumetric flow of the initial flowback that necessitate using open top tanks or a pit for this purpose. As explained by the petitioners, this initial high volume liquid flowback carries with it sand and debris that can be removed relatively easily from open top tanks or that can settle to the bottom of lined pits. The petitioners also explained that removal of sand and debris from a closed top tank is extremely difficult and must be performed manually. Petitioners further noted that, because temporary tanks are excluded from the definition of "storage vessel," such temporary tanks as fracture tanks (frac tanks) cannot be used to comply with requirements of the 2012 NSPS.

In the EPA's clarification letter to the American Petroleum Institute (API),[1] [2] we explained that it was not the EPA's intent to prohibit venting of flowback gases throughout the entire flowback period and that we understood that there were periods during which gas may be present in the flowback but with insufficient volume and consistency of flow to enable either combustion or recovery of the gas through separation. Our clarification letter further responded to the issue of routing of all recovered liquids to storage vessels. We explained that the term "recovered liquids" refers to condensate, crude oil and produced water recovered through the separation process. Although the 2012 NSPS does not define "recovered liquids," the discussion of the proposed NSPS for storage vessels describes the storage of "crude oil, condensate and produced water." (see 76 FR 72763, August 23, 2011). In our clarification letter to API, we stated that the 2012 final rule accurately reflected our intent to require these liquids to be routed to "storage vessels," which may be subject to control in the rule depending on their potential to emit VOC and their affected facility status. We confirmed that the initial flowback (prior to recovery of these liquids through separation) may be routed to temporary fracture tanks (frac tanks) or other portable tanks (i.e., tanks that do not meet the definition of "storage vessel") as long as separation occurs as soon as practicable, consistent with the general duty to maximize resource recovery and minimize releases to the atmosphere as required in § 60.5375(a)(4).

In light of petitioners' assertions and the confusion caused by the current regulatory language in the well completion provisions, we reexamined the regulatory text in § 60.5375 and concluded that more clarity is needed such that owners, operators, regulatory agencies and the public could readily understand what was required at various stages of a hydraulically fractured well completion operation.

We believe that the requirements of the rule would be easier to understand if the rule identified distinct stages associated with well completion, with each stage having specific requirements for handling of gases and liquids. To that end, we are proposing that each well completion subject to § 60.5375 consists of three distinct stages.

The first stage begins with the first flowback from the well following hydraulic fracturing or refracturing, and is characterized by high volumetric flow water, with sand, fracturing fluids and debris from the formation with very little gas being brought to the surface, usually in multiphase slug flow. As the flowback proceeds, the amount of gas appearing in the flowback increases to the point where there is enough gas present for a separator to function, at which time the well completion would enter the second stage. We are proposing that the first stage be defined as the "initial flowback stage," during which the flowback must be routed to a "well completion vessel" that can be an open top frac tank, a lined pit or any other vessel. During the initial flowback stage, there would be no requirement for controlling emissions from the tank, and any gas in the flowback during this stage could be vented.[3] We propose that the flow must be diverted to a separator as soon as a sufficient amount of gas is present in the flowback to operate the separator. The EPA is seeking to establish, if possible, objective criteria for determining when there is sufficient gas in the flowback for the separator to function and is therefore soliciting comment on one potential approach. It is our understanding that some operators monitor the gas concentration at the vessel receiving the flowback for safety reasons and to determine that sufficient gas is present in the flowback. When the gas concentration approaches the lower explosive limit (LEL) (i.e., approaches flammability), these operators direct the flowback to a separator. While we are aware that some operators employ this technique, we are uncertain whether it can be used effectively in all applications and whether there are other techniques used by operators to make this determination. We therefore solicit comment on the suitability of the "LEL method" when used for this purpose and seek information on other techniques or indicators that may be used to determine when sufficient gas is present for a separator to function.

The second stage would begin when the flowback gases and liquids are routed to the separator, which would be required as soon as sufficient gas is present for the separator to function. This stage, which we propose to define as the "separation flowback stage," is characterized by the separator operating (i.e., there is sufficient gas in the flowback to maintain a gaseous phase and one or more liquid phases in the separator). During the separation flowback stage, the operator would be required to route the recovered gas into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an on-site fuel source or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve. If, during the separation flowback stage, it was technically infeasible to route the recovered gas to a flow line or collection system (e.g., if there was no flow line or other infrastructure available at the site for collection of the gas), reinject the gas or use the gas as fuel or for other useful purpose, the recovered gas (i.e., "flowback emissions") would have to be combusted using a completion combustion device. No direct venting of recovered gas would be allowed during the separation flowback stage. If, at any time during the separation flowback stage, the recoverable gas present in the flowback becomes insufficient to maintain operation of the separator, the operation would revert to the initial flowback stage until the gas was again present in sufficient volume to operate the separator. During the separation flowback stage, all liquids from a separator could be directed to one or more well completion vessels or storage vessels, or be re-injected into the well or another well (i.e., during this stage, operators would not be required to route flowback liquids to "storage vessels" as defined in the NSPS). During this stage of a completion, the flowback continues to have a very high volumetric flow rate, with the hydrocarbon content (and potential to emit VOC) often increasing

[1] Letter from Matt Todd, American Petroleum Institute, to Bruce Moore, EPA Office of Air Quality Planning and Standards, July 25, 2012.

[2] Letter from Peter Tsirigotis, EPA Office of Air Quality Planning and Standards, to Matt Todd, American Petroleum Institute, September 28, 2012.

[3] Recent studies have shown that air emissions from open top tanks used during initial flowback are very low. Allen, David, T., et al. 2013. *Measurements of methane emissions at natural gas production sites in the United States.* Proceedings of the National Academy of Sciences (PNAS) 500 Fifth Street NW., NAS 340 Washington, DC 20001 USA. October 29, 2013.

with time and being dependent on the characteristics of the gas (e.g., to what degree the gas is "wet" or "dry"). It is our understanding that the initially high volume and inconsistent character of the flowback will gradually subside and stabilize. At some point, the flowback will have declined and stabilized enough to allow continuous recovery of the gas. It would also allow separation and recovery of any crude oil, condensate and produced water. We propose to define this point as the end of the separation flowback stage and the beginning of the "production stage." We seek to establish, if possible, objective criteria on which to base a determination that the well has reached that point, and we therefore solicit comment on the characteristics of the flow or other conditions that could be used to establish such criteria. During the production stage, we propose to prohibit gas from the separator being vented or controlled by combustion, and require that all recovered liquids be routed to storage vessels.

We are proposing that the beginning of the production stage would also begin the 30-day period for determining VOC potential to emit for purposes of making a storage vessel affected facility determination in accordance with the procedure in § 60.5365(e). If the criteria under § 60.5365(e) were met, the operator would have to comply with the control requirements in § 60.5395(d)(1) within 60 days after the beginning of the production stage. We are proposing to amend § 60.5365(e) to reflect that, for purposes of the well completion provisions, the 30-day period for the affected facility determination required § 60.5365(e) would commence at the beginning of the production stage. We are proposing to amend § 60.5395(d)(1)(i) to reflect that, for purposes of the well completion provisions, control would be required no later than 60 days from the beginning of the production stage. We propose revising § 60.5395(d)(1)(i) to read:

(i) Except as otherwise provided in this paragraph, for each Group 2 storage vessel affected facility, you must achieve the required emissions reductions by April 15, 2014, or within 60 days after startup, whichever is later. For storage vessels receiving liquids pursuant to the standards for gas well affected facilities in § 60.5375, you must achieve the required emissions reductions within 60 days after the beginning of the production stage as defined in § 60.5430.

In addition, we are proposing amendments to the reporting and recordkeeping requirements in § 60.5420 to revise the terminology used in that section relating to periods of recovery, combustion and venting to be compatible with the terms identified in the proposed clarifying amendments to § 60.5375.

Similarly, we are proposing revisions to the terms used in the regulatory text for exploratory, delineation and low pressure wells at § 60.5375(f) to be consistent with the proposed amended terminology and requirements in § 60.5375(a).

Petitioners also raised the issue of "screenouts" and "coil tubing cleanouts," which are remedial operations sometimes required during flowback when flow is impeded or blocked by packed proppant (sand) and must be restored to prevent permanent damage to the well. As related in petitions, a screenout is the first attempt to clear the proppant that can plug the wellbore. A screenout involves flowing the well to a frac tank in a manner to achieve maximum velocity to carry the sand out of the well. If a screenout is unsuccessful in clearing the packed sand from the wellbore, then the well typically is "jetted" using a string of coil tubing and nitrogen gas to dislodge the sand and provide sufficient lift energy to flow it to surface. Small amounts of gas and condensate may be part of the flowback fluids during screenouts and coil tubing cleanouts. In our clarification letter to API, we explained that any gas or vapor liberated during screenouts and coil tubing cleanouts, both of which are operations prior to the point of separation, were not "flowback emissions" [4] and, as a result, were not subject to the work practice standards for gas well affected facilities.

2. Definition of "Low Pressure Gas Well"

In the August 23, 2011, proposed rule, the EPA solicited comments on situations where reduced emission completion (REC) would be infeasible (see 76 FR 52758, August 23, 2011). Several commenters highlighted technical issues that prevent the implementation of a REC on what they referred to as "low pressure" gas wells because of the lack of the necessary reservoir pressure to flow at rates appropriate for the transportation of solids and liquids from a hydraulically fractured gas well completion against an imposed back-pressure. Based on our analysis of the public comments received, we learned that there are certain wells where a REC is infeasible because of the characteristics of the reservoir and the well depth that will not allow the flowback to overcome the gathering system pressure due to the back pressure imposed by the REC surface equipment. Accordingly, in response to those comments, we provided in the 2012 final NSPS at § 60.5375(f) that "low pressure" gas wells (i.e., those wells for which a REC would not be feasible because of a combination of well depth, reservoir pressure and flow line pressure) would not be required to meet the requirements for recovery of gases and liquids required under § 60.5375(a), except as provided in § 60.5375(f)(2) which subjects wildcat, delineation and low pressure gas wells to requirements for combustion of flowback emissions and to the general duty to safely maximize resource recovery and minimize releases to the atmosphere required under § 60.5375(a)(4). Under the 2012 final NSPS, low pressure wells are treated the same as exploratory and delineation wells (i.e., they are not required to perform a REC). We also added a definition of "low pressure gas well" in the final rule that is based on a mathematical formula that takes into account a well's depth, reservoir pressure and flow line pressure. The definition at § 60.5430 is as follows:

Low pressure gas well means a well with reservoir pressure and vertical well depth such that 0.445 times the reservoir pressure (in psia) minus 0.038 times the vertical well depth (in feet) minus 67.578 psia is less than the flow line pressure at the sales meter.

A detailed discussion of development of the definition and derivation of the formula was provided in the Supplemental Technical Support Document for the 2012 final rule.[5]

Following publication of the final rule, a group of petitioners representing independent oil and natural gas owners and operators submitted a joint petition for administrative reconsideration of the 2012 NSPS. The petitioners questioned the technical merits of the low pressure well definition and asserted that the public had not had an opportunity to comment on the definition because it was added in the final rule. The petitioners expressed concern that the formula adopted in the 2012 NSPS was based on "questionable assumptions" and "sparse data" and will "exclude from its scope many gas wells drilled in formations that historically have been

[4] In the 2012 NSPS, § 60.5375(a)(2) and (3) require that "flowback emissions" be either routed to a flow line or to a completion combustion device. In our clarification letter to API, we clarified that "flowback emissions" refers to the recovered gas and vapor after separation.

[5] Oil and Natural Gas Sector: Standards of Performance for Crude Oil and Natural Gas Production, Transmission, and Distribution—Background Supplemental Technical Support Document for the Final New Source Performance Standards, USEPA, Office of Air Quality Planning and Standards, April 2012.

recognized as 'low pressure.' Accordingly, in the view of the petitioners, this exclusion—or lack thereof—has the potential to directly affect many smaller producers, who are less likely to be able to bear the costs of implementing costly RECs."[6] However, the administrative petition did not include any details on which of EPA's assumptions is questionable and why, or what additional data the petitioners consider necessary to support EPA's "low pressure gas well" definition. We were therefore unable to assess petitioners' assertions regarding the "low pressure gas well" definition in the 2012 final NSPS.

On March 24, 2014, the petitioners submitted to the EPA a suggested alternative definition[7] for consideration. The petitioners' definition is based on the fresh water hydrostatic gradient of 0.433 pounds per square inch per foot (psi/ft). The petitioners assert that this approach is straightforward and has been recognized for many years in the oil and natural gas industry and by governmental agencies and professional organizations. As expressed in the paper submitted by the petitioners, the alternative definition for consideration by the EPA, as stated by the petitioners, would be:

A well where the field pressure is less than 0.433 times the vertical depth of the deepest target reservoir and the flow-back period will be less than three days in duration

We agree with the petitioners that this alternative definition is straightforward and easy to use. However, we are concerned that it may be too simplistic and may not adequately account for the parameters that must be taken into account when determining whether a REC would be feasible for a given hydraulically fractured gas well. Further, we question how an operator would know before flowback begins that the flowback period would be less than 3 days in duration.

We believe that, to determine whether the flowback gas has sufficient pressure to flow into a flow line, it is necessary to account for reservoir pressure, well depth and flow line pressure. In addition, it is important for any such determination to take into account pressure losses in the surface equipment used to perform the REC. The EPA's proposed definition was developed to account for these factors.

We further disagree with the petitioners' assertion that the EPA definition is too complicated. We believe that values for each of the three parameters discussed above and used in the EPA definition are known by operators in advance of flowback and that the relatively simple calculation called for in the EPA definition could be performed with a basic hand-held calculator and should not pose difficulty or hardship for smaller operators.

However, we agree with the petitioners that the public should be provided an opportunity to comment on the 2012 definition of "low pressure gas well." We are therefore re-proposing that definition for notice and comment. In addition, we solicit comment on the definition suggested by the petitioners. The petitioners' background paper and supporting documents for the alternative definition have been placed in the public docket for this action. We believe that soliciting comments on both definitions would help us better understand and characterize the term "low pressure gas well" for which REC is not feasible.

B. Storage Vessels

On September 23, 2013, the EPA published amendments primarily focused on storage vessel implementation issues raised by petitioners following publication of the 2012 final NSPS. Following publication of the 2013 storage vessel amendments, three petitioners raised issues with regard to various provisions of the amendments. Among these issues are requirements for determining PTE for storage vessels employing vapor recovery under a legal and practically enforceable limitation, requirement for thief hatches being properly seated and clarification of the term "storage vessels removed from service."

1. PTE Determination for Storage Vessels Employing Vapor Recovery Under a Legally and Practically Enforceable Limitation

In the 2013 final storage vessel amendments to the NSPS, we provided at § 60.5365(e) that the determination of a storage vessel's VOC PTE may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a federal, state, local or tribal authority. We further provided that any vapor from the storage vessel that is recovered and routed to a process through a vapor recovery unit (VRU) designed and operated as specified in § 60.5365(e) is not required to be included in the determination of VOC PTE.

In petitions for reconsideration of the storage vessel amendments, petitioners pointed out that, if a VRU is required by a legally and practically enforceable limitation under which the storage vessel is operating, then § 60.5365(e)(1) through (4) should not apply. The petitioners explained that, in such cases, removal of the VRU would violate the enforceable limitation, thereby making the prior affected facility determination of VOC PTE invalid. They further assert their understanding that the EPA intended that § 60.5365(e)(1) through (4) should apply only to storage vessels which are not under a legal and practically enforceable limit but which are employing vapor recovery to lower the VOC PTE.

§ 60.5365(e) allows an owner or operator of a storage vessel to exclude from its PTE determination any vapor routed to a process through a VRU provided that conditions in § 60.5365(e)(1) through (4), which relate to the design and operation of cover and closed vent system associated with the VRU, are met (hereinafter referred to as the "PTE exclusion provision"). However, this is not the only way for a storage vessel to demonstrate that its PTE is below the 6 tpy threshold. As stated in the 2013 amendment and reiterated above, a storage vessel's PTE determination can take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a federal, state, local or tribal authority. However, it appears that there may be misinterpretation of the PTE exclusion provision as requiring compliance with § 60.5365(e)(1) through (4) in all cases, even where a storage vessel has VOC PTE less than 6 tpy under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, state, local or tribal authority. Under such a permit or limitation, an operator therefore does not need to invoke the NSPS PTE exclusion provision. Further, we conclude that the PTE exclusion provision would only be invoked by a storage vessel absent any legally and practically enforceable limit under which the storage vessel was being operated to maintain its VOC PTE less than 6 tpy.

In light of the points raised by the petitioners and considering the EPA's original intent, we are proposing to amend § 60.5365(e) to allow the PTE exclusion provision only in cases where

[6] Letter from James D. Elliott, Spilman, Thomas & Battle PLLC, to Lisa P. Jackson, EPA Administrator, October 15, 2012; Petition for Administrative Reconsideration of Final Rule "Oil and Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews," 77 FR 49490 (August 16, 2012).

[7] Email from James D. Elliott, Spilman, Thomas & Battle PLLC, to Bruce Moore, EPA, March 24, 2014.

a storage vessel is not subject to any legal and practically enforceable limitation or other requirement under a Federal, state, local or tribal authority. Accordingly, we propose to revise the last full paragraph of § 60.5365(e) as follows:

> For storage vessels not subject to a legally and practically enforceable limit in an operating permit or other requirement established under a federal, state, local or tribal authority, any vapor from the storage vessel that is recovered and routed to a process through a VRU designed and operated as specified in this section is not required to be included in the determination of VOC potential to emit for purposes of determining affected facility status, provided you comply with the requirements in paragraphs (e)(1) through (4) of this section.

2. Thief Hatch Properly Seated

Thief hatches are generally hinged access openings in the roof of storage vessels that serve as emergency overpressure relief devices and a point of access for obtaining a sample of the material stored or for gauging the liquid level. To be functional, the thief hatch must be able to open when access is needed, yet close and seal properly to prevent vapor at very low pressure from escaping. The hatch must be able to open readily during overpressure events to prevent damage to the storage vessel. Storage vessels used in this industry sector are generally designed to operate at atmospheric pressure. The 2012 final NSPS requires at § 60.5411(b)(3) that thief hatches be "weighted and properly seated."

Petitioners asserted that the requirement for the thief hatch lid to be "weighted" is too restrictive, since there are other types and mechanisms that provide the same functionality (i.e., the lid presses on the seating surface with sufficient force to ensure proper seating while allowing opening manually for personnel access or automatically during overpressure events) as a weighted lid thief hatch. The petitioners requested that the NSPS be revised to allow the use of other types (e.g., hatches with spring-loaded lids) besides weighted-lid hatches.

We agree with the petitioners that other mechanisms that would provide equivalent function to that provided by a weight should be allowed for thief hatch lid control, since the important factor here is to ensure that the hatch lid remains properly closed, whether with a weight or another mechanism, at all times except during personnel access and overpressure events. As a result, we are proposing to amend § 60.5411(b)(3) to require that the thief hatch be equipped with a mechanism or be of such design and properly maintained and operated to ensure that the lid remains properly seated.

3. Storage Vessels Removed From Service

The 2013 final storage vessel amendments to the NSPS added provisions at § 60.5395(f) that apply to storage vessel affected facilities that are removed from service. Provisions are also included for storage vessel affected facilities that are later returned to service.

Petitioners assert that the provisions for storage vessel affected facilities that are removed from service need clarification to avoid misinterpretation that the NSPS requires reporting of every instance of a storage vessel being temporarily shut down for maintenance. In addition, petitioners requested that the EPA provide clarity by adding a definition of "removed from service." Petitioners also requested that § 60.5395(f) state explicitly that a storage vessel affected facility that is removed from service is no longer subject to the control, reporting or recordkeeping requirements of the NSPS, other than reporting that it has been removed from service, until such time as it is subsequently returned to service. Petitioners also suggested that the required notifications include the date that the storage vessel-affected facility is removed from service or restored to service to assist in documenting the period of time for which the NSPS did not apply to a given storage vessel-affected facility.

We reexamined § 60.5395(f) and propose to clarify the requirements regarding storage vessel affected facilities removed from service to avoid potential misinterpretation of these requirements. Our intent in including such provisions in the 2013 storage vessel amendments was to ensure that unnecessary burden was not imposed by the NSPS by requiring emission control, compliance monitoring, reporting and recordkeeping activities for storage vessels that were removed from service for reasons other than maintenance. Based on our review, we are proposing to add a definition of "removed from service" to § 60.5430 as follows:

> *Removed from service* means that a storage vessel affected facility has been physically isolated and disconnected from the process for a purpose other than maintenance and is no longer used to contain crude oil, condensate, produced water or intermediate hydrocarbon liquids. If the storage vessel affected facility is reconnected to the process, or introduced with crude oil, condensate, produced water or intermediate hydrocarbon liquids at the same location, or relocated to another location and utilized as a storage vessel for crude oil, condensate, produced water or intermediate hydrocarbon liquids, it will be deemed to no longer be "removed from service" and at that time will be deemed "returned to service" and subject to the provisions of this subpart applicable to such vessel.

We are also proposing to amend § 60.5395(f)(1) and (2), and § 60.5420(b)(6) to require that the dates that storage vessel-affected facilities are removed from service and returned to service be included when reporting those actions.

4. Electronic Spark Ignition for Combustion Devices for Well Completions, Storage Vessels and Wet Seal Centrifugal Compressors

The 2012 final NSPS requires a continuous pilot flame for well completion combustion devices and for combustors used to control emissions from storage vessels and wet seal centrifugal compressors. Commenters on the 2011 proposed NSPS and NESHAP had asserted that these rules should allow the use of automatic electronic spark ignition as an alternative to a continuous pilot flame for these control devices. In our response to public comments, we had clarified that the rule does not allow electronic ignition devices as surrogates for a continuous ignition source. The continuous ignition source is designed to combust the flammable portion of the flowback gas from a well completion, even if the flowback gas has a low BTU content. We further explained that an electronic ignition device designed for ignition of a combustible stream would not be successful at combusting VOC portions of low BTU flowback gas. With regard to storage vessels, we acknowledged the growing use of electronic spark ignition systems for flares. We explained that, however, given the intermittent and inconsistent nature of emissions from tanks in this industry combined with the highly variable VOC concentration in the emissions, we did not believe a spark-ignited flare would achieve the same level of emission reduction as a flare with a continuous flame present. We also noted that there were not sufficient data at this time to suggest that electronic ignition systems on combustion devices are capable of continuously supplying a constant source of ignition to keep a flame present on a continuous basis. In addition, for flares, test data for which the current standards in §§ 63.11(b) and 60.18 were written show that operating a flare with a continuously lit pilot adds an additional degree of flame stability to

the flare itself. Therefore, we did not allow electronic spark ignition as an alternative to a continuous pilot flame in the final rule.

The issue was raised by petitioners in response to the 2012 final NSPS in the context of completion combustion devices, but petitioners did not provide additional data or information to refute EPA's rationales for not allowing electronic spark ignition in the 2012 Final NSPS, as described above. The issue was raised again in public comments received on the 2013 proposed storage vessel amendments without additional data or information. However, the commenters asserted that the EPA's own Natural Gas Star program encourages the use of electronic ignition instead of a continuous pilot flame.[8] In our response to public comments, we maintained our previous position and rationales and declined to provide in the final NSPS storage vessel amendments that electronic spark ignition would be an acceptable alternative to continuous pilot flame for storage vessel control devices.

The EPA encourages innovation and also believes that resource conservation should be encouraged where possible. We believe electronic spark ignition is a promising technology, and for that reason highlighted it in the Natural Gas STAR publication cited by the petitioners. However, we still have concerns about the dependability of these devices and control efficiency afforded by this technology and would like to have more information that could inform further consideration of the petitioners' assertions.

We solicit information that would inform our evaluation of this technology as an alternative to a continuous pilot flame used with combustion devices for control of emissions from well completions, storage vessels and centrifugal compressor wet seal degassing systems. Specifically we solicit information, including any test data or other documentation, that may help address the following topics relative to the operation of an electronic spark ignition: (1) Appropriate design, operation and maintenance procedures to ensure proper combustion of the waste stream; (2) use of safety valves to ensure that no gas is available for combustion if the ignition system is not functional; (3) measures that could be taken to avoid vapor venting upstream of the control device in cases where the safety valve remains closed; (4) frequency of monitoring for proper operation; (5) specific checks to be made to ensure proper operation; (6) operating parameters that affect pilot-less flare performance and flare flame stability; (7) effects of gas with low BTU content or gas of variable VOC content; and (8) how often these systems need to be replaced.

In addition, we are interested in learning more about the use of this technology as a means of ensuring that continuous flame pilots remain functional at all times. Therefore, we also solicit comment, including any supporting data or information, on whether automatic spark ignition relighting systems should be required as a means of ensuring that continuous flame pilots remain functional at all times.

Based on our evaluation of the data and comments received, we may provide language in the final rule that would allow electronic spark ignition as an alternative to a continuous pilot flame. We may also provide language in the final rule that would require automatic electronic spark ignition relighting systems.

C. Routing of Reciprocating Compressor Rod Packing Emissions to a Process

The 2012 final NSPS includes operational (i.e., "work practice") standards for reciprocating compressors to reduce emissions from gas vented from the piston rod packing as the rod moves during operation. The rule requires regular rod packing replacement every 26,000 hours of operation or, if the owner and operator elect, every 36 months.

On October 15, 2012, the Administrator received a petition for administrative reconsideration of the performance standards for reciprocating compressors. The petitioners asserted that an available alternative would reduce reciprocating compressor emissions to levels equivalent to, or better than, the emission levels achieved by the operational standard.[9] The alternative technology consists of recovering vented emissions from the rod packing under negative pressure and routing these emissions of otherwise vented gas to the air intake of a reciprocating internal combustion engine that would burn the gas as fuel to augment the normal fuel supply. The system's computerized air/fuel control system would then adjust the normal fuel supply to accommodate the increased fuel made available from the recovered emissions and thereby take advantage of the recovered emissions while avoiding an overly rich fuel mixture.

The petitioner requested that the EPA consider this alternative technology and that the EPA revise the provisions of Subpart OOOO to allow for this alternative to the operational standard. The petitioner pointed out that subpart OOOO already includes similar options for handling of vented emissions from centrifugal compressors and storage vessels and that similar alternatives could apply for reciprocating compressors as well. Access to similar technologically valid approaches should be an option for reciprocating compressors. The petitioner reasoned that such an option would provide emission reductions in excess of 99.5 percent attributed to the efficiency of the computer-controlled combustion of the engine and the recovery of the emissions under negative pressure produced by the engine air intake. The petitioner reasoned that emission reductions would be commensurate with or better than the reductions from the operational standard.

Finally, the petitioner asserted that alternatives to the reciprocating compressor operational standard were not adequately reviewed by the EPA and, in its response to comments document, the EPA addressed comments from the petitioner and others with little more than a passive response.[10]

The EPA values innovation on the part of owners, operators and equipment vendors serving the Oil and Natural Gas Sector. We also believe that resource conservation should be encouraged where possible and that alternatives should be flexible enough, within the law, to provide opportunities for innovation and resource recovery. Under the 2012 final NSPS for reciprocating compressors, an owner or operator must either (1) replace the rod packing every 26,000 hours of operation; or (2) replace the rod packing every 36 months. Any other options considered would need to provide at least the level of emission control that the existing options provide. Based on our review of the information submitted by the petitioner, we conclude that the technology has merit and would provide equivalent or better emissions reduction

[8] U.S. Environmental Protection Agency, Natural Gas STAR Program. *Partner Reported Opportunities—Install Electronic Flare Ignition Devices,* PRO Fact Sheet No. 903, 2011.

[9] Letter from Veronica Nasser, REM Technologies, Inc., to Lisa P. Jackson, EPA Administrator, Petition for Reconsideration.

[10] Docket document number EPA–HQ–OAR–2010–0505–4546, "Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews, 40 CFR Parts 60 and 63, Response to Public Comments on Proposed Rule August 23, 2011 (76 FR 52738)," Section 2.7.3, (U.S. EPA, April 2012).

since the emissions would be captured under negative pressure, allowing all emissions to be routed to the engine. It is our understanding that this technology may not be applicable to every compressor installation and situation. However, we are proposing this as an alternative to the current work practice standards and, therefore, it would be within the operator's discretion to choose whichever option is most appropriate for the application and situation at hand. Based on these considerations and on the information submitted by the public and the petitioner, we are proposing to include in the NSPS a third option for controlling emissions from reciprocating compressor rod packing as described above.

In light of the above considerations, we are proposing to revise § 60.5385(a) to reflect that a third option for controlling VOC emissions from the reciprocating compressor rod packing would be to capture the emissions and route them to a process. "Route to a process" was defined in the 2012 NSPS at § 60.5430 to work in conjunction with the standards for storage vessels and wet seal centrifugal compressors. By using the same term in the proposed third option, emissions captured from the rod packing would be treated the same as emissions recovered from a storage vessel or from a wet seal centrifugal compressor. Specifically, for example, in the petitioner's case, the compressor engine would be the "process" to which the emissions would be routed. Although we have used the petitioner's application as an example, we want to be clear that the third option would not be limited to use of the captured emissions as on site fuel. Similar to vapor recovery applied to storage vessels and wet seal centrifugal compressors, routing the emissions to a process would also include routing of the emissions to a flow line or other beneficial use.

As a result, we propose to amend § 60.5385(a) to read as follows:

(a) You must follow the requirements of paragraph (a)(1), (2) or (3) of this section.

(1) Replace the reciprocating compressor rod packing before the compressor has operated for 26,000 hours. The number of hours of operation must be continuously monitored beginning upon initial startup of your reciprocating compressor-affected facility, or October 15, 2012, or the date of the most recent reciprocating compressor rod packing replacement, whichever is later.

(2) Replace the reciprocating compressor rod packing prior to 36 months from the date of the most recent rod packing replacement, or 36 months from the date of startup for a new reciprocating compressor for which the rod packing has not yet been replaced.

(3) Route the rod packing emissions through a closed vent system that meets the requirements of § 60.5411(c) to a process.

We are also proposing to amend the closed vent system requirements in § 60.5411(a) and (b) to apply to reciprocating compressors in addition to centrifugal compressor wet seal degassing systems, to which those sections already apply.[11] Similar amendments are being proposed to the continuous compliance requirements in § 60.5415 and inspection and monitoring requirements in § 60.5416 to apply to reciprocating compressors.

D. Equipment Leaks at Gas Processing Plants

1. Small Gas Processing Plants and Gas Processing Plants Located on the Alaskan North Slope

The equipment leaks standards in the 1985 NSPS subpart KKK requires routine leak detection at natural gas processing plants for certain equipment, specifically pumps in light liquid service, valves in gas/vapor and light liquid service, and pressure relief valves from gas/vapor service. Subpart KKK provides for exemptions for pumps in light liquid service, valves in gas/vapor and light liquid service, and pressure relief valves in gas/vapor service from routine monitoring requirements at small natural gas processing plants (i.e., plants that do not have the design capacity to process at least 10 million standard cubic feet (scf) of field gas per day) and at natural gas processing plants located on the Alaskan North Slope. In the 2012 NSPS, we updated the subpart KKK standards by lowering the leak definition for valves from 10,000 parts per million (ppm) to 500 ppm and adding connectors to the list of equipment to be monitored. The revised standards, which are codified in subpart OOOO, apply to affected facilities at onshore natural gas processing plants that commence construction, modification or reconstruction after August 23, 2011. Except for the revisions described above, we retained the other provisions of subpart KKK by adopting the subpart KKK regulatory text, including the above mentioned exemptions, in the new subpart OOOO. However, in adopting the subpart KKK regulatory text on the exemptions, we inadvertently failed to update the equipment list to include connectors. As a result, connectors were not listed in § 60.5401(d) and (e) as exempt from the routine leak detection requirements at small gas processing plants and gas processing plants located on the Alaskan North Slope.

Petitioners pointed out that connectors had been added to the list of equipment for routine leak detection in subpart OOOO but had not been similarly added to the list of equipment exempted from routine leak detection at small gas processing plants and at gas processing plants located on the Alaskan North Slope. The petitioners requested that we amend the NSPS to correct this apparent oversight. We agree that this omission was an oversight and that it was not our intent for the 2012 NSPS to single out connectors at small gas processing plants and at gas processing plants located on the Alaska North Slope for routine leak detection while exempting the other equipment at these plants from such requirement. As a result, we are proposing to amend § 60.5401(d) and (e) to add connectors to the list of equipment exempt from routine leak detection at these plants.

2. Equipment Under Subpart OOOO Subject to Leak Detection Requirements

Petitioners pointed out that the definition of "equipment" in § 60.5430 of the 2012 final NSPS could be misinterpreted to expand the scope of the equipment leaks program under subpart OOOO to cover beyond onshore-gas processing plants, which was the scope of subpart KKK. The term "equipment" is currently defined in § 60.5430 as follows:

Equipment means each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by this subpart.

As discussed above, the 2012 final NSPS subpart OOOO updated the 1985 NSPS subpart KKK by lowering the leak definition for valves from 10,000 ppm to 500 ppm and requiring monitoring of connectors. Otherwise, subpart OOOO retains the other provisions of the subpart KKK by adopting those provisions, including the definition of "equipment." As mentioned above, the definition of "equipment" includes "any device or system required *by this subpart*." [Emphasis added]. Because subpart KKK pertained only to onshore natural gas processing plants, the phrase "any device or system required by this subpart" refers to only devices and systems at onshore natural gas processing plants. However, since subpart OOOO also covers affected facilities not located at onshore natural gas processing plants, the phrase could be misinterpreted to apply to every

[11] § 60.5411(a) and (b) are the closed vent system and cover requirements that are meant to ensure that all emissions from the compressor rod packing will reach a process.

affected facility under the entire subpart OOOO, including those not located at onshore natural gas processing plants. To avoid any such misinterpretation, we are proposing to amend the definition of "equipment" in § 60.5430 to clarify as follows:

Equipment, as used in the standards and requirements in this subpart relative to the equipment leaks of VOC from onshore natural gas processing plants, means each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by those same standards and requirements in this subpart.

E. Definition of "Responsible Official"

The 2012 final rule requires certification by a responsible official of the truth, accuracy and completeness of the annual report. Petitioners pointed out that the definition of "responsible official" is not appropriate for the oil and natural gas sector due to the large number and wide geographic distribution of the small sources involved. Petitioners suggested that the EPA should develop a certification requirement specific to the Oil and Natural Gas Sector NSPS that would allow delegation of the authority of a responsible official to someone, such as a field or production supervisor, who has direct knowledge of the day to day operation of the facilities being certified, without requiring that such delegation be pre-approved by the permitting authority.[12]

We reexamined the definition of "responsible official" and agree with petitioners that the current language in the NSPS, specifically the requirement to seek advance approval by the permitting authority of the delegation of authority to a representative if the facility employs 250 or fewer persons, is too burdensome for the oil and natural gas sector. The oil and natural gas sector, especially the production (i.e., "upstream") segment, is characterized by many individually small facilities (e.g., well sites) with oversight typically by a production field office serving a large geographic area such as a basin. We believe a production supervisor or field supervisor who is in charge of a field office would be analogous to a "plant manager" in other sectors, because he or she is "responsible for the overall operation of one or more manufacturing, production, or operating facilities" (from § 60.5430, definition of "responsible official"). We believe positions such as these are much closer to the day to day operations in this sector and would be appropriate to certify as to the truth, accuracy and completeness of annual reports and compliance certifications. However, because most oil and gas production facilities are small and therefore unlikely to have more than 250 persons, delegating the authority of responsible official to an oil and gas production supervisor or field supervisor would almost always require the permitting authority's approval.

We believe that the oil and natural gas sector is unique in that the ones with most knowledge of the facilities being certified are field or production supervisors overseeing such facilities, which are numerous across country but generally with few employees in each facility. As a result, requiring prior approval of a delegation of the authority of a responsible official because most of these facilities employ 250 persons or less is unnecessarily burdensome and may potentially affect the facilities' ability to comply with the certification requirement in the event there are delays in approvals of delegation. We therefore propose requiring advance notification instead of advance approval before such delegation becomes effective.

Petitioners also noted that the current definition does not adequately address the complex ownership arrangements of limited partnerships. We agree with the petitioners and believe limited partnerships should be reflected in the definition along with sole proprietorships and partnerships which are currently addressed.

In light of the considerations discussed above, we are proposing to amend the definition of "responsible official" to make such delegation effective after advance notification rather than after approval. Requirements for delegation to representatives responsible for one or more facilities that employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars) are unchanged from the 2012 NSPS (i.e., there is no advance notification or approval required for such delegations).

In addition, the 2012 NSPS uses the term "permitting authority" in the definition of "responsible official." The NSPS is not a permitting program, and the annual compliance certification that requires signature of the "responsible official" is a requirement of the NSPS and is not associated with a permitting program. As a result, we are proposing to replace the term "permitting authority" with "Administrator" in the definition of "responsible official" to be consistent with other notification and reporting requirements of the NSPS.

F. Affirmative Defense

In the 2012 NSPS subpart OOOO, the EPA had included an affirmative defense to civil penalties for violations caused by malfunctions. For the reasons provided below, we are proposing to remove the affirmative defense provisions in the 2012 NSPS subpart OOOO.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. However, by contrast, malfunction is defined as "any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions." (40 CFR 60.2). The EPA has determined that CAA section 111 does not require that emissions that occur during periods of malfunction be factored into development of CAA section 111 standards. Nothing in CAA section 111 or in case law requires that the EPA anticipate and account for the innumerable types of potential malfunction events in setting emission standards. CAA section 111 provides that the EPA set standards of performance which reflect the degree of emission limitation achievable through "the application of the best system of emission reduction" that the EPA determines is adequately demonstrated. A malfunction is a failure of the source to perform in a "normal or usual manner" and no statutory language compels the EPA to consider such events in setting standards based on the "best system of emission reduction." The "application of the best system of emission reduction" is more appropriately understood to include operating units in such a way as to avoid malfunctions.

Further, accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. The performance of units that are

[12] During consideration of this issue, we realized that the definition of "responsible official" in the 2012 NSPS refers to "permitting authority" in error. This occurred when we took language from the Title V definition which uses "permitting authority" appropriately. However, in the case of the NSPS, we are proposing to change the definition in § 60.5430 to replace "permitting authority" with "Administrator" which is appropriate for the NSPS. For purposes of the discussion in this preamble, we continue to refer to "permitting authority," since the current definition still uses that term until such an amendment would be effective.

malfunctioning is not "reasonably" foreseeable. See, e.g., *Sierra Club* v. *EPA*, 167 F.3d 658, 662 (D.C. Cir. 1999) ("The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.'") *See also, Weyerhaeuser* v. *Costle*, 590 F.2d 1011, 1058 (D.C. Cir. 1978) ("In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation."). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation and thus accounting for malfunctions could lead to standards that are significantly less stringent than levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 111 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 111 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 111 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 111 standard was, in fact, "sudden, infrequent, not reasonably preventable" and was not instead "caused in part by poor maintenance or careless operation." 40 CFR 60.2 (definition of malfunction).

Further, to the extent the EPA files an enforcement action against a source for violation of an emission standard, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In the 2012 NSPS, 40 CFR 60, subpart OOOO, the EPA included an affirmative defense as an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense in the 2012 NSPS subpart OOOO to provide a more formalized approach and more regulatory clarity. *See Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); *but see Marathon Oil Co.* v. *EPA*, 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of "upsets beyond the control of the permit holder."). Under the 2012 NSPS subpart OOOO affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. Recently, the United States Court of Appeals for the District of Columbia Circuit vacated such an affirmative defense in one of the EPA's section 112(d) regulations. *NRDC* v. *EPA*, No. 10–1371 (D.C. Cir. April 18, 2014) 2014 U.S. App. LEXIS 7281 (vacating affirmative defense provisions in CAA section 112(d) rule establishing emission standards for Portland cement kilns). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts lies exclusively with the courts, not the EPA. Specifically, the court found: "As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.'" *See NRDC*, 2014 U.S. App. LEXIS 7281 at *21 ("[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.").[13] In light of *NRDC*, the EPA is proposing to remove the affirmative defense provisions from the 2012 NSPS subpart OOOO in this rulemaking. As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate.

Further, as the D.C. Circuit recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. *Cf. NRDC*, 2014 U.S. App. LEXIS 7281 *at *24.* (arguments that violation was caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same logic applies to EPA administrative enforcement actions.

VII. Technical Corrections and Clarifications

Following publication of the 2012 NSPS and the 2013 storage vessel amendments, we subsequently determined, following review of the petitions and discussions with affected parties, that the final rule warrants correction clarification in certain areas. The EPA is proposing corrections that are editorial in nature, including typographical and grammatical errors, as well as incorrect dates and cross-references. Details of the specific changes we are proposing to the regulatory text may be found in the docket for this action.[14]

VIII. Impacts of This Proposed Rule

Our analysis shows that owners and operators of affected facilities would choose to install and operate the same or similar air pollution control technologies under the proposed standards as would have been necessary to meet the previously finalized standards. We project that this rule will result in no significant change in costs, emission reductions or benefits. Even if there were changes in costs for these units, such changes would likely be small relative to both the overall costs of the individual projects and the overall costs and benefits of the final rule. Since we believe that owners and operators would put on the same or similar controls for this proposed rule that they would have for the original final rule, there should not be any incremental costs related to this proposed revision.

[13] The court's reasoning in *NRDC* focuses on civil judicial actions. The court noted that "EPA's ability to determine whether penalties should be assessed for Clean Air Act violations extends only to administrative penalties, not to civil penalties imposed by a court." *Id.*

[14] Memorandum from Moore, Bruce, U.S. EPA, to Docket No. EPA–HQ–OAR–2010–0505, "Technical Corrections to the Oil and Natural Gas Sector New Source Performance Standards." June 30, 2014

A. What are the air impacts?

We believe that owners and operators of affected facilities will install the same or similar control technologies to comply with the revised standards proposed in this action as they would have installed to comply with the previously finalized standards. Accordingly, we believe that this proposed rule will not result in significant changes in emissions of any of the regulated pollutants.

B. What are the energy impacts?

This proposed rule is not anticipated to have an effect on the supply, distribution or use of energy. As previously stated, we believe that owners and operators of affected facilities would install the same or similar control technologies as they would have installed to comply with the previously finalized standards.

C. What are the compliance costs?

We believe there will be no significant change in compliance costs as a result of this proposed rule because our analysis shows that owners and operators of affected facilities would install the same or similar control technologies as they would have installed to comply with the previously finalized standards.

D. What are the economic and employment impacts?

Because we expect that owners and operators of affected facilities would install the same or similar control technologies to meet the standards proposed in this action as they would have chosen to comply with the previously finalized standards, we do not anticipate that this proposed rule will result in significant changes in emissions, energy impacts, costs, benefits or economic impacts. Likewise, we believe this rule will not have any impacts on the price of electricity, employment or labor markets or the U.S. economy.

E. What are the benefits of the proposed standards?

As previously stated, the EPA anticipates the oil and natural gas sector will not incur significant compliance costs or savings as a result of this proposal and we do not anticipate any significant emission changes resulting from this rule. Therefore, there are no direct monetized benefits or disbenefits associated with this proposed rule.

IX. Statutory and Executive Order Reviews

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

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

A regulatory impacts analysis (RIA) was prepared for the April 2012 final rule and can be found at: *http://www.epa.gov/ttn/ecas/regdata/RIAs/oil_natural_gas_final_neshap_nsps_ria.pdf.* Because this action does not impose new compliance costs on affected sources, we project that this rule will result in no significant change in costs, emission reductions or benefits in 2015, the year of full implementation of the NSPS.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. Today's proposed rule does not change the information collection requirements previously finalized and, as a result, does not impose any additional burden on industry. However, OMB has previously approved the information collection requirements contained in the existing regulations (see 77 FR 49490) under the provisions of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501, et seq., and has assigned OMB control number 2060–0673. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, a small entity is defined as: (1) A small business in the oil or natural gas industry whose parent company has no more than 500 employees (or revenues of less than $7 million for firms that transport natural gas via pipeline); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

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

The EPA has determined that none of the small entities subject to this rule will experience a significant impact because the notice of reconsideration imposes no additional compliance costs on owners or operators of affected sources. We have therefore concluded that today's *proposed rule* will not result in a significant economic impact on a substantial number of small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

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

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action contains no requirements that apply to such governments nor does it impose obligations upon them.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposal is a reconsideration of an existing rule and imposes no new impacts or costs. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comment on this proposed action from state and local officials.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effect on tribal governments, on the relationship between the federal government and Indian tribes or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

The EPA specifically solicits additional comment on this proposed action from tribal officials.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the agency does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. This action has no impacts; thus, health and risk assessments were not conducted.

The public is invited to submit comments or identify peer-reviewed studies and data that assess effects of early life exposure to HAP from oil and natural gas sector activities.

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

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This proposed rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any VCS.

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

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

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This proposal is a reconsideration of an existing rule and imposes no new impacts or costs.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping.

Dated: July 1, 2014.

Gina McCarthy,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

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

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

Subpart OOOO—[Amended]

■ 2. Section 60.5365 is amended by revising paragraph (e) introductory text to read as follows:

§ 60.5365 Am I subject to this subpart?

* * * * *

(e) Each storage vessel affected facility, which is a single storage vessel located in the oil and natural gas production segment, natural gas processing segment or natural gas transmission and storage segment, and has the potential for VOC emissions equal to or greater than 6 tpy as determined according to this section by October 15, 2013 for Group 1 storage vessels and by April 15, 2014, or 30 days after startup (whichever is later) for Group 2 storage vessels, except as otherwise provided in this paragraph below. For storage vessels receiving liquids pursuant to the standards for gas well affected facilities in § 60.5375, including wells subject to § 60.5375(f), you must determine the potential for VOC emissions within 30 days after the beginning of the production stage as defined in § 60.5430. A storage vessel affected facility that subsequently has its potential for VOC emissions decrease to less than 6 tpy shall remain an affected facility under this subpart. The potential for VOC emissions must be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production prior to the applicable emission determination deadline specified in this section. The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, State, local or tribal authority. For storage vessels not subject to a legally and practically enforceable limit in an operating permit or other requirement established under Federal, state, local or tribal authority, any vapor from the storage vessel that is recovered and routed to a process through a VRU designed and operated as specified in this section is not required to be included in the determination of VOC potential to emit for purposes of determining affected

facility status, provided you comply with the requirements in paragraphs (e)(1) through (4) of this section.

* * * * *

■ 3. Section 60.5375 is amended by:
■ a. Revising paragraphs (a)(1) through (a)(3);
■ b. Revising paragraph (b);
■ c. Revising paragraphs (f)(1)(i), (ii) and (f)(2).

The revisions read as follows:

§ 60.5375 What standards apply to gas well affected facilities?

* * * * *

(a) * * *

(1) For each stage of the well completion operation, as defined in § 60.5430, follow the requirements specified in paragraph (a)(1)(i), (ii) or (iii) of this section as applicable.

(i) During the initial flowback stage, route the flowback into one or more well completion vessels and commence operation of a separator as soon as sufficient gas is present in the flowback for a separator to operate. Any gas present in the flowback prior to the separation flowback stage is not subject to control under this section.

(ii) During the separation flowback stage, route all liquids from the separator to one or more well completion vessels or storage vessels, or re-inject the liquids into the well or another well. Route the recovered gas from the separator into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an on-site fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve. If it is infeasible to route the recovered gas as required above, follow the requirements in paragraph (a)(3) of this section. If, at any time during the separation flowback stage, the gas present in the flowback becomes insufficient to maintain operation of the separator, you must comply with (a)(1)(i) of this section. As soon as the rate of flowback has declined and stabilized enough to allow continuous recovery of the gas and to allow separation and recovery of any crude oil, condensate or produced water, you must comply with requirements for the production stage as provided in (a)(1)(iii) of this section.

(iii) During the production stage, separate and route recovered liquids to storage vessels. Route the recovered gas into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an on-site fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve. During the production stage, recovered gas may not be vented or controlled by any combustion device.

(2) All salable quality gas must be routed to the gas flow line as soon as practicable. In cases where recovered gas cannot be directed to the flow line, you must follow the requirements in paragraph (a)(3) of this section.

(3) You must capture and direct recovered gas to a completion combustion device, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact tundra, permafrost or waterways. Completion combustion devices must be equipped with a reliable continuous ignition source.

* * * * *

(b) You must maintain a log for each well completion operation at each gas well affected facility. The log must be completed on a daily basis for the duration of the flowback period and must contain the records specified in § 60.5420(c)(1)(iii).

* * * * *

(f) * * *

(1) * * *

(i) Each well completion operation with hydraulic fracturing at a wildcat or delineation well.

(ii) Each well completion operation with hydraulic fracturing at a non-wildcat low pressure gas well or non-delineation low pressure gas well.

(2) Route the flowback into one or more well completion vessels and commence operation of a separator as soon as sufficient gas is present in the flowback for a separator to operate. Any gas present in the flowback before the separator can operate is not subject to control under this section. You must capture and direct recovered gas to a completion combustion device, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact tundra, permafrost or waterways. Completion combustion devices must be equipped with a reliable continuous ignition source. As soon as the rate of flowback has declined and stabilized enough to allow separation and recovery of any crude oil, condensate or produced water, route the recovered liquids to storage vessels. You must also comply with paragraphs (a)(4) and (b) through (e) of this section.

* * * * *

■ 4. Section 60.5385 is amended by:
■ a. Revising paragraph (a) introductory text; and
■ b. Adding paragraph (a)(3).

The revision and addition read as follows:

§ 60.5385 What standards apply to reciprocating compressor affected facilities?

* * * * *

(a) You must replace the reciprocating compressor rod packing according to either paragraph (a)(1) or (2) of this section or you must comply with paragraph (a)(3).

* * * * *

(3) Route the rod packing emissions to a process through a closed vent system and cover that meet the requirements of § 60.5411(a) and (b).

* * * * *

■ 5. Section 60.5390 is amended by revising paragraph (c)(2) to read as follows:

§ 60.5390 What standards apply to pneumatic controller affected facilities?

* * * * *

(c) * * *

(2) Each pneumatic controller affected facility constructed, modified or reconstructed on or after October 15, 2013, at a location between the wellhead and a natural gas processing plant or the point of custody transfer to an oil pipeline must be tagged with the month and year of installation, reconstruction or modification, and identification information that allows traceability to the records for that controller as required in § 60.5420(c)(4)(iii).

* * * * *

■ 6. Section 60.5395 is amended by:
■ a. Revising paragraph (d)(1)(i); and
■ b. Revising paragraph (f) introductory text.

The revisions read as follows:

§ 60.5395 What standards apply to storage vessel affected facilities?

* * * * *

(d) * * *

(1) * * *

(i) For each Group 2 storage vessel affected facility, you must achieve the required emissions reductions by April 15, 2014, or within 60 days after startup, whichever is later, except as otherwise provided below in this paragraph. For storage vessels receiving liquids pursuant to the standards for gas well affected facilities in § 60.5375, you must achieve the required emissions reductions within 60 days after the beginning of the production stage as defined in § 60.5430.

* * * * *

(f) *Requirements for storage vessel affected facilities that are removed from service.* If you are the owner or operator of a storage vessel affected facility that is removed from service, you must comply with paragraphs (f)(1) and (2) of this section. No other provision of this

subpart applies to a storage vessel affected facility while that storage vessel affected facility is removed from service.

* * * * *

■ 7. Section 60.5401 is amended by revising paragraphs (d) and (e) to read as follows:

§ 60.5401 What are the exceptions to the equipment leak standards for affected facilities at onshore natural gas processing plants?

* * * * *

(d) Pumps in light liquid service, valves in gas/vapor and light liquid service, pressure relief devices in gas/vapor service, and connectors in gas/vapor service and in light liquid service that are located at a nonfractionating plant that does not have the design capacity to process 283,200 standard cubic meters per day (scmd) (10 million standard cubic feet per day) or more of field gas are exempt from the routine monitoring requirements of §§ 60.482–2a(a)(1) and 60.482–7a(a), and paragraph (b)(1) of this section.

(e) Pumps in light liquid service, valves in gas/vapor and light liquid service, pressure relief devices in gas/vapor service, and connectors in gas/vapor service and in light liquid service within a process unit that is located in the Alaskan North Slope are exempt from the routine monitoring requirements of §§ 60.482–2a(a)(1), 60.482–7a(a), and paragraph (b)(1) of this section.

* * * * *

■ 8. Section 60.5410 is amended by revising paragraph (d)(2) to read as follows:

§ 60.5410 How do I demonstrate initial compliance with the standards for my gas well affected facility, my centrifugal compressor affected facility, my reciprocating compressor affected facility, my pneumatic controller affected facility, my storage vessel affected facility, and my equipment leaks and sweetening unit affected facilities at onshore natural gas processing plants?

* * * * *

(d) * * *

(2) You own or operate a pneumatic controller affected facility located at a natural gas processing plant and your pneumatic controller is driven by a gas other than natural gas and therefore emits zero natural gas.

* * * * *

■ 9. Section 60.5411 is amended by:
■ a. Revising the section heading;
■ b. Revising paragraph (a) introductory text;
■ c. Revising paragraph (a)(1);
■ d. Revising paragraph (b) introductory text;
■ e. Revising paragraph (b)(3); and
■ f. Revising paragraph (c) introductory text.

The revisions read as follows:

§ 60.5411 What additional requirements must I meet to determine initial compliance for my covers and closed vent systems routing materials from storage vessels, reciprocating compressors and centrifugal compressor wet seal degassing systems?

* * * * *

(a) *Closed vent system requirements for reciprocating compressors and for centrifugal compressor wet seal degassing systems.* (1) You must design the closed vent system to route all gases, vapors, and fumes emitted from the material in the reciprocating compressor or the wet seal fluid degassing system to a control device or to a process that meets the requirements specified in § 60.5412(a) through (c).

* * * * *

(b) *Cover requirements for storage vessels, reciprocating compressors and centrifugal compressor wet seal degassing systems.*

* * * * *

(3) Each storage vessel thief hatch shall be equipped with a mechanism or be of such design, and properly maintained and operated, to ensure that the lid remains properly seated. You must select gasket material for the hatch based on composition of the fluid in the storage vessel and weather conditions.

(c) *Closed vent system requirements for storage vessel affected facilities using a control device or routing emissions to a process.*

* * * * *

■ 10. Section 60.5412 is amended by revising paragraph (d) introductory text to read as follows:

§ 60.5412 What additional requirements must I meet for determining initial compliance with control devices used to comply with the emission standards for my storage vessel or centrifugal compressor affected facility?

* * * * *

(d) Each control device used to meet the emission reduction standard in § 60.5395(d) for your storage vessel affected facility must be installed according to paragraphs (d)(1) through (3) of this section, as applicable. As an alternative to paragraph (d)(1) of this section, you may install a control device model tested under § 60.5413(d), which meets the criteria in § 60.5413(d)(11) and § 60.5413(e).

* * * * *

■ 11. Section 60.5413 is amended by:
■ a. Revising paragraph (e) introductory text; and
■ b. Adding paragraph (e)(7).

The revisions and additions read as follows:

§ 60.5413 What are the performance testing procedures for control devices used to demonstrate compliance at my storage vessel or centrifugal compressor affected facility?

* * * * *

(e) *Continuous compliance for combustion control devices tested by the manufacturer in accordance with paragraph (d) of this section.* This paragraph applies to the demonstration of compliance for a combustion control device tested under the provisions in paragraph (d) of this section. Owners or operators must demonstrate that a control device achieves the performance requirements in (d)(11) of this section by installing a device tested under paragraph (d) of this section and complying with the criteria specified in paragraphs (e)(1) through (7) of this section.

* * * * *

(7) Ensure that each enclosed combustion device is maintained in a leak free condition.

* * * * *

■ 12. Section 60.5415 is amended by:
■ a. Revising paragraph (a)(2);
■ b. Revising paragraph (c) introductory text;
■ c. Adding paragraph (c)(4); and
■ d. Removing paragraph (h).

The revisions and additions read as follows:

§ 60.5415 How do I demonstrate continuous compliance with the standards for my gas well affected facility, my centrifugal compressor affected facility, my stationary reciprocating compressor affected facility, my pneumatic controller affected facility, my storage vessel affected facility, and my affected facilities at onshore natural gas processing plants?

* * * * *

(a) * * *

(2) For each control device used to reduce emissions, you must demonstrate continuous compliance with the performance requirements of § 60.5412(a) using the procedures specified in paragraphs (b)(2)(i) through (vii) of this section. If you use a condenser as the control device to achieve the requirements specified in § 60.5412(a)(2), you must demonstrate compliance according to paragraph (b)(2)(viii) of this section. You may switch between compliance with paragraphs (b)(2)(i) through (vii) of this section and compliance with paragraph (b)(2)(viii) of this section only after at least 1 year of operation in compliance with the selected approach. You must provide notification of such a change in the compliance method in the next annual report, as required in § 60.5420(b), following the change.

* * * * *

(c) For each reciprocating compressor affected facility complying with § 60.5385(a)(1) or (2), you must demonstrate continuous compliance according to paragraphs (c)(1) through (3) of this section. For each reciprocating compressor affected facility complying with § 60.5385(a)(3), you must demonstrate continuous compliance according to paragraph (c)(4).

* * * * *

(4) You must continuously comply with the closed vent and cover requirements in § 60.5411(a) and (b).

* * * * *

■ 13. Section 60.5416 is amended by:
■ a. Revising the section heading;
■ b. Revising the introductory text;
■ c. Revising paragraph (a) introductory text; and
■ d. Revising paragraph (b) introductory text.

The revisions read as follows:

§ 60.5416 What are the initial and continuous cover and closed vent system inspection and monitoring requirements for my storage vessel, centrifugal compressor and reciprocating compressor affected facilities?

For each closed vent system or cover at your storage vessel, centrifugal compressor and reciprocating compressor affected facility, you must comply with the applicable requirements of paragraphs (a) through(c) of this section.

* * * * *

(a) *Inspections for closed vent systems and covers installed on each centrifugal compressor or reciprocating compressor affected facility.* Except as provided in paragraphs (b)(11) and (12) of this section, you must inspect each closed vent system according to the procedures and schedule specified in paragraphs (a)(1) and (2) of this section, inspect each cover according to the procedures and schedule specified in paragraph (a)(3) of this section, and inspect each bypass device according to the procedures of paragraph (a)(4) of this section.

* * * * *

(b) *No detectable emissions test methods and procedures.* If you are required to conduct an inspection of a closed vent system or cover at your centrifugal compressor or reciprocating affected facility as specified in paragraphs (a)(1), (2), or (3) of this section, you must meet the requirements of paragraphs (b)(1) through (13) of this section.

* * * * *

■ 14. Section 60.5420 is amended by:
■ a. Revising paragraphs (b)(6)(ii), (vi) and (vii); and
■ b. Revising paragraph (c)(3)(ii).

The revisions read as follows:

§ 60.5420 What are my notification, reporting, and recordkeeping requirements?

* * * * *

(b) * * *

(6) * * *

(ii) Documentation of the VOC emission rate determination according to § 60.5365(e) for each storage vessel that became an affected facility during the reporting period.

* * * * *

(vi) You must identify each storage vessel affected facility that is removed from service during the reporting period as specified in § 60.5395(f)(1), including the date the storage vessel affected facility was removed from service.

(vii) You must identify each storage vessel affected facility for which operation resumes during the reporting period as specified in § 60.5395(f)(2)(iii), including the date the storage vessel affected facility was returned to service.

* * * * *

(c) * * *

(3) * * *

(ii) Records of the date and time of each reciprocating compressor rod packing replacement, or the date of installation of a closed vent system as specified in § 60.5385(a)(3).

* * * * *

■ 15. Section 60.5430 is amended by:
■ a. Adding, in alphabetical order, definitions for the terms "Initial flowback stage," "Production stage," "Recovered gas," "Recovered liquids," "Removed from service," "Separation flowback stage," and "Well completion vessel;"
■ b. Removing the definition of "Affirmative defense;" and
■ c. Revising the definition for "Equipment", "Flowback" "Responsible official," "Routed to a process or route to a process," and "Storage vessel" to read as follows:

§ 60.5430 What definitions apply to this subpart?

* * * * *

Equipment, as used in the standards and requirements in this subpart relative to the equipment leaks of VOC from onshore natural gas processing plants, means each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by those same standards and requirements in this subpart.

* * * * *

Flowback means the process of allowing fluids and entrained solids to flow from a natural gas well following a treatment, either in preparation for a subsequent phase of treatment or in preparation for cleanup and returning the well to production. The term *flowback* also means the fluids and entrained solids that emerge from a natural gas well during the flowback process. The *flowback* period begins when material introduced into the well during the treatment returns to the surface following hydraulic fracturing or refracturing. The *flowback* period ends when either the production stage begins or the well is shut in, whichever occurs first. Flowback includes the initial flowback stage and the separation flowback stage.

* * * * *

Initial flowback stage means the period during a well completion operation when there is insufficient gas in the *flowback* to operate a separator.

* * * * *

Production stage means the period during a well completion operation that follows the separation *flowback* stage when *flowback* has declined and stabilized sufficiently to allow continuous recovery of the gas and to allow separation and recovery of any crude oil, condensate and produced water. This definition applies to wells subject to § 60.5375(f) for purposes of determining a storage vessel's potential to emit VOC under § 60.5365(e).

* * * * *

Recovered gas means gas recovered through the separation process.

Recovered liquids means any crude oil, condensate or produced water recovered through the separation process.

* * * * *

Removed from service means that a storage vessel affected facility has been physically isolated and disconnected from the process for a purpose other than maintenance, has been completely emptied and degassed and is no longer used to contain crude oil, condensate, produced water or intermediate hydrocarbon liquids. A storage vessel where liquid is left on walls, as bottom clingage or in pools due to floor irregularity is considered to be completely empty. If the storage vessel affected facility is reconnected to the process, or introduced with crude oil, condensate, produced water or intermediate hydrocarbon liquids at the same location, or relocated to another location and utilized as a storage vessel for crude oil, condensate, produced water or intermediate hydrocarbon liquids, it will be deemed to no longer be "removed from service" and at that time will be deemed "returned to

service'' and subject to the provisions of this subpart applicable to such vessel.

Responsible official means one of the following:

(1) For a corporation: A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(ii) The Administrator is notified in advance of delegation of authority to such representatives. The Administrator reserves the right to evaluate such delegation;

(2) For a partnership or sole proprietorship: A general partner or the proprietor, respectively. If a general partner is a corporation, the provisions of paragraph (1) of this definition apply;

(3) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (*e.g.*, a Regional Administrator of EPA); or

(4) For affected facilities:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under title IV of the Clean Air Act or the regulations promulgated thereunder are concerned; or

(ii) The designated representative for any other purposes under part 60.

Routed to a process or route to a process means the emissions are conveyed via a closed vent system to any enclosed portion of a process where the emissions are predominantly recycled and/or consumed in the same manner as a material that fulfills the same function in the process and/or transformed by chemical reaction into materials that are not regulated materials and/or incorporated into a product; and/or recovered.

* * * * *

Separation flowback stage means the period during a well completion operation when a sufficient volume of gas is present in the *flowback* to operate a separator. The *separation flowback stage* ends when the production stage begins or when the well is shut in, whichever is first.

Storage vessel means a tank or other vessel that contains an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water, and that is constructed primarily of nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provide structural support. For the purposes of this subpart, the following are not considered storage vessels:

(1) Vessels that are skid-mounted or permanently attached to something that is mobile (such as trucks, railcars, barges or ships), and are intended to be located at a site for less than 180 consecutive days. If you do not keep or are not able to produce records, as required by § 60.5420(c)(5)(iv), showing that the vessel has been located at a site for less than 180 consecutive days, the vessel described herein is considered to be a storage vessel since the original vessel was first located at the site.

(2) Process vessels such as surge control vessels, bottoms receivers or knockout vessels.

(3) Pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere.

* * * * *

Well completion vessel means a vessel that contains *flowback* during a well completion operation following hydraulic fracturing or refracturing. A well completion vessel may be a lined earthen pit, a storage vessel, or a vessel that is skid-mounted or portable.

* * * * *

[FR Doc. 2014–16576 Filed 7–16–14; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Part 60
Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2014–0451; FRL–9913–51–OAR]

RIN 2060–AS23

Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency.

ACTION: Advanced Notice of Proposed Rulemaking.

SUMMARY: The purpose of this Advanced Notice of Proposed Rulemaking (ANPRM) is to request public input on methods to reduce emissions from existing municipal solid waste (MSW) landfills. The Environmental Protection Agency (EPA) intends to consider the information received in response to the ANPRM in evaluating whether additional changes beyond those in the proposed revisions for new sources are warranted. MSW landfill emissions are commonly referred to as "landfill gas" or "LFG" and contain methane, carbon dioxide (CO_2), and nonmethane organic compounds (NMOC). Some existing landfills are currently subject to control requirements in either the landfill new source performance standards (NSPS) or the federal or state plans implementing the landfill emission guidelines; both the NSPS and emission guidelines were promulgated in 1996. The EPA believes that these guidelines merit review to determine the potential for additional reductions in emissions of LFG. Such reductions would reduce air pollution and the resulting harm to public health and welfare. Significant changes have occurred in the landfill industry over time, including changes to the size and number of existing landfills, industry practices, and gas control methods and technologies. The ANPRM recognizes changes in the population of landfills and presents preliminary analysis regarding methods for reducing emissions of LFG. In determining whether changes to the emission guidelines are appropriate, the EPA will, in addition to evaluating the effectiveness of various methods for reducing emissions of LFG, consider the total methane emission reductions that can be achieved in addition to the reductions of NMOC emissions. The EPA is also seeking input on whether it should regulate methane directly. The ANPRM also addresses other regulatory issues including the definition of LFG treatment systems and requirements for closed areas of landfills, among other topics.

DATES: *Comments.* Comments must be received on or before September 15, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2014–0451, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: A-and-R-Docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2014–0451 in the subject line of your message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2014–0451.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 28221T, Attention Docket ID No. EPA–HQ–OAR–2014–0451, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand/Courier Delivery:* EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2014–0451. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute.

Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the mail or hand/courier delivery address listed above, attention: Mr. Roberto Morales, OAQPS Document Control Officer (Room C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2014–0451. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, WJC West Building, Room B102, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information concerning this ANPRM, contact Ms. Hillary Ward, Fuels and Incineration Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (OAQPS) (E143–05), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–3154; fax number: (919) 541–0246; email address: *ward.hillary@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

ACT Alternative compliance timeline
ANPRM Advanced Notice of Proposed Rulemaking
AR4 IPCC Fourth Assessment Report
ARB Air Resources Board
BMP Best management practice
CAA Clean Air Act
CBI Confidential business information
CFR Code of Federal Regulations
CO_2 Carbon dioxide

CO_2e Carbon dioxide equivalent
CRDS Cavity ringdown spectroscopy
DOC Degradable organic carbon
EPA Environmental Protection Agency
FTIR Fourier Transform Infrared
GCCS Gas collection and control system
GHG Greenhouse gas
GHGRP Greenhouse Gas Reporting Program
GWP Global warming potential
HAP Hazardous air pollutants
HOV Higher operating value
IPCC Intergovernmental Panel on Climate Change
IRIS Integrated Risk Information System
LFG Landfill gas
LMOP Landfill Methane Outreach Program
m^3 Cubic meters
Mg Megagram
Mg/yr Megagram per year
MSW Municipal solid waste
NAAQS National ambient air quality standards
NAICS North American Industry Classification System
NMOC Nonmethane organic compounds
NO_X Nitrogen oxides
NSPS New source performance standards
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
$PM_{2.5}$ Fine particulate matter
ppm Parts per million
ppmv Parts per million by volume
PRA Paperwork Reduction Act
RCRA Resource Conservation and Recovery Act
RFA Regulatory Flexibility Act
RPM Radial plume mapping
SEM Surface emissions monitoring
SIP State implementation plan
TDL Tunable diode laser
Tg Teragram
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act
VOC Volatile organic compounds

Organization of This Document. The following outline is provided to aid in locating information in this document.

I. General Information

A. Does this action apply to me?

This ANPRM addresses existing MSW landfills and associated solid waste management programs. Potentially affected categories and entities include those listed in Table 1 of this document.

TABLE 1—REGULATED ENTITIES

Category	NAICS [a]	Examples of affected facilities
Industry: Air and water resource and solid waste management	924110	Solid waste landfills.
Industry: Refuse systems—solid waste landfills	562212	Solid waste landfills.
State, local and tribal government agencies	924110	Administration of air and water resource and solid waste management programs.

[a] North American Industry Classification System.

This table is not intended to be exhaustive but rather provides a guide for readers regarding entities likely to be regulated. The EPA is specifically requesting input on MSW landfills subject to state plans or federal plan (40 CFR part 62, subpart GGG) that implement the emission guidelines at 40 CFR part 60, subpart Cc. The EPA will also take this information into account in determining if additional changes to the NSPS at 40 CFR part 60, subpart WWW are appropriate. If you have any questions regarding whether the EPA is seeking input regarding a particular MSW landfill, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What should I consider as I prepare my comments?

1. Submitting CBI

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

Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the following address: Mr. Roberto Morales, OAQPS Document Control Officer (Room C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2014–0451.

If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

Make sure to submit your comments by the comment period deadline identified in the preceding section titled **DATES.**

2. Docket

The docket number for the review of the municipal solid waste landfills emission guidelines is Docket ID No.

EPA–HQ–OAR–2014–0451. Docket ID Nos. EPA–HQ–OAR–2003–0215 and A–88–09 contain supporting information for 40 CFR part 60, subparts Cc and WWW.

C. Where can I get a copy of this document and other related information?

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this ANPRM is available on the Technology Transfer Network (TTN) Web site. Following signature, the EPA will post a copy of this document at *http://www.epa.gov/ttn/atw/landfill/landflpg.html.* The TTN provides information and technology exchange in various areas of air pollution control.

II. Background

A. Landfill Gas Emissions and Climate Change

In June 2013, President Obama issued a Climate Action Plan directing the EPA and other federal agencies to take a wide variety of significant steps to reduce methane emissions. The plan, which encompassed a wide range of actions and voluntary initiatives, recognized that methane emissions constitute a significant percentage of domestic greenhouse gas (GHG) emissions, highlighted reductions in methane emissions since 1990, and outlined specific actions that could be taken to achieve additional progress. Specifically, the federal agencies were instructed to focus on "assessing current emissions data, addressing data gaps, identifying technologies and best practices for reducing emissions, and identifying existing authorities and incentive-based opportunities to reduce methane emissions."

The focus on reducing methane emissions reflects the fact that methane is a potent GHG with a global warming potential (GWP) that is 25 times greater than that of CO_2.[1] Methane has an atmospheric life of 12 years, and because of its potency as a GHG and its atmospheric life, reducing methane emissions is one of the best ways to achieve a near-term beneficial impact in mitigating global climate change.

In response to the directive in the 2013 Climate Action Plan, the "Climate Action Plan: Strategy to Reduce Methane Emissions" (the Methane Strategy) was released in March 2014. The Methane Strategy noted that the landfill standards at issue here and voluntary programs already in place have considerably reduced methane emissions, while creating jobs and improving public health. With respect to landfills, the Methane Strategy directs the agency to build upon progress to date through updates to the EPA's rules for reducing emissions from new, modified, and reconstructed landfills; to issue an ANPRM to explore options to address emissions from existing landfills; and to encourage energy recovery from LFG through voluntary programs.

The EPA has long recognized the climate benefits associated with reducing methane emissions from landfills. In the 1991 Landfill NSPS Background Information Document,[2] the EPA noted that reduction of methane emissions from MSW landfills is one of the many options available to reduce global warming. When the EPA promulgated the NSPS for MSW landfills, which regulates MSW landfill emissions (landfill gas), in 1996, the EPA noted the climate co-benefit of controlling methane, which was not as well understood at the time as today (61 FR 9917, March 12, 1996). In 1996, the EPA stated:

> "An ancillary benefit from regulating air emissions from MSW landfills is a reduction in the contribution of MSW landfill emissions to global emissions of methane. Methane is a major greenhouse gas, and is 20 to 30 times more potent than CO_2 on a molecule-per-molecule basis. There is a general concern within the scientific community that the increasing emissions of greenhouse gases could lead to climate change, although the rate and magnitude of these changes are uncertain."

Since 1996, the EPA and the scientific community have gained a better understanding of GHGs, including methane, and their effects on climate change and human health and welfare. In 2009, the EPA Administrator issued the document known as the Endangerment Finding under CAA section 202(a)(1).[3] In the Endangerment Finding, which focused on public health and public welfare impacts within the United States, the Administrator found that elevated concentrations of GHGs[4] in the atmosphere may reasonably be anticipated to endanger the public health and welfare of current and future generations. In light of this finding, the EPA has been examining regulatory options for reducing GHG emissions.

The EPA is reviewing the MSW landfills emission guidelines and in light of the President's Climate Action Plan, the Methane Strategy, and improvements in the science related to GHG emissions, is exploring opportunities to achieve additional reductions in emissions, including methane emissions. The EPA intends to issue a proposed review of the emission guidelines by March 2015 and take final action on the proposal by March 2016.

Landfill gas is a collection of air pollutants, including methane and NMOC. Landfill gas is typically composed of roughly 50-percent methane, 50-percent CO_2, and less than 1 percent NMOC by volume. The NMOC portion of LFG, although a small amount by volume, can contain a variety of significant air pollutants. NMOC includes various organic hazardous air pollutants (HAP) and volatile organic compounds (VOC). When 40 CFR part 60, subparts Cc and WWW were promulgated in 1996, NMOC was selected as a surrogate for MSW landfill emissions because NMOC contains the landfill air pollutants that pose more concern due to their adverse health and welfare effects. Today, there is a greater emphasis on methane emissions because of their effects on climate change. Note that in 2012, landfills represented 18.1 percent of total U.S. methane emissions.[5] Methane represents 8.7 percent of all GHG emissions (in CO_2e) in the United States.[6] For these reasons, the EPA is considering changes to the emission guidelines that are based on reducing the methane and NMOC components of LFG. The EPA is seeking input on whether it should regulate methane directly.

B. What is the EPA's authority for reviewing the emission guidelines?

The EPA is not statutorily obligated to conduct a review of the emission guidelines, but has the discretionary authority to do so when circumstances

[1] IPCC Fourth Assessment Report (AR4), 2007. Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, Pachauri, R.K and Reisinger, A. (eds.)]. IPCC, Geneva, Switzerland, 104 pp.

[2] Air Emissions from Municipal Solid Waste Landfills-Background Information for Proposed Standards and Guidelines, U.S. EPA (EPA–450/3–90–011a) (NTIS PB 91–197061) page 2–15.

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

[4] Carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6).

[5] Total U.S. methane emissions were just below 600 million Mg CO_2e in 2012. "Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2012." Available at *http://www.epa.gov/climatechange/ghgemissions/gases/ch4.html.*

[6] U.S. EPA. 2012. "Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2012. Executive Summary." Available at *http://www.epa.gov/climatechonge/Downloods/ghgemissions/US-GHG-Inventory-2014-Chapter-Executive-Summary.pdf.*

indicate that this is appropriate. Based on changes in the landfills industry and changes in size, ownership, and age of landfills since the emission guidelines were promulgated in 1996, the EPA has concluded that it is appropriate to review the landfills emission guidelines at this time. As part of the data collection efforts for the statutorily mandated review of the MSW landfills NSPS, the EPA received, and has since compiled, new information on existing landfills. That information, together with the information being solicited through this ANPRM, will allow the EPA to conduct an assessment of the current practices, emissions and the potential for reductions in emissions. Any changes to the emission guidelines that might result from this review will ultimately apply to landfills that accepted waste on or after November 8, 1987[7], and that commenced construction, reconstruction, or modification prior to publication of proposed revisions to the landfills NSPS, 40 CFR part 60, subpart XXX, as discussed in further detail in sections II.F and II.G of this document.

C. What is the purpose and scope of this action?

The purpose of this ANPRM is to request public input on methods to reduce emissions from existing MSW landfills and to request input on potential resolutions or clarifications regarding issues that have arisen during implementation of the existing standards.

D. Why are we reviewing the emission guidelines?

The EPA is considering changes to the emission guidelines for a number of reasons, including the following: (1) The opportunity to build on progress to date and achieve additional reductions of LFG and its components, consistent with the President's Methane Strategy, (2) changes in size, ownership, and age of landfills as reflected in new data, (3) new options for demonstrating compliance, and (4) the completion of efforts regarding implementation issues for which the EPA previously proposed resolution. The EPA is considering these topics in its review, as discussed in the following sections.

[7] This date in 1987 is the date on which permit programs were established under the Hazardous and Solid Waste Amendments of RCRA. This date was also selected as the regulatory cutoff in the EG for landfills no longer receiving wastes because EPA judged States would be able to identify active facilities as of this date.

1. Opportunity To Achieve Additional Reductions From Existing Landfills

The EPA recognizes the opportunity to build on progress to date and achieve additional reductions of LFG and its components. A subset of existing landfills are controlled by either the landfill emission guidelines (40 CFR part 60, subpart Cc) or by the landfill NSPS (40 CFR part 60, subpart WWW). Controls installed as a result of these regulations have successfully reduced LFG emissions. Although methane emissions from landfills in 2012 are 30 percent lower than they were in 1990, methane emissions from landfills continue to be a concern. Despite these controls installed to date, in 2012, landfills emitted 102.8 teragrams (Tg) (or 102.8 million metric tons) CO_2e, making landfills the third largest source of human-related methane emissions in the United States. The number of existing landfills (≤1,800) is significantly higher than the number of new landfills (21) that are projected to open in the next 5 years. Therefore, if there are cost effective changes for existing landfills, revising these regulations may realize a great benefit given the number of existing landfills.

In this ANPRM, the EPA is exploring and requesting input on approaches that have the potential to achieve additional emission reductions from MSW landfills. Some of these approaches are adjustments to the current framework of the landfills regulations, others would complement the existing framework, and still others would be entirely outside the current framework. These approaches are presented in section IV of this document and include potential adjustments to the design capacity threshold; the NMOC emissions threshold; and the timing of installing, expanding and removing the gas collection and control system (GCCS). Approaches also include potential changes to emission threshold determinations, consideration of best management practices (BMPs), and new technologies that could improve collection and control of LFG emissions. The EPA will consider the input and data received on these approaches during the review of the landfills emission guidelines and determine whether it is appropriate to revise the emission guidelines to further reduce LFG emissions from existing landfills.

2. New Data Available Since Emission Guidelines Were Originally Promulgated in 1996

The EPA collected current data for the statutorily required review of the landfills NSPS, 40 CFR part 60, subpart WWW. Three sources were used for that effort: A landfill and LFG energy project database maintained by EPA's Landfill Methane Outreach Program (LMOP), a voluntary survey of landfills, and the Greenhouse Gas Reporting Program (GHGRP). The creation of the landfill dataset, including identification of the sources of the information contained therein, is detailed in the docketed memorandum, "Summary of Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations. 2014." The EPA used the dataset, which included landfill-specific data such as landfill open and closure year, landfill design capacity, landfill design area and landfill depth, to examine the effects of potential changes to the size and emission thresholds for installing controls. The dataset also provides information on landfill practices such as liquids recirculation, waste composition, presence and type of GCCS and energy recovery projects. The availability of new data on MSW landfills is discussed in section II.D.2 of this document.

3. New Options for Demonstrating Compliance

The EPA is considering and requesting input on potential options for demonstrating compliance. For example, the EPA is considering alternative wellhead monitoring requirements that could include exclusion or reduced frequency of temperature, oxygen/nitrogen monitoring requirements and whether such adjustments should be limited only to landfills that beneficially use LFG or should be available to all landfills, including small entities. The EPA is considering and requesting public input on potential approaches to surface emission monitoring. Approaches include changing the walking pattern that traverses the landfill, adding an integrated methane concentration measurement and allowing sampling only when wind is below a certain speed. These new options for demonstrating compliance are discussed in section IV.D of this document. The EPA will consider the input and data received on these approaches during the review of the landfills emission guidelines with the intent of further reducing LFG emissions from existing landfills.

4. Concerns Arising From Implementation of Subparts Cc and WWW That the EPA Plans To Address in a Forthcoming Proposal

The landfill emission guidelines were originally promulgated in 1996. Over time, the EPA has become aware of a

number of implementation issues associated with the regulatory requirements and for which landfill owners and operators, as well as regulators, need clarification. The EPA proposed amendments to the landfills NSPS and emission guidelines (40 CFR part 60, subpart WWW and 40 CFR part 60, subpart Cc) on May 23, 2002 (67 FR 36475), and September 8, 2006 (71 FR 53271). Those amendments were never finalized. The EPA is not taking final action on either the May 23, 2002, or the September 8, 2006, proposed rules through this ANPRM, but we are soliciting input on the unresolved implementation issues. These issues include but are not limited to: LFG treatment, accounting for emissions from closed areas of landfills, surface monitoring, and corrective action timelines. Note that the EPA addressed some of these implementation issues as they apply to new MSW landfills in the **Federal Register** document that proposes a new subpart resulting from the EPA's review of the landfills NSPS. The EPA plans to address amendments and clarifications resulting from implementation activities as they apply to subparts Cc and WWW in forthcoming amendments to these subparts. See section IV.G of this document for details.

E. What is the statutory authority for landfill emission guidelines?

Clean Air Act (CAA) section 111, which Congress enacted as part of the 1970 CAA Amendments, establishes mechanisms for controlling emissions of air pollutants from stationary sources. This provision requires the EPA to promulgate a list of categories of stationary sources that the Administrator, in his or her judgment, finds "causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare."[8] The EPA has listed more than 60 stationary source categories under this provision, including municipal solid waste landfills.[9] Once EPA lists a source category, the EPA must, under CAA section 111(b)(1)(B), establish "standards of performance" for emissions of air pollutants from new sources in the source categories.[10] These standards are known as new source performance standards or NSPS, and they are national requirements that apply directly to the sources subject to them.

When the EPA establishes NSPS for new sources in a particular source category, the EPA is also required, under CAA section 111(d)(1), to prescribe regulations for states to submit plans regulating existing sources in that source category for any air pollutant that, in general, is not regulated under the CAA section 109 requirements for the National Ambient Air Quality Standards (NAAQS) or regulated under the CAA section 112 requirements for HAP. CAA section 111(d)'s mechanism for regulating existing sources differs from the one that CAA section 111(b) provides for new sources because CAA section 111(d) is implemented through state plans that establish "standards of performance" for the affected sources and that contain other measures to implement and enforce those standards.

"Standards of performance" are defined under CAA section 111(a)(1) as standards for emissions that reflect the emission limitation achievable from the "best system of emission reduction," considering costs and other factors, that "the Administrator determines has been adequately demonstrated." CAA section 111(d)(1) grants states the authority, in applying a standard of performance to particular sources, to take into account the source's remaining useful life or other factors.

Under CAA section 111(d), a state must submit its plan to the EPA for approval, and the EPA must approve the state plan if it is "satisfactory."[11] If a state does not submit a plan, or if the EPA does not approve a state's plan, then the EPA must establish a plan for that state.[12] Once a state receives the EPA's approval for its plan, the provisions in the plan become federally enforceable against the entity responsible for noncompliance, in the same manner as the provisions of an approved State Implementation Plan (SIP) under CAA section 110.

The EPA issued regulations implementing CAA section 111(d) in 1975.[13] These implementing regulations provide that, in promulgating requirements for sources under CAA section 111(d), the EPA first develops regulations known as "emission guidelines," which establish binding requirements that states must address when they develop their plans.[14] The implementing regulations also establish timetables for state and EPA action: States must submit state plans within 9 months of the EPA's issuance of the guidelines,[15] and the EPA must take final action on the state plans within 4 months of the due date for those plans,[16] although the EPA has authority to extend those deadlines.[17]

Over the last 40 years, under CAA section 111(d), the agency has regulated four pollutants from five source categories (i.e., sulfuric acid plants (acid mist), phosphate fertilizer plants (fluorides), primary aluminum plants (fluorides), Kraft pulp plants (total reduced sulfur), and municipal solid waste landfills (LFG)).[18]

F. What are the landfill emission guidelines and what sources would be affected by a review of the emission guidelines?

The Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (emission guidelines) are codified at 40 CFR part 60, subpart Cc. The emission guidelines cross reference many provisions in the Standards of Performance for Municipal Solid Waste Landfills (landfills NSPS) (40 CFR part 60, subpart WWW), including control requirements, operational standards, monitoring provisions, and reporting and recordkeeping requirements. As a result, many of the proposed changes to the standards of performance for new, reconstructed, and modified MSW landfills could affect subpart Cc. A detailed summary of the current emission guideline requirements appears in section IV.B.1 of this document.

CAA section 111(d) calls for a partnership between the EPA and states, as described above. To recap, the EPA establishes source-category-specific emission guidelines that specify the minimum requirements for an approvable state plan, including the requisite level of emission reductions that must be achieved. Each state must

[8] CAA section 111(b)(1)(A).

[9] See 40 CFR part 60, subparts Cb through OOOO.

[10] CAA section 111(b)(1)(B), 111(a)(1).

[11] CAA section 111(d)(2)(A).

[12] CAA section 111(d)(2)(A).

[13] "State Plans for the Control of Certain Pollutants From Existing Facilities," 40 FR 53340 (November 17, 1975).

[14] 40 CFR 60.22. In the 1975 rulemaking, the EPA explained that it used the term "emissions guidelines"—instead of emissions limitations—to make clear that guidelines would not be binding requirements applicable to the sources, but instead are "criteria for judging the adequacy of State plans." 40 FR 53343.

[15] 40 CFR 60.23(a)(1).

[16] 40 CFR 60.27(b).

[17] See 40 CFR 60.27(a).

[18] See "Phosphate Fertilizer Plants; Final Guideline Document Availability," 42 FR 12022 (March 1, 1977); "Standards of Performance for New Stationary Sources; Emission Guideline for Sulfuric Acid Mist," 42 FR 55796 (October 18, 1977); "Kraft Pulp Mills, Notice of Availability of Final Guideline Document," 44 FR 29828 (May 22, 1979); "Primary Aluminum Plants; Availability of Final Guideline Document," 45 FR 26294 (April 17, 1980); "Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills, Final Rule," 61 FR 9905 (March 12, 1996).

develop a state plan establishing standards of performance for the affected sources in the state based on the requirements of the emission guidelines. The state must submit its state plan to the EPA for approval. The EPA reviews the state plan to ensure that it meets the minimum requirements of the emission guidelines, and approves the plan if it does. If the state does not submit a state plan, or the state plan is disapproved, the EPA would have the authority to promulgate a federal plan under CAA section 111(d)(2)(A). MSW landfills constructed, modified or reconstructed prior to proposal of the revised landfills NSPS, 40 CFR part 60, subpart XXX that have accepted waste since November 8, 1987 would be considered "existing" and would be affected by any changes to the emission guidelines resulting from this review. States with designated facilities would be required to develop (or revise) and submit a state plan to the EPA within 9 months of promulgation of any revisions to the emission guidelines unless the EPA specifies a longer time frame. Any revisions to an existing state plan and any newly adopted state plan must be established following the requirements of 40 CFR part 60, subpart B. Those requirements include making the state plan publically available and providing opportunity for public discussion. Once the EPA receives a complete state plan or plan revision and completes its review of that plan or plan revision, the EPA will propose the plan or plan revision for approval or disapproval and must take final action to approve or disapprove the plan or plan revision no later than 4 months after the date the plan or plan revision was required to be submitted. The EPA will publish state plan approvals or disapprovals in the **Federal Register** and will include an explanation of its decision. The EPA will also revise the existing federal plan (40 CFR part 62, subpart GGG) to incorporate any changes and other requirements that the EPA promulgates as a result of its review of the emission guidelines. The revised federal plan will apply in states which have not received approval of any necessary revised state plan until such time as the revised state plan is approved.

G. How would changes in applicability affect sources currently subject to subpart WWW?

If the EPA were to revise the landfills emission guidelines to increase their stringency, then a landfill currently subject to 40 CFR part 60, subpart WWW would need to comply with the more stringent requirements in the revised state plan or federal plan implementing the revised emission guidelines (40 CFR part 60, subpart Cc) as such sources would be existing sources with respect to the revised NSPS.[19] States would have to update their inventory of existing landfills to include these landfills. Note that all MSW landfills that are subject to subpart WWW would continue to comply with the requirements found in subpart WWW unless and until they are covered by a more stringent state or federal plan implementing the amended emission guidelines.

III. Why is the EPA concerned about air quality effects from MSW landfills?

The EPA is concerned about LFG emissions because of the public health and welfare effects that result from these emissions. Landfill gas generated from established waste (waste that has been in place for at least a year) is typically composed of roughly 50-percent methane and 50-percent CO_2 by volume, with less than 1 percent NMOC. In promulgating the emission guidelines in 1996, the EPA's concerns regarding the adverse effects of emissions of LFG on human health and welfare were focused primarily on the NMOC portion of LFG. The NMOC portion of LFG can contain a variety of air pollutants, including VOCs and various organic HAP, all of which have various health effects, as discussed in section III.D of this document. In light of the Methane Strategy, the EPA is considering changes to the emission guidelines that are based on reducing emissions of the methane and NMOC components of LFG. Once emitted into the atmosphere, methane contributes to warming of the atmosphere, which over time leads to increased air and ocean temperatures, changes in precipitation patterns, and sea level rise, among other impacts, as discussed in section III.D of this document.

A. Background on the MSW Landfill Sector

Section 111 of the CAA requires the EPA Administrator to list categories of stationary sources that in the Administrator's judgment cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare (42 U.S.C. 7411(b)(1)(A)). On March 12, 1996 (61 FR 9905), under the authority of CAA section 111(b)(1)(A), the EPA added the MSW landfills source category to the priority list in 40 CFR 60.16 because, in the judgment of the Administrator, the source category contributes significantly to air pollution that may reasonably be anticipated to endanger public health and welfare. In that same document, the EPA promulgated the NSPS, which apply to new (including modified and reconstructed) landfills under the authority of CAA section 111(b)(1)(B), and emission guidelines, which apply to existing landfills, under the authority of CAA section 111(d).

The EPA also defined the MSW landfills source category, identified municipal solid waste landfill emissions (commonly referred to as LFG) as the pollutant for which standards should be developed, and determined the applicability thresholds and emission level of the standards.

1. Definition

An MSW landfill is defined in the landfills regulations as: "An entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of Resource Conservation and Recovery Act (RCRA) subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill or a lateral expansion" (40 CFR 60.32c and 60.751).

Household waste is the primary component of MSW, accounting for 55 to 65 percent of total MSW generated, followed by the commercial and institutional sectors.[20] Household waste includes solid waste from single- and multiple-family homes, hotels and motels, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas.

2. Characterization of Existing Landfills

Many changes have occurred in the landfill industry since the landfill emission guidelines were originally promulgated in 1996. Among the changes are changes in landfill characteristics and population (i.e., size, ownership, age); proliferation of LFG energy projects; and the introduction of

[19] As discussed above, the emission guidelines currently rely on subpart WWW for their substantive requirements. As a result, any increase in the stringency of the emission guidelines would necessarily make them more stringent than the existing requirements in subpart WWW.

[20] U.S. Environmental Protection Agency. 2011. Municipal Solid Waste Generation, Recycling, and Disposal in the United States Tables and Figures for 2010. EPA–530–F–11–005. Washington, DC: U.S. EPA.

new techniques for collecting, reducing, and monitoring LFG emissions.

Size, Ownership, Age. The number and size distribution of MSW landfills in the United States has changed over the last 25 years, with a trend toward fewer active, but larger, landfills. Since 1988, the number of active MSW landfills in the United States has decreased by approximately 75 percent (from approximately 7,900 in 1988 to approximately 1,900 in 2009).[21] [22] During this time, the overall disposal capacity has remained fairly constant, indicating a trend towards fewer, but larger landfills.[23]

The data also show a trend away from public ownership. The share of sites that are publicly owned has decreased from 83 percent in 1984 to 64 percent in 2004.[24] [25] Instead, large, private companies have used economy of scale for cost expenditures and own multiple sites, many of which have large capacities. To offset the cost of constructing and maintaining landfills, facility owners construct large facilities that attract high volumes of waste from a large geographic area. By maintaining a high volume of incoming waste, landfill owners have the ability to keep tipping fees relatively low, which subsequently attracts more business.[26]

LFG Energy Projects. The number of LFG energy projects has also increased substantially over the last two decades. In 1996, there were approximately 160 operational LFG energy projects and approximately 700 candidate landfills according to data obtained by the EPA LMOP. According to LMOP, as of March 2014, there are 636 operational LFG energy projects and 450 landfills that remain candidates for energy recovery. LMOP is a voluntary assistance program that helps to reduce methane emissions from landfills by encouraging recovery and beneficial use of LFG.

Availability of More Comprehensive Data. In 2010, the EPA GHGRP began collecting information from existing MSW landfills that accepted waste on or after January 1, 1980 and generate methane in amounts equivalent to 25,000 metric tons of carbon dioxide equivalent (CO_2e) or more per year. According to data collected through the GHGRP, approximately 1,200 landfills generated methane in amounts equivalent to 25,000 metric tons of CO_2e or more per year, using a GWP of 25. (CO_2e is an expression of methane in terms of the carbon dioxide equivalents, given the methane GWP of 25.[27]) 25,000 metric tons of CO_2e is equal to about 6.5 megagrams (Mg) NMOC and 1,000 Mg methane per year.[28] (A megagram is also known as a metric ton, which is equal to 1.1 U.S. short tons or about 2,205 pounds.) Reporting includes data elements such as annual modeled methane generation and methane emissions from the landfill, as well as annual methane destruction (for landfills with GCCSs). Beginning with reporting year 2013, the GHGRP data includes additional data elements for which reporting was previously deferred, such as landfill open and closure dates, waste acceptance rates, flow of LFG for destruction, methane concentration and gas collection efficiency; this data will be used to refine the analyses discussed in "Methodology for Estimating Cost and Emission Impacts of MSW Landfill Regulations. 2014" and "Summary of Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfill Regulations. 2014," both of which are available in the docket. The EPA plans to incorporate this new information into the proposal for the emission guidelines review. LMOP has collected information on landfills since the program's inception in 1996 and maintains a database of over 2,000 existing landfills and LFG energy projects. The database includes landfill information provided to LMOP and from publically available sources, including the GHGRP dataset. In addition, the EPA conducted a voluntary landfill survey in 2010 and received information from 167 landfills.

A dataset of approximately 2,400 landfills resulted from the three sources listed above: The GHGRP, the LMOP database and voluntary survey of landfills. Of these 2,400 landfills, approximately 1,800 have sufficient data to use in the preliminary cost and reduction analysis as the EPA begins its review of the emission guidelines. The creation of the landfill dataset is detailed in the docketed memorandum, "Summary of Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations 2014." Based on this dataset, several observations can be made.

Location and Size. The 1,800 landfills are located in all 50 states and two territories and range widely in size from 189 Mg to 129 million Mg of waste-in-place as of 2014. Approximately half of the landfills have a design capacity of at least 2.5 million Mg.

Active vs. Closed. Approximately half of the existing landfills are still accepting waste as of 2014. Approximately 40 percent of the landfills stopped accepting waste prior to 2005. Among landfills that have a design capacity of at least 2.5 million Mg, only 16 percent of the landfills stopped accepting waste prior to 2005.

Leachate Recirculation. Leachate recirculation is used at many landfills to manage on-site leachate. Concurrently, this operational practice accelerates waste decomposition and gas generation rates at the landfills. Under 40 CFR part 98, subpart HH of the GHGRP, landfills must report whether or not they employ leachate recirculation and if so, the frequency of that recirculation. Based on GHGRP data from the 2012 reporting year, over 300 landfills accepting waste after 1987 indicated that leachate recirculation was used. Of those, over 200 landfills indicated the leachate was recirculated several times per year over the past 10 years of operation.

Other Liquids Addition. Since 2004, 14 states have received program approval to issue permits to MSW landfills to add liquids other than leachate under the Research Development and Demonstration provisions of 40 CFR 258.4. This operational practice also accelerates waste decomposition and gas generation rates at the landfills.

Other Trends. The estimated annual quantity of waste placed in MSW landfills increased 26 percent from approximately 205 Tg in 1990 to 284 Tg in 2012.[29] The annual amount of waste generated and subsequently disposed in MSW landfills varies annually and depends on several factors (e.g., the economy, consumer patterns, recycling

[21] U.S. Environmental Protection Agency. 2010. "Municipal Solid Waste in the United States: 2009 Facts and Figures."

[22] O'Brien, Jeremy K. 2006. "Contracting out: Adapting local integrated waste management to regional private landfill ownership." Waste Management World.

[23] Solid Waste Association of North America (SWANA). 2007. "The Regional Privately-Owned Landfill Trend and Its Impact on Integrated Solid Waste Management Systems." February 2007.

[24] U.S. Environmental Protection Agency. 2010. "Municipal Solid Waste in the United States: 2009 Facts and Figures."

[25] O'Brien, Jeremy K. 2006. "Contracting out: Adapting local integrated waste management to regional private landfill ownership." Waste Management World.

[26] U.S. Environmental Protection Agency. 2002. Solid Waste and Emergency Response. "Waste Transfer Stations: A Manual for Decision-Making."

[27] IPCC Fourth Assessment Report (AR4), 2007. Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, Pachauri, R.K and Reisinger, A. (eds.)]. IPCC, Geneva, Switzerland, 104 pp.

[28] Calculated using the AP–42 default factor of 595 ppmv and 50 percent methane. U.S. EPA, AP–42, Fifth Edition, Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources. 1995.

[29] U.S. EPA. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2012. April 2014. See Annex 3.14, Table A–261. *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html.*

and composting programs, inclusion in a waste collection service and the availability of other alternative options for disposal and their price); but the total amount of MSW generated is expected to continue to increase as the U.S. population continues to grow. The composition of materials disposed of in MSW landfills has also changed significantly since 1990. See section IV.C.3 of this document for additional details on waste composition trends.

B. What emissions are associated with existing MSW landfills?

The EPA estimates that the potential uncontrolled emissions from the approximately 1,800 landfills in its regulatory analysis dataset (as explained in section II.D.2 of this document) are approximately 66,400 Mg NMOC and 10 million Mg methane (258 million Mg CO_2e) in 2014.

Looking beyond the modeled dataset, the 2012 Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2012 shows a growth in uncontrolled emissions from MSW landfills, from 172.6 Tg CO_2e in 1990 to 280.0 Tg CO_2e in 2012.[30] If controls are considered, emissions from landfills have decreased from 147.8 Tg CO_2e in 1990 to 102.8 CO_2e in 2012 from both regulatory and voluntary programs.[31]

C. What emission reductions are currently being achieved from MSW landfills?

1. Emission Reductions Due to Subparts Cc and WWW

To estimate the emission reductions, the EPA applied the current design capacity and NMOC emission rate thresholds in the MSW landfills regulations, and the time allowed for installing, expanding and removing the GCCS to the modeled emission estimates discussed in section IV.B of this document.

Table 2 of this document summarizes the reductions currently being achieved at existing landfills in 2014 as a result of 40 CFR part 60, subpart WWW and the federal and state plans implementing the emission guidelines. This table reflects the current baseline level of control at existing landfills: Landfills greater than or equal to 2.5 million Mg and 2.5 million cubic meters (m^3) must install a GCCS when NMOC emissions reach or exceed 50 megagrams per year (Mg/yr). The table includes emission reductions for NMOC and methane.

TABLE 2—BASELINE EMISSION REDUCTIONS IN 2014 AT EXISTING LANDFILLS

Option	Number of landfills affected	Number of landfills controlling	Number of landfills reporting but not controlling	Annual NMOC reductions (Mg/yr)	Annual methane reductions (million Mg/yr)	Annual methane reductions (million Mg CO_2e/yr)
Baseline	954	559	395	49,600	7.7	193

The emission guidelines in the baseline are estimated to require control at 559 of the 954 affected landfills in 2014 and achieve reductions of 49,600 Mg/yr NMOC and 7.7 million Mg/yr methane (193 million Mg/yr CO_2e). In the baseline we estimate that 30 percent (559/1,832) of these existing landfills will operate emission controls in 2014 (1,832 is the number of landfills in the landfills dataset that had sufficient data to use in the preliminary cost and reduction analysis).

2. Other Programs Achieving Emission Reductions From Existing MSW Landfills

Landfill owners and operators collect LFG for a variety of reasons: To control odor, to minimize fire and explosion hazards, to recover LFG to be used for energy recovery, to sell carbon credits, and to comply with local, state, or federal air quality standards. This section of this document discusses several non-EPA programs of which the EPA is aware. These reductions complement the reductions achieved by the current NSPS and emission guidelines framework.

i. State and Local Ordinances

The EPA is aware that some state or local ordinances require LFG combustion for odor or safety reasons. The number of landfills controlling under local ordinances is unknown. In addition, the state of California recently established methane regulations [32] to require a GCCS to be installed at all landfills accepting waste after January 1, 1977, having at least 450,000 tons of waste-in-place, and having a gas heat input capacity threshold of 3.0 MMBtu/hr or greater.

ii. Market-Based Mechanisms

LMOP maintains a voluntary national database of landfills and LFG energy projects, including information on which landfills have a GCCS in place. The EPA compared the list of landfills that are modeled to have installed a GCCS in 2014 in the NSPS/emission guidelines dataset to the list of landfills that are reported to have a GCCS installed in the LMOP database. While the NSPS/emission guidelines dataset estimates that approximately 550 landfills have installed controls to meet the requirements of the NSPS or an approved state plan or federal plan implementing the emission guidelines, the LMOP database shows approximately 500 additional landfills as having installed controls, resulting in over 1,000 landfills estimated to have a GCCS installed.[33] Approximately half of these 500 landfills exceed the design capacity of 2.5 million Mg and 2.5 million m^3, but as of 2014, are not modeled to exceed the NMOC emission threshold that dictates when a GCCS must be installed. Many of these systems may have been installed to recover energy and generate revenue through the sale of electricity or LFG. The LMOP database estimates that almost 200 of the 500 landfills with voluntary systems have an energy recovery component. Among landfills with larger design capacities, approximately 120 of the 260 landfills with a voluntary GCCS have an energy recovery component. Some landfills with voluntary systems may also receive revenues as a result of the creation of carbon credits. Data from the Climate Action Reserve indicates that more than 100 LFG capture projects in 36 states

[30] Ibid, Table 8–3.

[31] Ibid, Table 8–1.

[32] California Code of Regulations, title 17, subchapter 10, article 4, subarticle 6, sections 95460 to 95476, Methane Emissions from Municipal Solid Waste Landfills.

[33] See Sections II.D.2 and III.C of this document for a detailed discussion of the modeling database and estimated reductions under the current federal regulatory framework.

have been issued credits known as Climate Reserve Tonnes (CRTs).[34]

D. What are the health and welfare effects of LFG emissions?

1. Health Impacts of VOC and Various Organic HAP

The pollutant regulated under the landfills NSPS is "MSW landfill emissions." Municipal solid waste landfill emissions, also commonly referred to as LFG, are a collection of air pollutants, including methane and NMOC, some of which are toxic. LFG generated from established waste (waste that has been in place for at least a year) is typically composed of roughly 50-percent methane and 50-percent CO_2 by volume, with less than 1 percent NMOC. The NMOC portion of LFG can contain a variety of air pollutants, including VOC and various organic HAP. VOC emissions are precursors to both fine particulate matter ($PM_{2.5}$) and ozone formation. Exposure to $PM_{2.5}$ and ozone is associated with significant public health effects.[35] [36] $PM_{2.5}$ is associated with health effects including premature mortality for adults and infants, cardiovascular morbidity such as heart attacks and respiratory morbidity such as asthma attacks, acute and chronic bronchitis, hospital admissions and emergency room visits, work loss days, restricted activity days and respiratory symptoms, as well as visibility impairment.[37] Ozone is associated with health effects including premature mortality, lung damage, asthma aggravation and other respiratory symptoms, hospital and emergency department visits, and school loss days, as well as injury to vegetation and climate effects.[38] Nearly 30 organic HAP have been identified in uncontrolled LFG, including benzene, toluene, ethyl benzene and vinyl chloride.[39]

2. Climate Impacts of Methane Emissions

In addition to the improvements in air quality and resulting benefits to human health and non-climate welfare effects discussed above, reducing emissions from landfills is expected to result in climate co-benefits due to reductions of the methane component of LFG. Methane is a potent GHG with a GWP 25 times greater than CO_2, which accounts for methane's stronger absorption of infrared radiation per ton in the atmosphere but also its shorter lifetime (on the order of a decade compared to centuries or millennia for carbon dioxide).[40] According to the Intergovernmental Panel on Climate Change (IPCC) 5th Assessment Report, methane is the second leading long-lived climate forcer after CO_2 globally.[41]

As discussed in detail in the 2009 Endangerment Finding, climate change caused by human emissions of GHGs threatens public health in multiple ways. By raising average temperatures, climate change increases the likelihood of heat waves, which are associated with increased deaths and illnesses. While climate change also increases the likelihood of reductions in cold-related mortality, evidence indicates that the increases in heat mortality will be larger than the decreases in cold mortality in the United States. Compared to a future without climate change, climate change is expected to increase ozone pollution over broad areas of the U.S., including in the largest metropolitan areas with the worst ozone problems, and thereby increase the risk of morbidity and mortality. Other public health threats also stem from projected increases in intensity or frequency of extreme weather associated with climate change, such as increased hurricane intensity, increased frequency of intense storms, and heavy precipitation. Increased coastal storms and storm surges due to rising sea levels are expected to cause increased drownings and other health impacts. Children, the elderly, and the poor are among the most vulnerable to these climate-related health effects.

As documented in the 2009 Endangerment Finding, climate change caused by human emissions of GHGs also threatens public welfare in multiple ways. Climate changes are expected to place large areas of the country at serious risk of reduced water supplies, increased water pollution, and increased occurrence of extreme events such as floods and droughts. Coastal areas are expected to face increased risks from storm and flooding damage to property, as well as adverse impacts from rising sea level, such as land loss due to inundation, erosion, wetland submergence and habitat loss. Climate change is expected to result in an increase in peak electricity demand, and extreme weather from climate change threatens energy, transportation, and water resource infrastructure. Climate change may exacerbate ongoing environmental pressures in certain settlements, particularly in Alaskan indigenous communities. Climate change also is very likely to fundamentally rearrange U.S. ecosystems over the 21st century. Though some benefits may balance adverse effects on agriculture and forestry in the next few decades, the body of evidence points towards increasing risks of net adverse impacts on U.S. food production, agriculture and forest productivity as temperature continues to rise. These impacts are global and may exacerbate problems outside the U.S. that raise humanitarian, trade, and national security issues for the U.S.

Methane is also a precursor to ground-level ozone, a health-harmful air pollutant. Additionally, ozone is a short-lived climate forcer that contributes to global warming. In remote areas, methane is a dominant precursor to tropospheric ozone formation.[42] Approximately 50 percent of the global

[34] Climate Action Reserve. Issued List of CRTs as of April 17, 2014. *https://thereserve2.apx.com/myModule/rpt/myrpt.asp?r=112.*

[35] U.S. EPA. 2009. "Integrated Science Assessment for Particulate Matter (Final Report)." EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/.*

[36] U.S. EPA. 2013. "Integrated Science Assessment for Ozone and Related Photochemical Oxidents (Final Report)." EPA–600–R–10–076F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/.*

[37] U.S. EPA. 2009. "Integrated Science Assessment for Particulate Matter (Final Report)." EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/.*

[38] U.S. EPA. 2013. "Integrated Science Assessment for Ozone and Related Photochemical Oxidents (Final Report)." EPA–600–R–10–076F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/.*

[39] U.S. EPA. 1998. Office of Air and Radiation, Office of Air Quality Planning and Standards. "Compilation of Air Pollutant Emission Factors, Fifth Edition, Volume I: Stationary Point and Area Sources, Chapter 2: Solid Waste Disposal, Section 2.4: Municipal Solid Waste Landfills". Available at: *http://www.epa.gov/ttn/chief/ap42/ch02/final/c02s04.pdf.*

[40] IPCC Fourth Assessment Report (AR4), 2007. Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, Pachauri, R.K and Reisinger, A. (eds.)]. IPCC, Geneva, Switzerland, 104 pp.

[41] Stocker, T.F., D. Qin, G.K. Plattner, L.V. Alexander, S.K. Allen, N.L. Bindoff, F.M. Bréon, J.A. Church, U. Cubasch, S. Emori, P. Forster, P. Friedlingstein, N. Gillett, J.M. Gregory, D.L. Hartmann, E. Jansen, B. Kirtman, R. Knutti, K. Krishna Kumar, P. Lemke, J. Marotzke, V. Masson-Delmotte, G.A. Meehl, I.I. Mokhov, S. Piao, V. Ramaswamy, D.Randall, M. Rhein, M. Rojas, C. Sabine, D. Shindell, L.D. Talley, D.G. Vaughan and S.P. Xie. 2013: "Technical Summary. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change" [Stocker, T.F., D. Qin, G.K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[42] U.S. EPA. 2013. "Integrated Science Assessment for Ozone and Related Photochemical Oxidents (Final Report)." EPA–600–R–10–076F. National Center for Environmental Assessment—

annual mean ozone increase since preindustrial times is believed to be due to anthropogenic methane.[43] Projections of future emissions also indicate that methane is likely to be a key contributor to ozone concentrations in the future.[44] Unlike NO_X and VOC, which affect ozone concentrations regionally and at hourly time scales, methane emissions affect ozone concentrations globally and on decadal time scales given methane's relatively long atmospheric lifetime compared to these other ozone precursors.[45] Reducing methane emissions, therefore, may contribute to efforts to reduce global background ozone concentrations that contribute to the incidence of ozone-related health effects.[46] [47] These benefits are global and occur in both urban and rural areas.

IV. Topics for Which the EPA Is Seeking Input

The EPA is considering several alternative approaches for achieving additional LFG emission reductions from existing MSW landfills. The EPA requests data and input regarding each of these approaches, or other alternative frameworks that should be considered for existing landfills. The EPA is specifically interested in input related to new technologies and data on costs and emission reductions for each of these technologies or practices. The EPA is also interested in ideas regarding how these alternatives may be incorporated into a regulatory framework for existing landfills. Sections IV.A through IV.F of this document describe and request input on alternative approaches for achieving additional LFG reductions from existing landfills.

Since the landfills regulations were implemented in 1996, the EPA has become aware of implementation issues for which landfill owners and operators, as well as regulators, need clarification. In this document, the EPA is also soliciting input on the implementation issues. Section IV.G of this document describes and requests input on these implementation issues.

A. Taking Reductions in Methane Emissions Into Account in Reviewing the Emission Guidelines

In light of the Methane Strategy discussed in section II of this document, the EPA is seeking input on the extent to which methane should be addressed under the revised emissions guidelines. The EPA is also requesting input on potential implementation issues associated with any adjustments that could be made to the current rule framework or any alternative regulatory frameworks that may achieve a larger fraction of methane emission reductions from existing landfills than the current performance-based standard of a well-designed and well-operated GCCS.

B. Potential Changes to Regulatory Framework for Existing Sources

The EPA is considering potential changes within the current regulatory framework of the landfills regulations for existing sources that would achieve further emission reductions. This section outlines the current framework and identifies potential adjustments to that framework. The EPA is requesting input on these potential adjustments, the degree of emission reductions that could be achieved, corresponding cost and implementation.

1. Current Framework

The landfills regulations in 40 CFR part 60, subparts Cc and WWW require an MSW landfill with a design capacity of 2.5 million Mg and 2.5 million m^3 or greater to install a GCCS once the emissions from the landfill meet or exceed 50 Mg NMOC per year. The landfill has 30 months to install and begin operating the GCCS. This 30-month "initial lag time" is the time period between when the landfill exceeds the NMOC emission rate threshold and when controls are required to be installed and started up. A landfill must expand the GCCS as more waste is added to the landfill. This "expansion lag time" is the amount of time allotted for the landfill to expand the GCCS into new areas of the landfill (5 years for active areas and 2 years for areas that are closed or at final grade). When promulgated in 1996, the best system of emission reduction for MSW landfills was determined to be a well-designed and well-operated landfill GCCS with a control device capable of reducing NMOC by 98 percent by weight. Enclosed combustion devices have the option of either reducing NMOC by 98 percent by weight or reducing NMOC emissions to 20 parts per million, dry volume. NMOC was established as a surrogate for LFG in the final rule.

Without any changes to the framework of the rule, over 950 landfills are affected, and 691 are required to install controls on or before 2023. These current requirements are estimated to result in NMOC emission reductions of 55,000 Mg/yr and methane emission reductions of 8.5 million Mg/yr (213 million Mg/yr CO_2e), on average over the next 10-year period (2014–2023). These reductions are expected to be achieved at an average cost effectiveness of approximately $7,200 per Mg NMOC or $46 per Mg methane ($1.8 per Mg CO_2e). Additional information about these estimates can be found in the docketed memo Preliminary Cost and Emissions Impacts Analysis for Review of the MSW Landfills Emission Guidelines 2014.

Within the current framework of 40 CFR part 60, subparts Cc and WWW, several parameters could be adjusted to potentially achieve additional emission reductions. Those parameters are the design capacity, the NMOC emissions threshold, and the timing of installing and expanding the GCCS. The EPA conducted a preliminary analysis as described below to estimate the emissions and cost implications of adjusting rule parameters. Modeling options that varied these parameters showed the following general incremental results as compared to the current regulatory framework over the next 10-year period (2014–2023). These preliminary cost-effectiveness values presented later in this section IV.B include the costs to install and operate GCCS as well as any revenue from energy recovery as discussed in further detail in the docketed memorandum, "Methodology for Estimating Cost and Emission Impacts of MSW Landfills Regulations. 2014." Installation, operation and maintenance of the GCCS represents over 99 percent of the annual costs, and although the costs presented here do not include testing and monitoring costs, those costs are expected to be nominal relative to the control costs.

i. Reducing or Eliminating the Design Capacity Threshold

Options that decrease the design capacity threshold would make more landfills subject to the rule. Such options also would increase the overall reporting burden because more landfills would be required to calculate and report their NMOC emission rates. Landfills that exceed any lower design

RTP Division. Available at *http://www.epa.gov/ncea/isa/*.

[43] Myhre, G., D. Shindell, F.M. Bréon, W. Collins, J. Fuglestvedt, J. Huang, D. Koch, J.F. Lamarque, D. Lee, B. Mendoza, T. Nakajima, A. Robock, G. Stephens, T. Takemura and H. Zhang, 2013: Anthropogenic and Natural Radiative Forcing. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Pg. 680.

[44] *Ibid.*

[45] *Ibid.*

[46] West, J.J., Fiore, A.M. 2005. "Management of tropospheric ozone by reducing methane emissions." *Environ. Sci. Technol.* 39:4685–4691.

[47] Anenberg, S.C., et al. 2009. "Intercontinental impacts of ozone pollution on human mortality," *Environ. Sci. & Technol.* 43: 6482–6487.

capacity threshold and become subject to subpart XXX would be required to obtain a Title V permit because sources subject to an NSPS must generally obtain a Title V permit. Only a few additional landfills would be required to install controls because landfills still must exceed the NMOC emission rate threshold before such controls are applied, and under the current threshold, about 72 percent of landfills over the design capacity threshold exceed the NMOC emissions rate. Thus, options that decrease the design capacity threshold without also lowering the NMOC emission threshold create additional reporting and permitting burden with minimal additional emission reductions. Modeling showed that if the EPA decreased the design capacity threshold to 2.0 million Mg or 2.0 million m^3, then over 90 additional landfills would be affected by the rule and five additional landfills would require controls, resulting in NMOC reductions of 74 Mg/yr and methane emission reductions of 11,500 Mg/yr (287,000 Mg/yr CO_2e). These reductions could be achieved at a cost effectiveness of approximately $9,900 per Mg NMOC or $64 per Mg methane ($2.6 per Mg CO_2e).

The EPA also explored decreasing the NMOC emission threshold in conjunction with decreasing the design capacity. Modeling showed that if the EPA decreased the design capacity threshold to 2.0 million Mg or 2.0 million m^3 and reduced the NMOC emission threshold to between 34 and 40 Mg/yr, then approximately 90 additional landfills would be affected by the rule and 80 to 160 additional landfills would require controls, resulting in additional NMOC reductions of 2,100 to 3,200 Mg/yr and methane reductions of 328,000 to 494,000 Mg/yr (8.2 to 12.3 million Mg/yr CO_2e). These additional reductions could be achieved at an incremental cost effectiveness of between $16,000 and $18,000 per Mg NMOC or $100 to $115 per Mg methane ($4 to $5 per Mg CO_2e).

In addition, if the EPA were to remove the design capacity threshold, then a significant number of additional landfills would be subject to the rule. Out of the approximately 1,800 existing landfills with sufficient data to include in the preliminary analysis for the review of the emission guidelines, over 850 have a design capacity of less than 2.5 million Mg or 2.5 million m^3. Without a design capacity threshold, the NMOC emission rate would be the only criterion for installing controls. Thus, these landfills would be required to begin calculating and reporting their NMOC emission rate. They would also be required to obtain a Title V permit. A smaller number of additional landfills would be required to install controls, because currently only those landfills below the design capacity threshold that exceed the NMOC emission rate require controls. Note that as landfills continue to add waste and continue to calculate and report the annual NMOC emission rate, over time, more landfills would be required to install controls, which would thus achieve additional emission reductions. The EPA requests input on whether or not adjustments to the design capacity threshold should be considered.

ii. Reducing NMOC Emission Threshold

Decreasing the NMOC emissions threshold would not change the number of landfills subject to the rule or affect the overall reporting burden. However, a lower NMOC emissions threshold would require more landfills to install controls. Although an NMOC emission threshold would continue to use NMOC as a surrogate for LFG, additional methane reductions could be achieved as a result of lowering the NMOC threshold, which is consistent with the President's Methane Strategy as described in section II of this document.

Modeling showed that if the EPA decreased the NMOC threshold to 40 Mg/yr NMOC, then approximately 80 additional landfills would require controls, resulting in additional NMOC reductions of 1,900 Mg/yr and methane reductions of 303,000 Mg/yr (7.6 million Mg/yr CO_2e) as compared to the current rule requirements. These additional reductions could be achieved at an incremental cost effectiveness of approximately $16,000 per Mg NMOC or $100 per Mg methane ($4 per Mg CO_2e). The EPA's preliminary analysis did not include a reduction of NMOC threshold below 40 Mg/yr without also reducing the design capacity threshold. The preliminary emission reduction impacts of reducing both of these parameters are presented in section IV.B.1 of this document. The EPA requests input on whether or not adjustments to the NMOC emission threshold should be considered.

iii. Adjustments to Initial or Expansion Lag Times

As mentioned above, "lag time" is the period between when the landfill exceeds the NMOC emission rate threshold and when controls are required to be initially installed (or expanded) and started up. The emission reductions achieved by reducing the initial or expansion lag time are affected by the size of the landfill, waste placement patterns and annual acceptance rates. For example, the size of the landfill and the filling cycle affect how much and when emission reductions would be achieved. Based on input received from commenters,[48] large filling areas at modern landfill designs typically do not close before 7 years. Because the landfills regulations allow two options for expanding the GCCS (2 years after initial waste placement in closed areas and 5 years after initial waste placement in active areas), any reduction to the 2-year lag time for closed areas would not likely achieve any actual additional reductions from larger existing landfills because the majority of landfills are complying with the 5-year deadline instead of the 2-year deadline. Some of the smaller landfills may achieve final grade in a shorter time period. Modeling showed that if the EPA decreased the initial lag time to 2 years, then an additional NMOC reduction of approximately 600 Mg/yr and methane reductions of 88,000 Mg/yr (2.2 million Mg CO_2e/yr) would be achieved as compared to the current rule framework. These additional reductions could be achieved at an incremental cost effectiveness of approximately $4,700 per Mg NMOC or $30 per Mg methane ($1.2 per Mg CO_2e).

Modifying the 5-year provision may also have a limited effect on emission reductions. Many landfills in wet climates are already installing wells ahead of the 5-year schedule for odor or energy recovery purposes. Modeling showed that if the EPA decreased the expansion lag time to 2 years, then an additional NMOC reduction of nearly 1,000 Mg/yr and methane reductions of 152,000 Mg/yr (3.8 million Mg/yr CO_2e) could be achieved as compared to the current rule framework. These additional reductions could be achieved at an incremental cost effectiveness of approximately $17,000 per Mg NMOC or $106 per Mg methane ($4.3 per Mg CO_2e).

The EPA received input from commenters expressing concern about the potential shortening of lag times. The comments indicated that wells located in these areas are more frequently damaged as a result of daily filling operations and the movement of equipment. Damaged wells must be repaired with well extensions and/or re-drilling of wells. In addition, waste in active fill areas undergoes significant settlement. This settlement affects the alignment of gas header equipment,

[48] The EPA conducted outreach with small entities, state and local officials, and representative organizations, hereinafter referred to as commenters.

requiring more frequent repairs, troubleshooting and replacement of equipment. These repairs can add a significant cost to the construction and operation of a GCCS that are not currently accounted for in the LFGcost model estimates and also increase the amount of system down time.

In addition to the implementation concerns, reducing the lag times would require more frequent mobilization of drill rig equipment and purchase of GCCS infrastructure and system repairs, which could lead to higher costs. Note the preliminary cost effectiveness estimates shown above do not include any cost adjustments to repair wells damaged in active areas. We seek input on how to account for these costs.

Commenters also raised several practical concerns with reducing the expansion lag time. Reducing the expansion lag time would result in more wells located in active fill areas because more of the face of the landfill is active after only 2 years of waste acceptance and the landfill owner or operator must add wells into these active areas sooner. In addition, active fill areas are still in the aerobic phase of waste decomposition. Installing wells in areas with high oxygen levels increases the chance of subsurface fires. It also leads to more frequent exceedances of the current wellhead monitoring standards for oxygen. The EPA requests input on the assumptions outlined above and whether or not adjustments to lag times should nonetheless be considered.

Horizontal Collectors. Horizontal LFG collection wells may provide some relief to the implementation concerns that have been raised, while also allowing for the wells to be installed more quickly after the waste is placed in the landfill. These types of wells are used in active fill areas and consist of perforated pipe in gravel-filled trenches constructed within the waste mass as an active area is filled. The wellheads are installed remotely outside of the active fill area to allow landfill owners/operators to monitor the wells. Although the horizontal collection infrastructure is installed as the waste is placed in the fill area, the collectors are not brought online under an active vacuum until a sufficient refuse layer has been placed on top of the collectors. Sufficient refuse is necessary in order to prevent air infiltration in the landfill. The time to accumulate sufficient waste is, however, often shorter than the time needed to install vertical wells, and can be as short as a few months after refuse is buried.[49] As a result, the installation of horizontal collectors could result in LFG being collected sooner.

The EPA is aware of several horizontal collector installations, including several landfills in California[50] and 18 different landfills in the voluntary data collection effort for this rulemaking; see "Summary of Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations. 2014."

The shorter length of time associated with bringing horizontal collectors online can be especially important at landfills employing liquids recirculation techniques or located in wetter climates, given the higher LFG generation rates at those sites (as discussed earlier in this section IV.B.1). Quickly bringing these collectors online has added the benefit of proactively addressing odor concerns at landfills. These systems are also useful in landfills that practice "overfilling," where new waste is placed on top of a section of the landfill that was capped temporarily. Some implementation concerns with horizontal collectors have been expressed, particularly regarding their shorter lifetime than vertical wells and the need for more frequent replacement.

The EPA requests input on the assumptions outlined above and whether adjustments to lag times should be considered.

iv. Adjustments to the Length of Time That Control Equipment Must Remain Operational

The EPA is requesting input on the criteria and timing for capping or removing the GCCS. Under 40 CFR part 60, subpart WWW, a landfill may cap or remove the GCCS if the following three criteria are met: (1) The landfill is closed; (2) the GCCS has been in operation for 15 years; and (3) three successive tests for NMOC emissions are below the NMOC emission threshold of 50 Mg/yr. Depending on the waste-in-place of the landfill at closure and other site-specific factors (e.g., waste composition, climate), it may take greater than 30 years after closure for a large modern landfill to emit less than the 50 Mg per year NMOC emission threshold, and in turn qualify for capping or removing the GCCS.

Although some commenters expressed concerns about the quantity of emissions after landfills have closed and the GCCS has ceased to operate, the preliminary analysis the EPA conducted demonstrated that approximately 130 landfills that have closed or will close by 2023 will require a GCCS to be operated for between 15 and nearly 70 years after the landfill has stopped accepting waste. The exact length of the period after landfill closure is commensurate with the size and corresponding emissions profile of each affected landfill. Nonetheless, the EPA is requesting input on whether there are other ways to ensure emissions are minimized in the later stages of a landfill's lifecycle. Specifically, the EPA is seeking input on whether the three criteria listed above are appropriate. We also seek input on alternative approaches, such as consecutive quarterly measurements below a surface emission threshold. Note that RCRA, specifically subpart F of part 258, also requires supplemental basic post-closure care to maintain cover integrity, which includes cover material requirements, design criteria for final cover systems, and post-closure care such as maintaining the integrity of the final cover and maintaining and operating a gas monitoring system. The California landfill methane regulation[51] requires that systems stay in place until the landfill has operated the equipment for at least 15 years and the surface methane concentration measurement (instead of the measured NMOC emission cutoff rate) does not exceed a 500 parts per million (ppm) instantaneous reading or a 25 ppm integrated reading.

v. Other Potential Adjustments

The California landfill methane regulation[52] uses a combination of waste-in-place and gas heat input capacity in lieu of design capacity and NMOC thresholds to determine which landfills are subject to GCCS requirements. Under the California regulation, a GCCS must be installed at all landfills accepting waste after January 1, 1977, having at least 450,000 tons of waste-in-place, and having a gas heat input capacity threshold of 3.0 MMBtu/hr or greater.

The Climate Action Reserve also incorporated waste-in-place criteria in

[49] Barlaz et al., Controls on Landfill Gas Collection Efficiency: Instantaneous and Lifetime Performance. 59 J. Air & Waste Mgmt. Ass'n 1399, 1402–03 (Dec. 2009).

[50] SCS Engineers, Technology and Management Options for Reducing Greenhouse Gas Emissions. Prepared for California Integrated Waste Management Board.

[51] California Code of Regulations, title 17, subchapter 10, article 4, subarticle 6, section 95467, Methane Emissions from Municipal Solid Waste Landfills.

[52] California Code of Regulations, title 17, subchapter 10, article 4, subarticle 6, sections 95460 to 95476, Methane Emissions from Municipal Solid Waste Landfills.

version 4.0 of its Landfill Protocol.[53] This protocol includes waste-in-place thresholds for landfills that recover energy and those thresholds vary from 0.72 million Mg for landfills located in a non-arid area (receiving 25 inches or greater precipitation per year) to 2.17 million Mg for landfills located in an arid area (receiving less than 25 inches of precipitation per year) to determine what offset projects are eligible. Coupling a precipitation indicator with a waste-in-place threshold recognizes that LFG emission generation rates are affected by the quantity of waste disposed as well as the moisture present in the landfill, either due to the local climate, or other liquids added to a landfill, as discussed earlier in this section IV.B.1.

The EPA requests input on whether it should pursue an alternative set of thresholds to determine which landfills are subject to the revised emission guidelines and what criteria trigger the installation of a GCCS.

vi. Potential Unique Treatment of Landfills Located in Wet Climates or Those Employing Leachate Recirculation or Other Liquids Addition

The EPA also seeks input on whether it should consider reducing the design capacity thresholds or initial and expansion lag times for landfills that are located in a wet climate or that recirculate leachate or add other liquids to the landfills to accelerate decomposition of the waste. Wetter wastes decompose more quickly than drier wastes and as a result generate more LFG in the short term. Therefore, it may be appropriate to require these landfills to install and expand the gas collection system sooner. Similarly, smaller landfills in wetter climates, or those employing leachate recirculation (or other liquids addition), may also generate earlier spikes in LFG emissions that could exceed the NMOC threshold. Although these landfills are not affected by the current design capacity threshold of 2.5 million Mg and 2.5 million m^3, if a smaller design capacity threshold or an alternative waste-in-place based threshold were adopted for these wet landfills, more emission reductions may be achieved.

If a separate set of thresholds and/or lag times were to apply to these wet landfills, or if an adjusted modeling provision were adopted (see section IV.E.1 of this document), the EPA requests input on how a wet landfill might be defined. For example, a wet landfill could be defined as a landfill that has precipitation of greater than 25 inches per year and/or recirculates leachate or adds other liquids to the landfill.

vii. Definition of Modification

The EPA in this ANPRM is seeking input on options to achieve additional emissions reductions from existing landfills under CAA section 111(d). In light of our interest in reducing the methane and NMOC components of LFG, the EPA is also seeking input on whether it is reasonable to review the definition of modification for landfills. The EPA solicits input on changes that may be appropriate and whether these changes should be enacted to achieve additional emission reductions.

C. Emission Reduction Techniques and GCCS Best Management Practices

As mentioned previously, the EPA is considering potential changes within the current regulatory framework of the landfills regulations for existing sources that would achieve further emission reductions. This section discusses specific LFG control technologies and BMPs for GCCS and landfill operations to improve gas collection efficiencies.

The EPA is soliciting input to evaluate the emission reductions achieved by the specific technologies and BMPs discussed later in this section to assess whether any technologies and practices could be applied to the landfills regulations for existing sources to achieve further reductions of LFG.

The EPA will review the performance data, practical application, and cost of these BMPs or technologies to determine if and how they could be incorporated in conjunction with the current performance-based standard. Promotion of technologies and practices to achieve reductions of GHG from landfills complements the recently issued Methane Action Plan discussed in section II of this document.

The EPA is also requesting input on other technologies or BMPs that might be appropriate to encourage under the emission guidelines, the cost and emission reduction potential of each of these alternatives, and how each of these other approaches might be incorporated into the current rule framework or a new alternative rule framework.

1. Oxidation Technologies

The EPA is considering whether any emerging technologies may achieve additional emission reductions for existing landfills. As part of its consideration, the EPA will evaluate the extent to which the technology is adequately demonstrated for existing landfills.

The EPA is aware of several technologies that increase the methane oxidation rate, thereby reducing the amount of methane that could escape through the surface of the landfill. The principle of these technologies is the use of methanotrophic bacteria, commonly found in most soils and compost, to oxidize methane into water, carbon dioxide, and biomass.

A biocover is a cover material designed to enhance methane oxidation and is typically made of two layers—a permeable layer that consists of gravel, broken glass, sand or other media to evenly distribute the LFG to the oxidation media and an oxidation layer that typically consists of soil, compost, mulch or other organic media. The oxidation media contains methanotrophic bacteria from the waste decomposition process. One disadvantage of alternative cover technologies is their sensitivity to environmental conditions because the productivity of methanotrophic bacteria is highly dependent on the bacteria's surroundings. Certain conditions, including temperature, moisture and pH, must be maintained to optimize methane oxidation rates.[54]

Methane oxidation occurs to some degree in various types of traditional landfill covers, including simple soil covers. Some landfills use compost, yard waste and other organic wastes and materials as a type of naturally occurring biocover. Chipped rubber tires, Styrofoam and yard waste are other common types of waste that could serve as good methanotrophic media when mixed with soil or compost.[55]

The most common biocover in use at landfills is shredded yard waste used as alternative daily cover.[56] Biocovers consisting of naturally occurring and often readily available materials may provide a cost effective method to increase methane oxidation, thus decreasing methane emissions, at the surface of existing landfills. The EPA is requesting information to characterize the prevalence of the practice of using these types of naturally occurring biocovers at existing U.S. landfills and

[53] Climate Action Reserve. Landfill Project Protocol. Version 4.0. June 29, 2011.

[54] BAAQMD. Greenhouse Gas Mitigation: Landfill Gas and Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters. Bay Area Air Quality Management District, prepared by URS Corporation. April 2008.

[55] BAAQMD. Greenhouse Gas Mitigation: Landfill Gas and Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters. Bay Area Air Quality Management District, prepared by URS Corporation. April 2008.

[56] Sullivan, P. The Importance of Landfill Gas Capture and Utilization in the U.S. April 6, 2010.

the costs to manage and apply these materials.

The MSW landfills subpart of the GHGRP (40 CFR part 98, subpart HH) had used a default value of 10 percent for the amount of methane oxidized when calculating methane emissions from MSW landfills. However, recent research studies indicate that a default value of 10 percent may be underestimating the level of oxidation occurring at existing landfills and the amount of methane oxidized may be considerably higher, depending on cover type and other site-specific conditions.[57] A 2009 literature review found an average value of 35 percent for traditional landfill cover methane oxidation rates.[58] A 2011 article documents a 4-year research study of over 37 seasonal sampling events at 20 landfills across the United States with intermediate covers reported up to 37 percent average oxidation for soil covers.[59] In addition, recent research demonstrates that daily soil covers oxidize methane to a greater degree than many low permeability final soil covers, suggesting oxidation rates of 20 to 55 percent.[60] As a result, recent final revisions to the GHGRP published in the **Federal Register** on November 29, 2013 (78 FR 71904), now allow for the use of higher oxidation values (25 percent and 35 percent), in addition to the 10 percent value, if methane flux through the soil cover is of a certain amount and there is 24 inches or more of soil cover.[61] Co-oxidation of NMOC has been observed during use of these alternative landfill cover materials, which has the potential to reduce odors and toxic air pollutants.[62]

Biocover application costs may vary widely depending upon availability of material and the level of monitoring, and many materials would most likely be on site or easily obtained for free or for a nominal cost associated with transporting the materials from a nearby or co-located yard waste or compost facility.[63]

RCRA Subtitle D addresses cover and capping requirements for MSW landfills. Specific requirements address the frequency and type of covers allowed, including provisions for requesting the use of alternative materials (40 part 258, subpart C). These operating parameters are in place to control disease vectors, fires, odors, blowing litter and scavenging at the landfill, but are not covers that specifically promote oxidation of LFG. Design criteria for final cover systems (40 part 258, subpart F) were also established to minimize water infiltration and erosion of the landfill, rather than release of LFG or its constituents. Rules regarding the use of daily, intermediate and final cover are governed by RCRA Subtitle D; however, research indicates that biocovers may help to reduce emissions of methane, a primary constituent of LFG.

Another method for increasing the oxidation rate is to route passively vented LFG through a vessel containing methane-oxidizing media, commonly referred to as a biofiltration beds or biofilters. Biofilter media have included compost or chipped yard waste mixed with recycled shredded tires or Styrofoam peanuts as well as sand and soil mixtures. Choosing the proper media with sufficient gas conductivity is important to reduce the possibility of back pressure in the landfill.[64] Biofilters have been tested for use at landfills over only the past 10 to 15 years. Studies of passively-aerated methane biofilters have shown methane oxidation rates vary widely by type of biofilter media but could reach values between 19 and 98 percent.[65] [66]

Biofilters are likely feasible for use at small existing landfills or existing landfills with passive gas collection systems due to the size of the biofiltration bed required to treat the mixture of air and LFG. Due to the nature of passive gas collection systems, this technology lacks the ability to control and monitor the oxidation of methane in the LFG.[67] In general, biofilter costs are expected to be lower than biocover costs due to their smaller scale and utilization of existing passive vents.

No data exist on the long-term performance, effectiveness, or maintenance requirements of biocovers or biofilters.[68] [69] [70] Therefore, the EPA is requesting information about application of these technologies to better understand these characteristics for full-scale use of biocovers and biofilters. The EPA is also seeking input on biocover parameters and their effect on oxidation. Such parameters may include depth, soil characteristics, measurement and their affect on percent oxidation. The EPA is also seeking input on appropriate mechanisms to monitor the performance of these alternatives.

2. Best Management Practices

The EPA is considering how certain BMPs that achieve additional emission reductions for existing landfills may be encouraged under a revised regulatory framework. The EPA seeks input on how to demonstrate that the BMPs are properly implemented and what additional maintenance records or other requirements might demonstrate that the BMPs can ensure the same level of environmental protection as the current framework. The EPA also invites input on other requirements that could be adjusted to encourage BMPs.

i. LFG Collection From Leachate Removal Systems

The EPA is aware of landfills that have connected the LFG collection system and leachate collection system; however, references suggest that connection of these systems is not common at landfills that do not employ leachate recirculation.[71] The efficiency

[57] Sullivan, P. The Importance of Landfill Gas Capture and Utilization in the U.S. April 6, 2010.

[58] Chanton, J.; Powelson, D.; Green, R. Methane oxidation in landfill cover soils, is a 10% default value reasonable? *Journal of Environmental Quality*. 38, 654–663 (2009).

[59] Chanton, J.; Abichou, T.; Langford, C.; Hater, G.; Green, R.; Goldsmith, D.; Swan, N. Landfill Methane Oxidation Across Climate Types in the U.S. *Environmental Science And Technology*. 45, 313–319 (2011).

[60] Sullivan, P. The Importance of Landfill Gas Capture and Utilization in the U.S. April 6, 2010.

[61] If methane flux is less than 10 grams per square meter per day, then a 35 percent oxidation fraction can be used. If methane flux is between 10 to 70 grams per square meter per day, then a 25 percent oxidation fraction can be used. If methane flux is greater than 70 grams per square meter per day, then a 25 percent oxidation fraction can be used.

[62] U.S. EPA. Available and Emerging Technologies for Reducing Greenhouse Gas Emissions from Municipal Solid Waste Landfills. June 2011.

[63] BAAQMD. Greenhouse Gas Mitigation: Landfill Gas and Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters. Bay Area Air Quality Management District, prepared by URS Corporation. April 2008.

[64] BAAQMD. Greenhouse Gas Mitigation: Landfill Gas and Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters. Bay Area Air Quality Management District, prepared by URS Corporation. April 2008.

[65] Abichou, T.; Chanton, J.; Powelson, D. Field Performance of Biocells, Biocovers, and Biofilters to Mitigate Greenhouse Gas Emissions from Landfills. Florida Center for Solid and Hazardous Waste Management, University of Florida. March 2006.

[66] Morales, J.J. Mitigation of Landfill Methane Emissions from Passive Vents by Use of Oxidizing Biofilters. Fall 2006.

[67] U.S. EPA. Available and Emerging Technologies for Reducing Greenhouse Gas Emissions from Municipal Solid Waste Landfills. June 2011.

[68] U.S. EPA. Available and Emerging Technologies for Reducing Greenhouse Gas Emissions from Municipal Solid Waste Landfills. June 2011.

[69] Abichou, T.; Chanton, J.; Powelson, D. Field Performance of Biocells, Biocovers, and Biofilters to Mitigate Greenhouse Gas Emissions from Landfills. Florida Center for Solid and Hazardous Waste Management, University of Florida. March 2006.

[70] Yazdani, R, and Imhoff, P. Contractor's report to CalRecycle: Biocovers at Landfills for Methane Emissions Reduction Demonstration. October 2010.

[71] SCS Engineers, Technology and Management Options for Reducing Greenhouse Gas Emissions. Prepared for California Integrated Waste Management Board. Prepared by SCS Engineers. April 2008.

of capturing LFG emissions through this BMP depends on the efficiency of both the LFG collection system and the leachate recirculation system. Section 60.752(b)(2)(i)(D) of subpart WWW recognizes that leachate collection components may be part of a site-specific collection and control system design plan. Because the design plan is not prescriptive and instead contains design and operational standards that are site-specific, the design plan has the flexibility to include collection of LFG from leachate collection systems.

The cost of each connection of GCCS to a leachate removal system would include $400 to $650 for a LFG wellhead and $10 to $15 per foot for a 3- or 4-inch HDPE pipe (2008 cost estimates).[72] However, there are currently no broad mandates for requiring gas collection from leachate removal systems. The EPA requests input on the efficacy and costs of enhancing gas collection systems to collect LFG from leachate removal or storage systems. The EPA also requests information on the types of landfills currently collecting gas from leachate removal systems and the specifics of the gas collection systems used in practice. The EPA will use this information to evaluate if and when the use of an enhanced gas collection system that collects LFG from the leachate removal system may be appropriate.

ii. Preventing Waterlogged Wells

The EPA also seeks input on requiring a gas collection system to more proactively prevent waterlogged wells, perhaps through the use of leachate removal pumps or alternative GCCS infrastructure. Leachate and condensate can accumulate in collection wells, blocking LFG capture. Because a flooded well cannot collect gas, fixing a flooded well would have a high emission reduction potential.

The most practical and cost effective method for keeping liquid out of gas extraction wells is to prevent its entry in the first place by ensuring proper sealing and grading at the surface. Infiltration of leachate from within the waste mass is more difficult to control. Once liquid is inside the well, it often must be removed via pumping to restore the gas collection capability of the well. When performed in conjunction with effective leachate removal, it may be possible to dewater wells with a portable pump and a mobile storage tank that can be used to transport liquid removed from the well to a suitable leachate disposal point. Multiple iterations of dewatering could be required at each well because liquid often seeps back into the well after pumping. While labor intensive, this approach alleviates the need for a dedicated pump and piping at multiple wells. If liquid accumulation in wells is an ongoing issue, then a dedicated pumping system may be suitable. Long term costs for a dedicated pumping system are still high, including the initial cost of pumps and piping, as well as ongoing operation and maintenance costs and disposal of the leachate. A single well dewatering pump system could cost over $3,000,[73] but could also improve LFG collection and GHG emission reduction.

Another method for reducing GHG emissions at landfills with waterlogged wells is to install a surface collector. A surface collector usually consists of perforated pipes laid across the top of the waste mass and covered by an impermeable geomembrane or by final cover. Surface collectors can be used to collect gas from a wet landfill where traditional horizontal and vertical wells fail due to water infiltration. Surface collectors can be used with or instead of horizontal collector systems.[74] Because surface collectors are installed after final waste acceptance, they are not effective in controlling LFG emissions while the landfill is open and accepting waste. Surface collectors also do not apply a vacuum into the waste so they are only effective at controlling gas that has escaped other collection systems. Their impact on emissions is therefore expected to be low in cases where a well-designed and well-operated LFG collection system already exists. The overall cost of surface collectors is comparatively high due to additional geomembrane material costs, if they are not already required by regulations. One 2008 study estimates the cost of installing a geomembrane to be $40,000 to $50,000 per acre of landfill surface. If a landfill already has a geomembrane, the added cost would be $25 to $35 per linear foot for a 6-foot deep trench and gravel backfill.[75]

Wellhead operating parameters in 40 CFR part 60, subpart WWW require that each owner or operator of an MSW landfill either operate the collection system with a negative pressure at each wellhead or, in areas with a geomembrane or synthetic cover, establish acceptable pressure limits in the design plan. These performance standards help identify any inoperable wells resulting from flooding. Surface emissions monitoring would also help identify any elevated methane levels resulting from an inoperable well. Because some of the wells at existing landfills may have been installed for 15 years or more, the EPA requests input on whether the current combination of wellhead monitoring and surface emission monitoring is sufficient for identifying inoperable wells, especially in cases where wells have been installed for a significant amount of time. If the monitoring systems in 40 CFR part 60, subpart WWW are deficient for identifying flooded wells, the EPA also asks for input on whether any additional recordkeeping, such as periodic measurement of liquid levels in gas wells, might be useful to identify flooded wells that are not collecting gas. The EPA requests input on whether any more specific corrective action guidance should be developed, such as the need to dewater the well or employ alternative GCCS technologies such as surface collectors if a flooded well is identified.

iii. Redundant Seals

The EPA is also considering a BMP of requiring redundant seals and the use of enhanced sealing materials on wellheads. One study includes a survey using a forward-looking infrared camera suggesting that LFG wellheads and other surface penetrations present high potential for concentrated leaks of organic compounds.[76] The use of advanced seals at wellheads may help to ensure that the well can apply sufficient vacuum to the landfill to facilitate gas extraction while preventing leaks of LFG to the atmosphere. The design for vertical wells typically includes the use of bentonite or bentonite soil mixtures near the surface as part of the well boring backfill to reduce the potential for air to be pulled into the well.[77] Compacted backfill soil can also be considered, but may not be practicable and adds risk of damaging the well casing pipe. A well's connecting pipes

[72] California Integrated Waste Management Board, Technologies and Management Options for Reducing Greenhouse Gas Emissions From Landfills, April 2008.

[73] Kaminski, D. and M. Varljen. Increasing LFG Collection Rates Using Gas Well Dewatering Systems: Lessons Learned. 15th Annual LMOP Conference. January 2012.

[74] California Integrated Waste Management Board, Technologies and Management Options for Reducing Greenhouse Gas Emissions From Landfills, April 2008.

[75] California Integrated Waste Management Board, Technologies and Management Options for Reducing Greenhouse Gas Emissions From Landfills, April 2008.

[76] ARCADIS. Quantifying Methane Abatement Efficiency at Three Municipal Solid Waste Landfills. Prepared for U.S. EPA/ORD. January 2012.

[77] California Integrated Waste Management Board, Technologies and Management Options for Reducing Greenhouse Gas Emissions From Landfills, April 2008.

are typically sealed using three different techniques: (1) Bentonite clay seal, (2) compacted clay seal or (3) plastic well bore seal.

Because a good seal is critical for proper well performance, multiple seals are often used. Many engineers already require two and sometimes three seals in a well when preparing design plans for GCCS.[78] However, for wells that are not properly sealed, their zone of influence is likely reduced, resulting in LFG between wells not being collected. Costs can range from $500 to $2500 per well based on 2008 estimates depending on the type of seal used.[79]

Because the design plan is not prescriptive and instead contains design and operational standards that are site-specific, the design plan has the flexibility to determine the number or type of seals in order to accommodate the conditions and climates at different landfills. This site-specific approach also provides for continued flexibility for future design plans to incorporate new sealing materials that may be more efficient than those currently available. The design plan, coupled with wellhead and surface monitoring requirements, ensures that leaks from wells are minimized. The EPA is soliciting input on what mechanisms, if any, might be appropriate to further promote or mandate enhanced seals in this emission guidelines review.

iv. Early Installation of Final Cover

Early installation of final cover systems can also reduce methane emissions. Current rules for landfills under RCRA Subtitle D require intermediate cover (typically at least 12 inches of native soil) to be installed in areas of the landfill that are no longer receiving waste or will not be used for over 12 months within 180 days of final waste placement (40 CFR part 258, subpart C). The final cover system must consist of an infiltration layer of at least 18 inches of earthen material covered by an erosion layer of at least 6 inches of earthen material that is capable of sustaining native plant growth. An alternative cover design may be used as long as it provides equivalent protection against infiltration and erosion (40 CFR part 258, subpart F). Once a landfill has received its final shipment of waste, it must begin closure operations within 30 days. A landfill, however, may delay closure for up to 1 year if additional capacity remains. Any further delays after 1 year require approval from the appropriate state agency. After beginning, all closure activities must be completed within 180 days.

Despite these rules, landfill operators often leave intermediate cover in place for years or even decades and intermediate cover frequently is the only cover on the majority of the landfill surface. Recent studies indicate that installation of intermediate and final cover has a direct and significant effect on LFG emissions.[80] Intermediate cover significantly reduces emissions compared to daily cover on working faces. Final cover has the ability to reduce emissions even further compared to intermediate cover. By installing these more rigorous cover systems sooner, significant emissions may be prevented from being released. Furthermore, final cover has been shown to increase LFG collection efficiency at landfills with a gas collection system.[81] Early installation of cover should not incur any additional cost to the landfill as long as waste acceptance or placement plans do not change after the cover (particularly final cover) is installed. Early installation of cover could result in a cost savings due to the general increase in the cost of materials over time and the added gas collection realized when more rigorous cover systems are installed—especially if the gas is collected for beneficial use.

3. Organics Diversion and Source Separation

LFG is a by-product of the decomposition of organic material in MSW under anaerobic conditions in landfills. The amount of LFG created primarily depends on the quantity of waste and its composition and moisture content, as well as the design and management practices at the site. Decreasing the amount of organics disposed in landfills would decrease the generation of LFG.

Organic materials are historically the largest component of materials discarded in the MSW stream, constituting nearly 49 percent of discarded material in 2012. Food waste is the largest portion of the organic materials, followed by paper and paperboard, yard trimmings and wood wastes.[82] Material recovery, including composting and recycling, has been increasing over time for all materials, except rubber and leather. For example, the percent of paper and paperboard that is recovered has increased from 16.9 percent in 1960 to 62.5 percent in 2012. The amount of recovered yard trimmings has increased from negligible amount in 1960 to 57.7 percent in 2012. Recovered food waste has increased less significantly from negligible amounts in 1960 to 4.8 percent in 2012.[83]

Although material recovery has increased over time, states and cities with vigorous recovery programs have proven that a greater percentage recovery is possible. Organic waste diversion regulations and zero waste programs are currently in effect in multiple U.S. states and cities, with 183 municipalities providing separate curbside collection of residential food waste.[84] For example, state programs in California, Connecticut, and Massachusetts focus on diversion from commercial or certain multifamily residential waste generators.[85] [86] [87] Vermont's Universal Recycling Law implements a phased material ban beginning in 2016 for leaf and yard debris and food waste in 2020. City ordinances in New York City and Portland, Oregon, mandate materials separation from commercial and multifamily generators.[88] [89] Ordinances in Seattle and San Francisco extend the separation mandate to single family dwellings.[90] [91]

[78] *Ibid.*

[79] *Ibid.*

[80] Goldsmith et al., Methane Emissions from 20 Landfills Across the United States Using Vertical Radial Plume Mapping, *Journal of the Air & Waste Mgmt. Association,* 62:2, 183–197 (2012).

[81] Barlaz et al., Controls on Landfill Gas Collection Efficiency: Instantaneous and Lifetime Performance, *Journal of the Air & Waste Mgmt. Association,* 59, 1399–1404 (2009).

[82] U.S. EPA, Municipal Solid Waste Generation, Recycling, and Disposal in the United States Tables and Figures for 2012. February 2014. *http://www.epo.gov/woste/nonhoz/municipol/pubs/2012_msw_dot_tbls.pdf.*

[83] U.S. EPA, Municipal Solid Waste Generation, Recycling, and Disposal in the United States Tables and Figures for 2012. February 2014. *http://www.epo.gov/woste/nonhoz/municipol/pubs/2012_msw_dot_tbls.pdf.*

[84] Residential Food Waste Collection in the U.S. *Biocycle.* 54:3, 23, March 2013.

[85] California Code of Regulations, title 14, division 7, chapter 9.1, article 4, subarticle 6, section 18835, Mandatory Commercial Recycling. *http://www.colrecycle.co.gov/recycle/commerciol/*

[86] General Statutes of Connecticut, title 22a, chapter 446d, sections 22a–226e, Recycling of Source-Separated Organic Materials. *http://cgo.ct.gov/2014/sup/chop_446d.htm#sec_22o-226e*

[87] Code of Massachusetts Regulations, title 310 CMR 19.000. January 2014 amendments. *http://www.moss.gov/eeo/docs/dep/service/regulotions/wbreg14.pdf*

[88] City of Portland Administrative Rules, Business Solid Waste, Recycling and Composting, ENN–2.06 *http://www.portlondonline.com/ouditor/?c=27430&o=294923.*

[89] Administrative Code of the city of New York. Title 16, chapter 3, subchapter 2, section 1 (16–306.1). *http://legistor.council.nyc.gov/Legislotion Detoil.ospx?ID=1482542&GUID=DDD94082-C0E5-4BF9-976B-BBE0CD858F8F.*

[90] San Francisco Environment Code. Chapter 19, sections 1901–1912. Mandatory Recycling and Composting Ordinance. *http://www.sfenvironment.org/sites/defoult/files/policy/sfe_zw_sf_mondatory_recycling_composting_ord_100-09.pdf.*

Continued

In the 1996 Landfills NSPS Background Information Document (page 1–25) the EPA "decided not to include materials separation requirements within the final rules because the EPA continues to believe RCRA and local regulations are the most appropriate vehicle to address wide-ranging issues associated with solid waste management for landfills."

Although the EPA is not requesting input on mandating source separation under the upcoming emission guidelines review, the EPA is soliciting input and ideas for encouraging organic waste diversion under the revised emission guidelines, including the specific mechanisms described below and in section IV.E of this document or other ideas in general.

One method to encourage organic waste diversion under the revised emission guidelines is to provide rule exemptions for landfills diverting 100 percent of organic wastes. The emission threshold determination provisions currently in 40 CFR part 60, subpart WWW allow non-degradable wastes to be excluded from the total waste mass when computing the NMOC emission rate. If only non-degradable wastes were accepted, then the waste inputs for the model would be zero, the emission thresholds would not be exceeded, and thus GCCS would not be required. The EPA solicits input on the methane emission reductions from organic and inorganic waste diversion and whether adjustments should be made to the annual NMOC reporting requirements for landfills not accepting organic materials.

4. Encouraging New Technologies and Practices

The EPA understands that the technologies, BMPs, and source separation practices discussed above can achieve reductions in emissions from landfills. The EPA is seeking input on whether the use of any of the technologies or practices discussed in this section in conjunction with a well-designed and well-operated GCCS should be considered as the EPA reviews the emission guidelines.

Section IV.E of this document discusses other mechanisms to encourage wider use of these technologies and practices such as emission threshold determination flexibilities.

[91] Seattle Municipal Code. Chapters 21.40 and 21.76. *http://www.seattle.gov/util/MyServices/FaadYard/BldgOwnersManagers_FaadYard/index.htm.*

5. Gas Control System Technology

Subpart WWW of 40 CFR part 60 currently requires all control devices other than enclosed combustion devices to demonstrate 98-percent reduction by weight of NMOC. Enclosed combustion devices have the option of reducing emissions to 20 ppm, dry volume of NMOC, as hexane. Both enclosed and non-enclosed flares as well as a suite of other energy recovery devices are used to meet the control requirements under the current regulatory framework.

Non-enclosed flares used at landfills meeting the criteria in 40 CFR 60.18(b) are thought to have destruction efficiencies similar to enclosed flares and incinerators, and devices that burn LFG to recover energy, such as boilers, turbines and internal combustion engines.

However, in April 2012 the EPA conducted an external peer review on flaring efficiency and made available to the public a draft technical report, "Parameters for Properly Designed and Operated Flares."[92] In the draft report, the EPA evaluated test data and identified a variety of parameters that may affect flare performance and that could be monitored to help assure good combustion efficiency. None of the flare performance data used in the report comes from flares used at MSW landfills, however, and the report does not provide any new test data on non-assisted flare types, which to our knowledge, are the only non-enclosed flare type found in this source category. Thus, while we have no new information to suggest that flares at MSW landfills complying with 40 CFR 60.18(b) will not achieve at least 98-percent destruction, we solicit input and additional information on flare performance specifically for this source category. Examples of information requested for this source category include: Prevalence of flaring; number and types of flares used; waste gas characteristics such as flow rate, composition and heat content; use of flare gas recovery and other flare minimization practices; and existing flare monitoring systems.

D. Alternative Monitoring, Reporting, and Other Requirements

In addition to the technologies, BMPs, and other approaches discussed in section IV.C of this document, the EPA is considering whether alternative monitoring and reporting requirements would be appropriate for existing landfills. These alternative approaches address concerns that have arisen in implementation of subpart WWW and state and federal plans implementing subpart Cc and provide an opportunity to increase the effectiveness of the regulation.

[92] U.S. EPA, Parameters for Properly Designed and Operated Flares, Report for Flare Review Panel, April 2012.

1. Wellhead Monitoring

The EPA is requesting public input on alternative wellhead monitoring requirements. Commenters have expressed concerns about the ability to consistently meet these parameters. One alternative monitoring provision could be in the form of an exclusion from the temperature and oxygen/nitrogen monitoring requirements, or a reduction in the frequency of monitoring. For example, the EPA could reduce the frequency of wellhead monitoring for these three parameters (temperature and oxygen/nitrogen) from monthly to a quarterly or semi-annual schedule. Owners or operators would continue to monitor the wellhead for negative pressure.

The EPA is specifically requesting input on whether any such adjustment should apply only to landfills that beneficially use LFG, and if so whether there should be a threshold for the quantity of LFG put to beneficial use above which sources would qualify for alternative wellhead monitoring (and below which they would not), or whether the beneficial use of any quantity of the recovered LFG should qualify for alternative wellhead monitoring. Alternatively, the EPA is requesting input on whether it would be more appropriate to require a certain percentage of the overall recovered LFG to be beneficially used in order to exempt landfills from or reduce the frequency of the wellhead monitoring requirements.

If EPA were to limit adjusted monitoring to landfills that beneficially use LFG, these alternatives could encourage new landfills to beneficially use LFG. Both of these alternative options (exclusion or reduced monitoring frequency) would provide monitoring relief to these landfills. Landfill owners and operators must continue to operate their GCCS in a manner that collects the most LFG and minimizes losses of LFG through the surface of the landfill. In addition, landfills would still have to prepare and submit to the regulating authority a gas collection design plan, prepared by a professional engineer.

Subparts Cc and WWW of 40 CFR part 60 require landfill owners and operators to operate each interior wellhead in the collection system with a LFG temperature less than 55°C and with either a nitrogen level less than 20

percent or an oxygen level less than 5 percent. Compliance with these requirements is demonstrated through monthly monitoring. Instead of having the landfill owner or operator conduct monthly monitoring of temperature and nitrogen/oxygen at the wellheads, the EPA is requesting input on relying on landfill surface emission monitoring requirements in combination with maintenance of negative pressure at wellheads to indicate proper operation of the GCCS and minimization of surface emissions. The potential removal of the temperature and nitrogen/oxygen operational standards and associated wellhead monitoring requirements for these three parameters would be complemented by the addition of the surface monitoring provisions discussed in section IV.D.2 of this document.

Given recent technological advancements in data storage and transmission, the EPA is also considering an alternative to automate the wellhead monthly monitoring provisions. Automation could reduce long-term burden on landfill owner/operators as well as state authorities by allowing for more frequent, but less labor-intensive, data collection through the use of a system consisting of remote wellhead sensors (i.e., thermistors, electronic pressure transducers, oxygen cells) and a centralized data logger.

The use of continuous monitoring would allow more immediate detection and repair. This would eliminate the time between when the exceedance of the parameter occurs and when it is detected. It could also improve enforceability of the rule by allowing inspectors to review information on the data logger in real time during a site visit. Another advantage to automating the monitoring is that it could provide flexibility for incorporating additional parameters into the monitoring program. The EPA is soliciting input on this alternative in general, including: (1) The types of parameters that are best suited for an automated monitoring alternative; (2) examples of successful automated monitoring programs at MSW landfills and their associated costs; (3) additional considerations for equipment calibration; and (4) input on any averaging times that might be appropriate to determine when one or more monitored parameters have been exceeded.

2. Surface Emissions Monitoring

The EPA is requesting input on potential alternative approaches to the surface emission monitoring specified in 40 CFR part 60, subpart WWW. Subpart WWW collection and control requirements are intended for landfills to maintain a tight cover that minimizes any emissions of LFG through the surface. The surface emissions monitoring procedures in subpart WWW require quarterly surface emissions monitoring to demonstrate that the cover and gas collection system are working properly. The operational requirements in subpart WWW (40 CFR 60.753(d)) specify that the landfill must ". . . operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at 30 meter intervals and where visual observations indicate elevated concentrations of LFG, such as distressed vegetation and cracks or seeps in the cover."

Subpart WWW of 40 CFR part 60 includes provisions for increased monitoring and corrective procedures if readings above 500 ppm are detected. Instrumentation specifications, monitoring frequencies, and monitoring patterns are structured to provide clear and straightforward procedures that are the minimum necessary to assure compliance.

We are requesting public input on potential alternatives to the surface monitoring procedures in 40 CFR part 60, subparts Cc and WWW. Potential alternatives could include provisions such as those in the California landfill methane regulation [93] and include changing the walking pattern for inspecting the surface of the landfill, adding an integrated methane concentration measurement, and allowing sampling only when wind is below a certain speed.

We are requesting input on reducing the interval for the walking pattern that traverses the landfill from 30 meters (98 ft.) to 25 ft. We are also requesting input on the addition of an average methane concentration limit of 25 ppm as determined by integrated surface emissions monitoring. This would be in addition to the 500 ppm emission concentration as determined by instantaneous surface emissions monitoring. Integrated surface emissions monitoring provides an average surface emission concentration across a specified area. For integrated surface emissions monitoring, the specified area would be individually identified 50,000 square foot grids. A tighter walking pattern and the addition of an integrated methane concentration would more thoroughly ensure that the collection system is being operated properly, that the landfill cover and cover material are adequate, and that methane emissions from the landfill surface are minimized. As part of these potential changes, the EPA is also requesting input on not allowing surface monitoring when the average wind speed exceeds 5 miles per hour or the instantaneous wind speed exceeds 10 miles per hour because air movement can affect whether the monitor is accurately reading the methane concentration during surface monitoring. We are considering this change because measurements during windy periods are usually not representative of emissions.

We are also soliciting information and associated data on the cost and assumptions for conducting enhanced surface monitoring as described here. Several factors contribute to the cost of enhanced surface monitoring. Monitoring along a traverse with a 25 ft. interval would increase monitoring time, and, thus, the labor costs, compared to monitoring along a 30 meter (98 ft.) interval. Monitoring along the tighter traverse pattern would take approximately four times as long, because the distance is approximately four times when covering a 50,000 square foot grid. For a landfill to conduct the integrated surface emissions monitoring, the EPA assumes the landfill would rent a handheld portable vapor analyzer with a data logger. The data logger would be necessary to obtain an integrated reading over a single 50,000 square foot grid. However, the EPA does not expect that requiring an integrated methane concentration would add significant cost because landfills could use the same instrument that they currently use for the instantaneous readings. These instruments can be programmed to provide an integrated value as well as an instantaneous value.

The EPA recognizes that while these provisions could minimize surface emissions, the actual reduction in emissions is difficult to quantify. Surface monitoring is a labor intensive process and tightening the grid pattern would increase costs. Thus, the EPA is soliciting input on techniques and data to estimate the reductions associated with enhanced surface monitoring.

The EPA is also requesting input on allowing the use of alternative remote measurement and monitoring techniques for landfills that exceed the surface monitoring concentrations in 40 CFR part 60, subpart Cc. The EPA

[93] California Code of Regulations, title 17, subchapter 10, article 4, subarticle 6, sections 95460 to 95476, Methane Emissions from Municipal Solid Waste Landfills.

would like information to determine whether to allow these alternative techniques to be used to demonstrate that surface emissions are below the specified methane surface concentrations. Alternative remote measurement and monitoring techniques may include radial plume mapping (RPM), optical remote sensing, Fourier Transform Infrared (FTIR) spectroscopy, cavity ringdown spectroscopy (CRDS), tunable diode laser (TDL), tracer correlation, micrometeorological eddy-covariance, static flux chamber or differential absorption. The EPA is also seeking input on the frequency of testing and the format of the standard if we allow the use of these technologies as an alternative to average surface concentrations as measured by Method 21. Incorporation of these technologies would require a change in format of the standard to be consistent with the technology.

3. Alternative Monitoring Provisions for LFG Treatment

The EPA is requesting input on defining treatment system as a system that filters, dewaters and compresses LFG. This alternative approach would be consistent with public commenters on previous landfills documents (67 FR 36475, May 23, 2002; 71 FR 53271, September 8, 2006). It is also consistent with input from participants in governmental outreach, who stated that the extent of filtration, de-watering and compression can be site dependent, and that different sites require different levels of gas treatment to protect the combustion devices that use treated LFG as a fuel and ensure good combustion. The alternative definition of treatment system would allow the level of treatment to be tailored to the type and design of the specific combustion equipment in which the LFG is used. If treatment system was defined in this manner, owners/operators would need to identify monitoring parameters and keep records that demonstrate that such parameters effectively monitor filtration, de-watering or compression system performance necessary for the end use of the treated LFG.

Owners/operators would also need to develop a site-specific treatment system monitoring plan that would not only accommodate site-specific and end-use specific treatment requirements for different energy recovery technologies, but would also ensure environmental protection. Preparing the monitoring plan would document procedures that landfills are likely already following to ensure that the LFG has been adequately treated for its intended use.

The plan would be required to include monitoring parameters addressing all three elements of treatment (filtration, de-watering, and compression) to ensure the treatment system is operating properly for the intended end use of the treated LFG. The plan would be required to include monitoring methods, frequencies and operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis for the intended end use of the treated LFG. Documentation of the monitoring methods and ranges, along with justification for their use, would need to be included in the site-specific monitoring plan. In the plan, the owner/operator would also need to identify who is responsible (by job title) for data collection, explain the processes and methods used to collect the necessary data, and describe the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems.

The owner or operator would be required to revise the monitoring plan to reflect changes in processes, monitoring instrumentation and quality assurance procedures; or to improve procedures for the maintenance and repair of monitoring systems to reduce the frequency of monitoring equipment downtime. The EPA requests input on the definition of treatment system and the creation of site-specific treatment system monitoring plans.

4. Monitoring and Reporting Flexibility

Regulatory agencies and landfill owners and operators have expressed concerns about the burden and response time of agencies responsible for reviewing and approving design plans, Alternative Compliance Timeline (ACT) requests, alternative remedies and higher operating value (HOV) requests.

One way to minimize the need for such reviews would be to provide more flexibility in wellhead monitoring provisions, as described in section IV.D.1 of this document.

The EPA also solicits input on other ways to streamline the monitoring, reporting and notification provisions as part of its review of the emission guidelines. For example, currently the subparts Cc and WWW of 40 CFR part 60 require site-specific design plan review and approval procedures, recognizing the unique site-specific topography, climate and other factors affecting the design of a GCCS. However, the EPA solicits input on ways to streamline the design plan submission and approval procedures as part of its review of the emissions guidelines. Examples of streamlining may include the potential development of a process by which approved alternative operating parameters could be automatically linked to updates of design plans or development of a process by which alternative operating parameters and updated design plans could be approved on a similar schedule.

The EPA is also seeking input on the possibility of establishing a third-party design plan certification program. The third-party program would supplement or replace the current approach of requiring the EPA or state review and approval of site-specific design plans and plan revisions with a program by which independent third parties would review the design plans, determine whether they conform to applicable regulatory criteria, and report their findings to the approved state programs or the EPA (for states without approved programs). The program would be designed to ensure that the third-party reviewers are competent, independent, and accredited, apply clear and objective criteria to their design plan reviews, and report appropriate information to regulators. Additionally, there would need to be mechanisms to ensure regular and effective oversight of third-party reviewers by the EPA and/or states that may include public disclosure of information concerning the third parties and their performance and determinations. Utilizing a third-party certification program could help to standardize and expedite design plan reviews, and reduce the burden on state regulators. The EPA is considering a broad range of possible design features for such a program. Such features include those discussed or included in several articles,[94] [95] [96] rules [97] [98] [99] and programs.[100] [101]

[94] McAllister, Lesley K., Third-Party Programs to Assess Regulatory Compliance, Presented at the Administrative Conference of the United States, October 22, 2012.

[95] Esther Duflo, et al., Truth-Telling By Third-Party Auditors and the Response of Polluting Firms: Experimental Evidence From India, 128 Quarterly Journal of Economics 4 at 1499–1545 (2013).

[96] First Annual Oversight Report of the Decentralized Gateway Vehicle Inspection Program, Missouri Department of Natural Resources and the Missouri State Highway Patrol, 2008. *http://www.dnr.mo.gov/gatewayvip/docs/enforcementrpt.pdf.*

[97] Renewable Fuel Standard program. *http://www.epa.gov/OTAQ/fuels/renewablefuels/.*

[98] Wood Heater Compliance Monitoring Program. *http://www.epa.gov/compliance/monitoring/programs/caa/woodheaters.html.*

[99] Mandatory Greenhouse Gas Emissions Reporting, California Environmental Protection Agency. *http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep.htm.*

[100] Massachusetts Department of Environmental Protection, Third-Party Underground Storage Tank

We are considering the possibility of requiring sources to make design plans (including revisions) available online and easily accessible to the public as well as any impediment to doing so. We are also seeking input on what constitutes a reasonable time period for sources to make the design plans available online.

In addition to electronic storage of design plans, the EPA also plans to include electronic reporting in the forthcoming proposal that could amend subparts Cc and WWW of 40 CFR part 60 as a result of this review.

E. Alternative Emission Threshold Determination Techniques

The EPA is considering adjusting the emission threshold determinations that dictate when a GCCS must be installed, including variations in the modeling parameters as well as adding site-specific emission threshold determination. These alternatives may provide additional reporting and compliance flexibilities for owners and operators of affected landfills, including those that use new technologies to increase oxidation of emissions, employ BMPs to increase the effectiveness of GCCS, or increase organics diversion and source separation practices.

1. Modeling Adjustments

An affected landfill currently has three different options (tiers) for estimating whether the landfill exceeds the NMOC emission threshold of 50 Mg per year. The simplest of these, the Tier 1 calculation method, uses default values for the potential methane generation capacity (L_0) and methane generation rate (k) to determine when the landfill exceeds the 50 Mg NMOC per year emission threshold. The default L_0 is 170 m^3 per Mg of waste (equal to 5,458 cubic feet methane per ton of waste) and the k values are 0.05 per year for areas receiving 25 inches or more of rainfall per year and 0.02 per year for areas receiving less than 25 inches of rainfall. The Tier 1 default NMOC concentration is 4,000 parts per million by volume (ppmv) as hexane. If the Tier 1 calculated NMOC exceeds 50 Mg per year, the landfill must install controls or demonstrate, using more complex Tier 2 or 3 procedures, that NMOC emissions are less than 50 Mg per year.

A revised rule could allow for alternative Tier 1 default values and modeling techniques based on the amount of organics in the waste. For example, the L_0 is a function of the moisture content and organic content of the waste and L_0 decreases as the amount of organic matter decreases. Recent studies have shown that average U.S. landfill L_0 values have decreased 22 percent between 1990 and 2012 (from 102.6 m^3 per Mg of waste to 79.8 m^3 per Mg of waste) due to increased recovery of organic materials.[102] A revised rule could allow for landfill-specific L_0 values to be calculated based on the amount of degradable organic carbon (DOC), similar to components of Equation HH–1 in the GHGRP for MSW landfills (40 CFR part 98, subpart HH).

Subpart HH of the GHGRP also provides separate k-values for different types of materials, which could be used as alternate Tier 1 default values in revised emission guidelines. Sewage sludge and food waste have the highest k values, followed by garden waste, diapers, paper, textiles and wood and straw.[11]

The IPCC model employs a modeling method to accommodate separate k and DOC modeling parameters as well as separate calculations for six different categories of organic wastes.[103]

If the EPA pursues incorporating alternative Tier 1 modeling values in any revised emission guidelines, the EPA would also need to allow for an alternative first-order decay model structure to compute a total methane generation rate for the landfill based on the sum of the methane generated from each separate waste stream. This alternative model may incorporate material-specific k and L_0 values, instead of a single pair of k and L_0 values applied to bulk MSW. The EPA requests input on whether the alternative modeling parameters and model structure in subpart HH of 40 CFR part 98, or other default parameters or modeling procedures would be appropriate to use for emission threshold determinations in revised emission guidelines.

The EPA also requests input on whether such an alternative modeling procedure would be limited to only those landfills that are employing organic diversion or source separation.

2. Site-Specific Measurements

As indicated above, under the current emission guidelines, there are three different tiers available to an affected landfill to estimate whether the landfill exceeds the NMOC emission threshold of 50 Mg/yr. If an affected landfill fails a Tier 2 test (i.e., the calculated NMOC emissions are greater than 50 Mg/yr), then the landfill must conduct Tier 3 testing or install and operate an active GCCS.

The EPA received input recommending the addition of a new Tier 4 surface emission monitoring (SEM) demonstration to allow increased flexibility for landfills that exceed modeled NMOC emission rates if they can demonstrate that site-specific methane emissions are actually low. This SEM demonstration would be conducted using procedures similar to those currently in 40 CFR part 60, subpart WWW (see 40 CFR 60.755(d)). If the monitoring finds that methane emissions are below a level that the EPA adopts in the revised emission guidelines, then installation of a GCCS could be delayed.

As an example, the California Air Resources Board (ARB) adopted the Methane Emissions from MSW Landfills regulation in 2009.[104] Under this rule, if a landfill exceeds the waste-in-place and heat input thresholds, the landfill may conduct an SEM demonstration prior to being required to install a GCCS. If the measured surface methane emissions exceed 200 ppm, the landfill must install a GCCS. This SEM demonstration is similar to the Tier 4 option being considered by EPA.

The EPA is soliciting input about this new Tier 4 option or other ideas for more flexible emission threshold determination "Tiers" and what implementation procedures may be appropriate for each determination. As the EPA takes this new Tier 4 option under consideration, there are some implementation procedures that would need to be established. The EPA requests input on all aspects of implementing a new Tier 4 option, including the following specific items: (1) Which areas of the landfill would be subject to SEM requirements because these areas would no longer be limited to areas with GCCS installed; (2) what number of exceedances over a specified time period would require GCCS installation (40 CFR part 60, subpart WWW specifies a new well must be installed at three or more exceedances

Inspection Program. *http://www.mass.gov/eea/agencies/massdep/toxics/ust/third-party-ust-inspection-program.html.*

[101] Massachusetts Licensed Hazardous Waste Site Cleanup Professional Program, *http://www.mass.gov/eea/agencies/massdep/cleanup/licensed-site-professionals.html.*

[102] Stege, Alex. The Effects of Organic Waste Diversion on LFG Generation and Recovery from U.S. Landfills. SWANA's 37th Annual Landfill Gas Symposium. 2014.

[103] Intergovernmental Panel on Climate Change (IPCC), *IPCC Guidelines for National Greenhouse Gas Inventories.* Volume 5 (Waste), Chapter 3 (Solid Waste Disposal). 2006.

[104] California Code of Regulations, title 17, subchapter 10, article 4, subarticle 6, section 95463, Methane Emissions from Municipal Solid Waste Landfills.

in a quarter); (3) what frequency of SEM demonstration (e.g., quarterly monitoring for landfills accepting waste, annual monitoring for closed landfills) is appropriate; (4) what exceedance level is appropriate for determining if a GCCS must be installed (200 ppm or some other level); and (5) whether the Tier 4 option would apply to all landfills that could demonstrate surface emissions less than the determined exceedance level, regardless of how this level was achieved; or, whether this option would be made available to only those landfills employing and maintaining oxidative cover practices, utilizing biofiltration cells, or implementing other established best practices or organics diversion programs as discussed later in this section.

F. Considerations for Implementation at Closed vs. Active Landfills

The landfills included as part of this review include landfills that have accepted waste since November 8, 1987, and that commenced construction, reconstruction or modification before July 17, 2014. Table 3 of this document summarizes the closure patterns of the approximately 1,800 landfills potentially affected by 40 CFR part 60, subparts Cc and WWW.[105]

TABLE 3—AGE DISTRIBUTION OF EXISTING LANDFILLS

When did landfill stop accepting waste?	All landfills		Landfills with design capacity of 2.5 million Mg or greater	
	Number of landfills	Cumulative waste-in-place (tons) in 2014	Number of landfills	Cumulative waste-in-place (tons) in 2014
Before 1990 [a]	33	84,300,000	10	63,200,000
Between 1990 and 1995	335	662,300,000	62	465,500,000
Between 1995 and 2000	242	583,300,000	56	429,500,000
Between 2000 and 2005	97	402,300,000	29	343,000,000
Between 2005 and 2010	82	310,900,000	27	250,500,000
Between 2010 and 2013	77	469,800,000	31	408,400,000
N/A. Active as of 2014 [b]	966	6,695,300,000	739	6,493,000,000
Total	1,832	9,208,200,000	954	8,453,100,000

[a] But accepted waste after November 8, 1987.
[b] Excludes model landfills that began operating in 2014 and are expected to be subject to the proposed subpart XXX NSPS for MSW Landfills.

The EPA recognizes that existing landfills represent a wide range of points in the life cycle of a typical landfill. Approximately 39 percent of the existing landfills (707/1,832) closed prior to 2005 and those landfills collectively account for approximately 19 percent of the total waste disposed through 2014. Because these wastes were disposed of between 10 and 25 years ago, the LFG emission rates from these older sites are decreasing and have a significantly smaller contribution to emissions from this source category.

Given the wide range of points within a lifecycle that are represented by potentially affected existing landfills, and recognizing that some of the affected sites have not disposed of waste in over 25 years, the EPA believes that the implementation of any adjustments to the current framework or incorporation of alternative control frameworks or monitoring requirements may affect active landfills differently than inactive landfills. Therefore, the EPA requests input on how adjusting the current framework, selecting an alternative framework or modifying the monitoring requirements should be evaluated in terms of practicality, cost and emission reductions as these adjustments affect landfills of various ages and activity levels.

G. Implementation Issues

Since the landfills emission guidelines were promulgated in 1996, the EPA has become aware of a number of implementation issues for which landfill owners and operators, as well as regulators, need clarification. This section presents those issues and requests input on those clarifications and potential resolutions.

1. LFG Treatment

In this document, the EPA is soliciting input on what constitutes sufficient LFG treatment. In the **Federal Register** document proposing a new subpart resulting from its review of the landfills NSPS (40 CFR part 60, subpart XXX), the EPA refined a numeric definition of LFG treatment and solicited input on a non-numeric definition that required compression, dewatering, and filtration of LFG, as well as the creation of a site-specific monitoring plan. The EPA requests input on whether a non-numeric or numeric treatment requirement is appropriate for landfills subject to the emission guidelines. Further, the EPA requests input on whether previously proposed definitions of LFG treatment should be adopted or if other approaches to LFG treatment should be explored. We are also requesting input on expanding the use of treated LFG fuel for a stationary combustion device, as some people have previously interpreted this compliance option, but also include other uses such as the production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process.

2. Closed Areas

To determine whether NMOC emissions from nonproductive areas of a landfill are less than 1 percent of the total landfill NMOC emissions (and hence controls are not required), the landfills regulations (40 CFR part 60, subparts Cc and WWW) rely on

[105] See Docketed Memorandum "Summary of Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations. 2014."

modeled NMOC rates. To refine the measurements of these nonproductive areas, the EPA is requesting input on allowing landfill owners or operators to use either the measured *or* modeled flow of LFG to determine if an area is nonproductive. The EPA is also requesting input on what criteria and procedures would be considered acceptable for making these estimates. The provisions would apply to physically separated, closed areas of landfills.

3. Submitting Corrective Action Timeline Requests

If a landfill exceeds a wellhead operating parameter, the landfill owner or operator must initiate corrective action within 5 days and follow the timeline in 40 CFR part 60, subpart WWW for correcting the exceedance. During implementation of subpart WWW, the question has been raised whether a landfill needs agency approval of corrective action timelines that exceed 15 calendar days but are less than the 120 days allowed for installing a GCCS.

The EPA is seeking input on whether a specific schedule for submitting these requests for alternative corrective action timelines is appropriate because investigating and determining the appropriate corrective action, as well as the schedule for implementing the corrective action, will be site specific and depend on the reason for the exceedance. We also solicit input on whether any clarifications should be included in the revised emission guidelines to expedite the submission of any alternative time line requests (i.e., as soon as they know that they would not be able to correct the exceedance in 15 days or expand the system in 120 days) to avoid being in violation of the rule.

To address implementation concerns associated with the time allowed for corrective action, the EPA requests input on an approach that extends the requirement for notification from 15 days to as soon as practicable, but no later than 60 days. Many requests for an alternative compliance timeline express the need for additional time to make necessary repairs to a well that requires significant construction activities. Extending the time period to as soon as practicable but no later than 60 days may reduce the burden and ensure sufficient time for correction. If the EPA were to extend the time period, then the EPA also would consider removing the requirement to submit an alternative timeline for correcting the exceedance. Thus, by no later than day 60, the landfill would have to either have completed the adjustments and repairs necessary to correct the exceedance, or be prepared to have the system expansion completed by day 120. The EPA is also requesting input on whether 60 days is the appropriate amount of time that would allow owners or operators to make the necessary a repairs.

V. Statutory and Executive Order Reviews

Under Executive Order 12866, titled Regulatory Planning and Review (58 FR 51735, October 4, 1993), this is a "significant regulatory action" because the action raises novel legal or policy issues. Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action. Because this action does not propose or impose any requirements, other statutory and Executive Order reviews that apply to rulemaking do not apply. Should the EPA subsequently determine to pursue a rulemaking, the EPA will address the statues and Executive Orders as applicable to that rulemaking.

Nevertheless, the EPA welcomes input and/or information that would help the EPA to assess any of the following: The potential impact of a rule on small entities pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*); potential impacts on federal, state, or local governments pursuant to the Unfunded Mandates Reform Act ((UMRA) (2 U.S.C. 1531–1538); federalism implications pursuant to Executive Order 13132, titled Federalism (64 FR 43255, November 2, 1999); availability of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113; tribal implications pursuant to Executive Order 13175, titled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000); environmental health or safety effects on children pursuant to Executive Order 13045, titled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997); energy effects pursuant to Executive Order 13211, titled Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22,2001); paperwork burdens pursuant to the Paperwork Reduction Act (PRA) (44 U.S.C. § 3501); or human health or environmental effects on minority or low-income populations pursuant to Executive Order 12898, titled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). The EPA will consider such comments during the development of any subsequent rulemaking.

List of Subjects in 40 CFR Part 60

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

Dated: June 30, 2014.

Gina McCarthy,

Administrator.

[FR Doc. 2014–16404 Filed 7–16–14; 8:45 am]

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Part IV

Environmental Protection Agency

40 CFR Part 60
Standards of Performance for Municipal Solid Waste Landfills; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2003–0215; FRL–9912–12–OAR]

RIN 2060–AM08

Standards of Performance for Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a new subpart, 40 CFR part 60, subpart XXX that updates the Standards of Performance for Municipal Solid Waste Landfills. Under section 111 of the Clean Air Act, the EPA must review, and, if appropriate, revise standards of performance at least every 8 years. The EPA's review of the standards for municipal solid waste landfills applies to landfills that commence construction, reconstruction, or modification after July 17, 2014. The proposed standards reflect changes to the population of landfills and an analysis of the timing and methods for reducing emissions. The proposed standards also address other regulatory issues including the definition of landfill gas treatment systems, among other topics. The new subpart will reduce emissions of landfill gas, which contains both nonmethane organic compounds and methane. These avoided emissions will improve air quality and reduce public health and welfare effects associated with exposure to landfill gas emissions.

DATES: *Comments.* Comments must be received on or before September 15, 2014.

Public Hearing. If anyone contacts the EPA requesting a public hearing by July 22, 2014, we will hold a public hearing on August 12, 2014, in Washington, DC at the William Jefferson Clinton East Building, Room 1153, 1201 Constitution Avenue NW., Washington, DC 20004. The public hearing will convene at 9:00 a.m. and end at 6:00 p.m. (Eastern Standard Time). There will be a lunch break from 12:00 p.m. to 1:00 p.m. Please contact Ms. Virginia Hunt at (919) 541–0832 or at *hunt.virginia@epa.gov* to register to speak at one of the hearings. The last day to pre-register in advance to speak at the hearings will be Friday August 8, 2014. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, please let us know at the time of registration.

If no one contacts the EPA requesting a public hearing to be held concerning this proposed rule by July 22, 2014, a public hearing will not take place. If a hearing is held, it will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing, if held, will be at U.S. government facilities, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons.

The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Commenters should notify Ms. Hunt if they will need specific equipment, or if there are other special needs related to providing comments at the hearings. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. Information regarding the hearing (including information as to whether or not one will be held) will be available at: *http://www.epa.gov/ttnatw01/landfill/landflpg.html.*

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2003–0215, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: A-and-R-docket@epa.gov.* Include docket ID No. EPA–HQ–OAR–2003–0215 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2003–0215.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 28221T, Attention Docket ID No. EPA–HQ–OAR–2003–0215, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand/Courier Delivery:* EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0215. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute.

Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the mail or hand/courier delivery address listed above, attention: Mr. Roberto Morales, OAQPS Document Control Officer (Room C404–02), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2003–0215. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact

you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, William Jefferson Clinton West Building, Room B102, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information concerning this proposal, contact Ms. Hillary Ward, Fuels and Incineration Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–05), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–3154; fax number: (919) 541–0246; email address: *ward.hillary@epa.gov.*

SUPPLEMENTARY INFORMATION:

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of proposed subpart XXX for 40 CFR part 60 is available on the Technology Transfer Network (TTN) Web site. Following signature, the EPA will post a copy of the proposed subpart XXX on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttnatw01/landfill/landflpg.html.* The TTN provides information and technology exchange in various areas of air pollution control.

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

ANPRM Advance notice of proposed rulemaking
ANSI American National Standards Institute
BMP Best management practice
BSER Best system of emission reduction
CAA Clean Air Act
CBI Confidential business information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CO_2 Carbon dioxide
CO_2e Carbon dioxide equivalent
CRDS Cavity ringdown spectroscopy
DOC Degradable organic carbon
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FLIR Forward-looking infrared
FTIR Fourier Transform Infrared
GCCS Gas collection and control system
GHGRP Greenhouse Gas Reporting Program
GWP Global warming potential
HAP Hazardous air pollutants
ICR Information collection request
IRIS Integrated Risk Information System
lb/MMBtu Pounds per million British thermal unit
LFG Landfill gas
LFGCost Landfill Gas Energy Cost Model
LMOP Landfill Methane Outreach Program
m^3 Cubic meters
Mg Megagram
Mg/yr Megagram per year
MSW Municipal solid waste
MW Megawatt
MWh Megawatt hour
NAICS North American Industry Classification System
NMOC Nonmethane organic compound
NSPS New source performance standards
NSR New Source Review
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management & Budget
ppm Parts per million
ppmvd Parts per million by dry volume
RCRA Resource Conservation and Recovery Act
RFA Regulatory Flexibility Act
RIA Regulatory impacts analysis
RPM Radial plume mapping
SBAR Small Business Advocacy Review
SER Small entity representative
SISNOSE Significant impact on a substantial number of small entities
SSM Startup, shutdown and malfunction
TDL Tunable diode laser
tpy Tons per year
TTN Technology Transfer Network
USG U.S. government
VCS Voluntary consensus standard
VOC Volatile organic compound
WWW World Wide Web

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

I. Executive Summary

A. Purpose of Regulatory Action

The EPA has conducted an initial review of the Standards of Performance for Municipal Solid Waste Landfills (landfill new source performance standards or landfills NSPS). The EPA's review is ongoing and will be informed by, among other matters, comments received on today's proposed action. Based on its initial review, the EPA is proposing a number of changes to the existing landfills NSPS. In order to avoid possible confusion regarding which MSW landfills would actually be subject to any revised, or new, requirements, the EPA is establishing a new subpart XXX (40 CFR part 60, subpart XXX) rather than merely updating existing subpart WWW (40 CFR part 60, subpart WWW). The requirements in new subpart XXX will apply to MSW landfills for which construction, modification, or reconstruction is commenced on or after July 17, 2014. The requirements in subpart WWW will continue to apply to MSW landfills on which construction, modification or reconstruction was commenced on or after May 30, 1991 and before July 17, 2014. Note that this preamble uses both of the terms "MSW landfills" and "landfills" to refer to MSW landfills.

1. Need for Regulatory Action

Several factors led to today's proposed action. First, section 111 of the Clean Air Act (CAA) (42 U.S.C. § 7411) requires the EPA to review standards of performance at least every 8 years and, if appropriate, revise the standards to reflect improvements in methods for reducing emissions. Second, a mandatory duty lawsuit was filed against EPA for failure to review the NSPS by the statutorily required deadline. Under a consent decree resolving that lawsuit, the EPA agreed to propose a review and take final action on the proposal. Third, the EPA has concluded that landfill owners and operators, as well as regulators, need clarification regarding issues that have arisen during implementation of the existing standards. Implementation issues include the definition of landfill gas treatment, among other topics.

2. Legal Authority

CAA section 111(b)(1)(B) (42 U.S.C. § 7411(b)(1)(B)) requires the EPA to "at least every 8 years review and, if appropriate, revise" new source performance standards. CAA section 111(a)(1) (42 U.S.C. § 7411(a)(1)) provides that performance standards are to "reflect the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." We refer to this level of control as the best system of emission reduction or "BSER."

As indicated above, the EPA has decided to propose its review of the landfill NSPS in a new subpart rather than update existing requirements in 40 CFR part 60, subpart WWW. The EPA believes that either approach is legally permissible.[1] Proposed subpart XXX would appear in 40 CFR part 60 and would apply to landfills that commence construction, reconstruction, or modification on or after July 17, 2014.

B. Summary of Major Provisions

The proposed new subpart retains the same design capacity threshold but reduces the non-methane organic compounds (NMOC) emission threshold at which MSW landfills must install controls. The new subpart also resolves or clarifies issues that the EPA and stakeholders identified during implementation of the current landfills NSPS.

Thresholds for installing controls. Under the current NSPS, an MSW landfill that has a design capacity of 2.5 million megagrams (Mg) and 2.5 million cubic meters (m^3) must install and start up a gas collection control system within 30 months after landfill gas emissions reach or exceed a level of 50 Mg NMOC per year. (A megagram is also known as a metric ton, which is equal to 1.1 U.S. short tons or about 2,205 pounds.) The current NSPS is referred to as the "baseline" in this document. Proposed subpart XXX retains the same design capacity threshold as the baseline, but reduces the NMOC emission threshold to 40 Mg/yr. The owner or operator of a landfill may control the gas by routing it to a non-enclosed flare, an enclosed combustion device, or a treatment system that processes the collected gas for subsequent sale or beneficial use.

Landfill gas treatment. The EPA is addressing two issues related to landfill gas treatment. First, the EPA is proposing to clarify that the use of treated landfill gas is not limited to use as a fuel for a stationary combustion device but also allows other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, and use as a raw material in a chemical manufacturing process. Second, the EPA is proposing to clarify what constitutes landfill gas treatment. For filtration and dewatering, the definition contains specific numerical values that would provide long-term protection of the combustion equipment, which would support good combustion. We are also proposing to clarify monitoring, recordkeeping, and reporting requirements for treatment systems.

Startup, shutdown and malfunction. In today's action, the EPA is proposing that the standards in proposed subpart XXX apply at all times, including periods of startup or shutdown, and periods of malfunction. In addition, to enable the EPA to determine the severity of an emissions exceedance for periods when the gas collection system or a control device is not operating, the EPA is proposing to add a recordkeeping and reporting requirement for landfill owners or operators to estimate emissions during such periods.

Other clarifications. The EPA is proposing other clarifications to address issues that have been raised by landfill owners or operators during implementation of the current NSPS. These other clarifications include improvements to criteria for exempting areas from collection and control, adding criteria for when an affected source must update its design plan, and clarifying when landfill owners or operators must submit corrective action timeline requests. We intend to address

[1] The EPA believes that it has the legal authority in updating an NSPS to either propose and make changes to the existing subpart or to promulgate a new subpart and has previously done both. In either case, any substantive changes to the NSPS will apply only to sources for which construction, reconstruction, or modification commenced on or after the date on which the proposed changes were published in the **Federal Register**.

clarifications and other implementation issues for existing landfills in a separate rulemaking.

C. Costs and Benefits

An MSW landfill owner or operator is expected to install the least-cost control for collecting and combusting landfill gas. The control costs include the costs to install and operate a GCCS. For certain landfills that were expected to generate revenue by using the landfill gas for energy, revenue from electricity sales was incorporated into the net control costs. The annualized costs also include testing and monitoring costs.

Proposed subpart XXX, which tightens the NMOC emissions threshold from 50 to 40 Mg/yr NMOC, would achieve reductions of 79 Mg NMOC/yr and 12,300 Mg methane/yr (about 307,600 Mg CO_2e/yr) beyond the baseline in year 2023. The associated annualized net cost for proposed subpart XXX is estimated to be an additional $471,000 (2012$) in 2023. The EPA expects that the avoided emissions will result in improvements in air quality and reduce health effects associated with exposure to air pollution related emissions, and result in climate co-benefits due to reductions of the methane component of landfill gas. However, because this rulemaking is not an "economically significant regulatory action" under Executive Order 12866 because it is not likely to have an annual effect on the economy of $100 million or more, we have not conducted a Regulatory Impact Analysis (RIA) or a benefits analysis. The baseline NSPS in effect today is estimated to achieve a reduction of 610 Mg/yr NMOC and 94,800 Mg/yr methane (about 2.4 million Mg/yr CO_2e) in 2023, compared to the absence of control (see section VI.A. of this preamble and the Economic Impact Analysis for more detail). The associated annualized net cost of the baseline is estimated to be $2.7 million ($2012) in 2023.

II. General Information

A. Does this action apply to me?

This proposal affects municipal solid waste (MSW) landfills and associated solid waste management programs. Affected categories and entities include those listed in Table 1 of this preamble.

TABLE 1—REGULATED ENTITIES

Category	NAICS[a]	Examples of affected facilities
Industry: Air and water resource and solid waste management	924110	Solid waste landfills.
Industry: Refuse systems—solid waste landfills	562212	Solid waste landfills.
State, local, and tribal government agencies	924110	Administration of air and water resource and solid waste management programs.

[a] North American Industry Classification System.

This table is not intended to be exhaustive but rather provides a guide for readers regarding entities likely to be regulated by the new subpart. To determine whether your facility would be regulated by this action, you should carefully examine the applicability criteria in proposed 40 CFR 60.760 of subpart XXX. If you have any questions regarding the applicability of the proposed subpart to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What should I consider as I prepare my comments?

1. Submitting CBI

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

Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the following address: Mr. Roberto Morales, OAQPS Document Control Officer (Room C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2003–0215.

If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

2. Docket

The docket number for the municipal solid waste landfills new source performance standards (40 CFR part 60, subpart XXX) is Docket ID No. EPA–HQ–OAR–2003–0215. Docket ID No. A–88–09 contains supporting information for related 40 CFR part 60, subparts WWW and Cc.

III. Background

In June 2013, President Obama issued a Climate Action Plan which, among other matters, directed the EPA and five other federal agencies to develop a comprehensive interagency strategy to reduce methane emissions. The plan recognized that methane emissions constitute a significant percentage of domestic greenhouse gas (GHG) emissions, highlighted reductions in methane emissions since 1990, and outlined specific actions that could be taken to achieve additional progress. Specifically, the federal agencies were instructed to focus on "assessing current emissions data, addressing data gaps, identifying technologies and best practices for reducing emissions and identifying existing authorities and incentive-based opportunities to reduce methane emissions."

As a follow up to the 2013 Climate Action Plan, the Climate Action Plan: Strategy to Reduce Methane Emissions (the Methane Strategy) was released in March 2014. The focus on reducing methane emissions is due to the fact that methane is a potent GHG with a global warming potential that is 25 times greater than carbon dioxide.[2] Methane has an atmospheric life of 12 years, and because of its potency as a GHG and its atmospheric life, reducing methane emissions achieves a near-term beneficial impact in mitigating global climate change.

The targeted strategy noted that the landfill standards at issue here and voluntary programs already in place

[2] IPCC Fourth Assessment Report (AR4), 2007. Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, Pachauri, R.K. and Reisinger, A. (eds.)]. IPCC, Geneva, Switzerland, 104 pp.

have considerably reduced methane emissions.[3] With respect to landfills, the Methane Strategy directs the agency to build upon progress to date through updates to the EPA's rules for reducing emissions from new, modified, and reconstructed landfills, issuance of an Advance Notice of Proposed Rulemaking (ANPRM) to explore options to address emissions from existing landfills, and encouragement of beneficial use through voluntary programs.

The EPA has long recognized the climate benefits associated with reducing methane emissions from landfills. In the 1991 Landfill NSPS Background Information Document [4] the EPA noted that reduction of methane emissions from MSW landfills is one of the many options available to reduce possible global warming. When the EPA promulgated the NSPS for MSW landfills, which regulates MSW landfill emissions (commonly referred to as landfill gas), in 1996, the EPA noted the co-benefits of controlling methane, but recognized the then relatively limited understanding of GHG and their effect on global climate change (61 FR 9917, March 12, 1996). In 1996, we stated:

> An ancillary benefit from regulating air emissions from MSW landfills is a reduction in the contribution of MSW landfill emissions to global emissions of methane. Methane is a major greenhouse gas, and is 20 to 30 times more potent than CO_2 on a molecule-per-molecule basis. There is a general concern within the scientific community that the increasing emissions of greenhouse gases could lead to climate change, although the rate and magnitude of these changes are uncertain.

Since 1996, the EPA and the scientific community have gained a better understanding of GHGs, such as methane, and their effects on climate change and human health and welfare. In 2009, the EPA Administrator issued the document known as the Endangerment Finding under CAA section 202(a)(1).[5] In the Endangerment Finding, which focused on public health and public welfare impacts within the United States, the Administrator found that elevated concentrations of GHGs in the atmosphere may reasonably be anticipated to endanger the public health and welfare of current and future generations.

There is now scientific consensus that GHGs affect climate change and, as recognized by the President in the Methane Strategy, this scientific consensus increases the need for the EPA to examine regulatory options for reducing methane emissions. The EPA is currently reviewing the MSW Landfills NSPS in light of the President's Climate Action Plan, the Methane Strategy, and improvements in the science related to GHG emissions, and is exploring opportunities to achieve additional reductions in emissions, including methane emissions.

A. Legal Authority

Section 111 of the Clean Air Act (CAA) requires the EPA Administrator to list categories of stationary sources that in the Administrator's judgment cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. § 7411(b)(1)(A). The EPA must then issue performance standards for new (and modified or reconstructed) sources in each source category. 42 U.S.C. § 7411(b)(1)(B). These standards are referred to as new source performance standards or NSPS. The EPA has the authority to define the scope of the source categories, determine the pollutants for which standards should be developed, set the emission level of the standards, and distinguish among classes, type and sizes within categories in establishing the standards. 42 U.S.C. § 7411(b).

On March 12, 1996 (61 FR 9905), under the authority of CAA section 111(b)(1)(A), the EPA added the MSW landfills source category to the priority list in 40 CFR 60.16 because, in the judgment of the Administrator, the source category contributes significantly to air pollution that may reasonably be anticipated to endanger public health and welfare. In that same notice, the EPA promulgated new source performance standards, which apply to new (and modified or reconstructed) landfills under the authority of CAA section 111(b)(1)(B), and emission guidelines, which apply to existing landfills, under the authority of CAA section 111(d). In the March 12, 1996 notice, the EPA defined the MSW landfills source category, identified municipal solid waste landfill emissions (commonly referred to as landfill gas) as the pollutant for which standards should be developed, identified which landfills would be covered, and determined the applicability thresholds and emission level of the standards.

CAA section 111(a)(1) (42 U.S.C. § 7411(a)(1)) provides that standards of performance are to "reflect the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." We refer to this level of control as the best system of emission reduction or BSER. When promulgated in 1996, BSER for MSW landfills was determined to be a well designed and well operated LFG collection and control system with a control device capable of reducing NMOC by 98 percent by weight. NMOC was established as a surrogate for LFG in the final rule.

The CAA also requires the EPA to review the NSPS at least every 8 years to determine if the level of control that was previously established remains appropriate. Specifically, CAA section 111(b)(1)(B) (42 U.S.C. § 7411(b)(1)(B)) requires the EPA to "at least every 8 years review and, if appropriate, revise" standards of performance. The Administrator need not review a standard, however, if the "Administrator determines that such review is not appropriate in light of readily available information on the efficacy" of the standard. While not required to do so, the EPA has authority to revise an NSPS to add emission limits for pollutants or emission sources not currently regulated for that source category concurrent with its review of the NSPS (77 FR 49494, August 16, 2012).

In determining BSER, we typically conduct a review that identifies what emission reduction systems exist and how much they reduce air pollution in practice. Next, for each control system identified, we evaluate its costs, energy requirements, and any nonair quality health and environmental impacts. Based on our evaluation, we determine BSER for each pollutant to be regulated and establish an appropriate standard of performance based on the identified BSER. The resultant standard is usually expressed either as a numerical emissions limit, e.g., parts per million (ppm) or pounds per million British thermal unit (lb/MMBtu), or a percent reduction requirement. Although the standards are based on the identified BSER, the EPA may not require the use of a particular technology to comply with a performance standard unless the Administrator determines that it is not

[3] Climate Action Plan: Strategy to Reduce Methane Emissions. March 2014. p.5. *http://www.whitehouse.gov/sites/default/files/strategy_to_reduce_methane_emissions_2014-03-28_final.pdf.*

[4] Air Emissions from Municipal Solid Waste Landfills—Background Information for Proposed Standards and Guidelines, U.S. EPA (EPA–450/3–90–011a) (NTIS PB 91–197061) page 2–15.

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

feasible to prescribe or enforce a standard of performance. (CAA 111(b)(5), 42 U.S.C. 7411(b)(5).) Thus, except in rare circumstances, sources remain free to select any control measures that will meet the requirements of the standard(s). Upon promulgation, an NSPS becomes a national standard with which all new, reconstructed, and modified sources must comply. (CAA 111(e), 42 U.S.C. 7411(e).)

B. What is the purpose and scope of this action?

The purpose of this action is (1) to review the MSW landfills NSPS, (2) to propose a resolution or to provide clarification regarding implementation issues that were addressed in prior proposed rules published on May 23, 2002 (67 FR 36475) and September 8, 2006 (71 FR 53271), as they apply to new sources, and (3) to take comment on specific aspects of EPA's review that will be considered in promulgating the final NSPS standard. These proposed revisions appear in the proposed 40 CFR part 60 subpart XXX.

Many changes have occurred in the landfill industry since the landfills NSPS was originally promulgated in 1996 that have necessitated this review. Among the factors contributing to the need for review are the following: Changes in landfill characteristics (i.e., size, ownership, age) and population; proliferation of landfill gas energy projects; the availability of more comprehensive data on landfills from mandatory (Greenhouse Gas Reporting Program (GHGRP)) and voluntary EPA programs; and the introduction of new techniques for monitoring landfill gas emissions. The number and size distribution of MSW landfills in the United States has also evolved since 1996. Public opposition to local MSW disposal facilities and the increasing cost of disposal at locations near where the waste is generated have resulted in consolidation and led to an increase in long-distance hauls to large regional landfills. As a result, the corresponding emission profiles and per landfill compliance costs have also changed.

The number of landfill gas to energy projects has also increased substantially. In 1996, there were approximately 160 operational landfill gas energy projects and approximately 700 candidate landfills according to data obtained by the EPA Landfill Methane Outreach Program (LMOP). According to LMOP, as of March 2014, there were 636 operational projects using landfill gas to produce energy and 450 landfills that remain candidates for energy recovery. LMOP is a voluntary assistance program that encourages recovery and beneficial use of landfill gas, and in turn, helps to reduce methane emissions from landfills. During our review, the EPA has also become aware of techniques and procedures for monitoring landfill gas emissions that were not available at the time of the original rule.

The EPA is required to review the MSW Landfills NSPS and sections IV, V, and VI of this preamble present our initial determinations. In addition, the EPA has determined that it is appropriate to propose a revised NSPS based on these initial determinations.

This action also provides clarification regarding issues that arose during the implementation of the current landfills regulations and proposes regulatory text addressing some of those issues. We addressed these issues in previous notices as published on May 23, 2002 (67 FR 36475) and September 8, 2006 (71 FR 53271). These issues include the definition of landfill gas treatment and other topics such as surface monitoring, how to address closed areas of landfills and when to allow removal of controls. Although the cited notices addressed these issues in the context of subparts Cc and WWW, the clarifications and resolutions discussed in sections VII and VIII of this preamble would affect only landfills that commence construction, reconstruction, or modification on or after July 17, 2014.

The EPA plans to address amendments and clarifications resulting from implementation activities for landfills subject to 40 CFR part 60, subpart WWW and state or federal plans implementing subpart Cc in a separate action.

This action also requests comment on specific aspects of the EPA's review, the consideration of which will be integral to the EPA in taking final action to promulgate a new NSPS. These provisions include landfill gas treatment, wellhead monitoring, and surface monitoring. See section IX of this preamble for a discussion of those provisions.

C. Where in the Code of Federal Regulations will these changes appear?

The EPA is proposing to add new subpart XXX to 40 CFR part 60. Subpart XXX would apply to landfills that commence construction, reconstruction, or modification on or after July 17, 2014. Proposed subpart XXX in 40 CFR part 60 contains a revision to the NMOC emission rate threshold, as well as provisions that provide clarification and proposed resolutions to technical and implementation issues.

IV. Summary of Proposed Changes Based on Periodic Review of the MSW Landfills NSPS Under the CAA

The EPA is proposing to reduce the NMOC emission rate threshold for installing and operating a gas collection and control system to 40 Mg/yr from the current NSPS level of 50 Mg/yr. The proposal retains the design capacity cutoff of 2.5 million Mg and 2.5 million cubic meters that appears in subpart WWW. See sections V and VI of this preamble for a discussion of the proposed rule changes. The new subpart also resolves or clarifies issues that the EPA and stakeholders identified during implementation of the current landfills NSPS.

The EPA is proposing this revised emission threshold that takes into account the total methane emission reductions that can be achieved in addition to the reductions of NMOC emissions that are realized when the GCCS is installed at an earlier point in time. While the proposal continues to require measurement of NMOC as a surrogate for landfill gas, the EPA asserts that the methane reductions achieved are consistent with the President's Methane Strategy as described in section III of this preamble.

V. What analyses did the EPA conduct to determine BSER?

The EPA first undertook a review to determine whether a well designed and well operated landfill GCCS, which EPA previously determined was BSER for controlling landfill gas, remains BSER for that purpose. The EPA considered GCCSs, as well as other emission control technologies that are either currently in place at landfills, or could be adopted, and considered the emission reductions achieved by those systems. Based on this analysis, the EPA determined that a well designed and operated landfill GCCS remains BSER. The EPA then undertook an analysis to determine whether applying the existing criteria for installing and operating a landfill GCCS to the expected population of new MSW landfills remains the preferred approach to implementing BSER. To do so, the EPA developed and applied a model program in Microsoft® Access to revisit the design capacity cutoff, the NMOC emission rate cutoff, and the time allowed for installing and expanding a gas collection system. In addition to reviewing the thresholds that determine the schedule for installing and expanding the GCCS system, the EPA also reviewed whether the schedule for removing the GCCS needed adjustment (see section V.A of this preamble). For

the above analyses, the EPA compared the environmental benefits and corresponding costs that are expected to be achieved under various control options to the environmental benefits and corresponding costs that are expected to be achieved under the baseline.

A. Review of Control Technology

Prior to promulgation of the MSW landfills NSPS (40 CFR part 60, subpart WWW) in 1996, we conducted a review that identified the existing types of emission control systems being used and the corresponding emission reductions that were being achieved in practice. Based on that evaluation, we determined BSER to be: (1) A well designed and well operated landfill GCCS and (2) a control device capable of reducing NMOC in the collected gas by 98 percent by weight (56 FR 24468, May 30, 1991 and 61 FR 9914, March 12, 1996). For BSER, we set design and operating standards for the gas collection system and set an emission limit for the control system. Then, we established a schedule for installing and then expanding the GCCS based on the landfill's design capacity (2.5 million megagrams and 2.5 million cubic meters) and the estimated NMOC emissions rate (50 Mg/yr).

The current technology review shows that the same types of collection and control systems reviewed in 1996 (see Docket ID No. A–88–09) continue to be prominently used to reduce landfill gas emissions and the design and operational standards promulgated in 1996 continue to be robust. Section VI of this preamble discusses our findings resulting from consideration of potential revisions affecting the criteria and schedule for installing and then expanding the GCCS. We undertook this evaluation to determine if the thresholds associated with BSER established in 1996 are still relevant today, "taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements" in accordance with CAA section 111(a)(1).

In 1996, the EPA set design and operational standards in subpart WWW for the GCCS and an emission limit for the control device (61 FR 9907; March 12, 1996).[6] Subpart WWW established design criteria for both horizontal and vertical collection systems because both types of systems are used. The criteria ensure that owners and operators design, construct, and operate gas collection systems to maximize collection and minimize emissions of landfill gas. Landfill GCCS designed according to these criteria are expected to, at a minimum: (1) Be capable of handling the maximum gas generation rate, (2) have a design that provides for monitoring and adjusting the operation of the system, (3) be able to collect gas effectively from all areas of the landfill that warrant control, and (4) be expandable through the addition of further collection system components to collect gas from new areas of the landfill as they require control. Within 1 year of reaching or exceeding an NMOC emission rate of 50 Mg/yr, landfill owners and operators must submit (or update in the case of modification or reconstruction) a collection and control system design plan prepared by a professional engineer to the EPA or delegated authority for approval.

Gas collection system technology review. Our review shows that a gas collection system comprising gas collection wells, horizontal or vertical piping, and blowers continues to be the most common technology used to collect landfill gas, regardless of whether a landfill is complying with subpart WWW, state or local regulations, or voluntarily controlling landfill gas for other reasons. Landfills continue to collect landfill gas using gas collection systems that are similar to the types of systems described in the background information of the 1996 landfill NSPS and emission guidelines proposal.[7] As of 2013, hundreds of landfills have installed collection systems to comply with subpart WWW. The EPA is also aware that many landfill owners and operators have installed collection systems on a voluntary basis. As of 2013, approximately 500 landfills voluntarily collect and control landfill gas using the same technologies required by subpart WWW. The EPA estimated this number by comparing the list of landfills that are modeled to have installed a GCCS in 2014 in the NSPS/EG dataset to the list of landfills that are reported to have a GCCS installed in the LMOP database. See section V.B of this preamble for a discussion of the dataset of landfills and corresponding model that the EPA used to examine the potential impact of changes to the landfills NSPS. The LMOP database is a voluntary national database of landfills and landfill gas energy projects, including information on which landfills have a GCCS in place.

Landfill owners and operators collect landfill gas for a variety of reasons: To control odor, to minimize fire and explosion hazards, to recover landfill gas to be used for energy recovery, to sell carbon credits, and to comply with local, state, or federal air quality standards. Landfill owners and operators are motivated to design and operate their landfill gas collection systems to efficiently collect and control landfill gas and they continue to install a gas collection system comprising gas collection wells, horizontal or vertical piping, and blowers to collect and control landfill gas.

Gas collection system as BSER. For this NSPS review, the EPA is proposing that the combination of design and operational criteria in subpart WWW continue to ensure that the collection system efficiently collects landfill gas and that a gas collection and control system meeting these criteria continues to represent BSER for MSW landfills that commence construction, reconstruction, or modification after July 17, 2014. The EPA is also proposing that a combined design and operation standard for the gas collection system remains the best format for the rule. In developing subpart WWW, the EPA determined that in order to set a performance standard such as a collection efficiency for the gas collection system it would be necessary to quantify the landfill gas available for collection in comparison to the amount collected and that it was not technically feasible to measure the amount of gas available for collection. On that basis, the EPA concluded that it was necessary to establish a design and operation standard for the gas collection system (56 FR 24484, May 30, 1991). The EPA has not determined that the circumstances have changed so as to require the establishment of a standard of performance for the gas collection system. (CAA section 111(h)(3), 42 U.S.C. 7411(h)(3).) Therefore, for the gas collection system, the EPA proposes to maintain the design and operational standards in subpart WWW in subpart XXX.

Gas control system technology review. As part of the BSER review prior to promulgation of subpart WWW in 1996, we conducted a technology review that identified the existing types of emission control systems, emerging technologies, and the emission reductions achieved in

[6] In developing the current NSPS, the EPA determined that in order to set a performance standard such as a collection efficiency for the gas collection system it would be necessary to quantify the landfill gas available for collection in comparison to the amount collected and that it was not technically feasible to measure the amount of gas available for collection. On that basis, the EPA concluded that it was necessary to establish a design and operation standard for the gas collection system (56 FR 24484, May 30, 1991).

[7] Air Emissions from Municipal Solid Waste Landfills-Background Information for Proposed Standards and Guidelines, U.S. EPA (EPA–450/3–90–011a) (NTIS PB 91–197061).

practice by those systems. Properly operated GCCS reducing NMOC by 98 percent by weight had been demonstrated on landfills of the size affected by subpart WWW. The EPA selected a reduction of 98 percent as the level representing BSER for control of landfill gas because this is the level achievable by demonstrated technologies. Based on this analysis, the EPA selected 98 percent reduction, expressed as a performance level (i.e., a rate-based standard or percent control), as the appropriate BSER-based standard. The EPA determined that this level was reasonable considering costs, nonair quality health and environmental impacts, and energy requirements.[8] Subpart XXX, therefore, requires all control devices to demonstrate 98 percent reduction by weight of NMOC or an outlet concentration of 20 ppmvd of NMOC, as hexane. Enclosed combustion devices have the option of reducing emissions to 20 parts per million, dry volume.

Each of the estimated 1,000 gas collection systems in place today, both required and voluntary, has an associated combustion device used to control emissions of landfill gas. At a minimum, landfills employ a flare to combust the gas. Both open and enclosed flares were determined to be among BSER combustion devices and these technologies continue to be used today. The following combustion controls can achieve at least 98 percent destruction of NMOCs and we propose that they continue to represent BSER: Enclosed flares and incinerators, and devices that burn landfill gas to recover energy, such as boilers, turbines, and internal combustion engines. The EPA continues to believe that 98 percent reduction is appropriate because this continues to be the level achievable by demonstrated technologies. Current data are consistent with 98 percent destruction. However, we request comment and additional data on the NMOC destruction efficiency of incinerators and devices that burn landfill gas to recover energy, such as boilers, turbines, and internal combustion engines.

Non-enclosed flares used at landfills meeting the criteria in 40 CFR 60.18(b) are thought to have destruction efficiencies similar to enclosed flares and incinerators, and devices that burn landfill gas to recover energy, such as boilers, turbines, and internal combustion engines. However, in April 2012 the EPA conducted an external peer review on flaring efficiency and made available to the public a draft technical report, "Parameters for Properly Designed and Operated Flares."[9] In this report, the EPA evaluated test data and identified a variety of parameters that may affect flare performance and that could be monitored to help assure good combustion efficiency. Nevertheless, none of the flare performance data used in this report comes from flares used at MSW landfills, and it does not provide any new test data on non-assisted flare types, which, to our knowledge, are the only non-enclosed flare type found in this source category. Thus, while we have no new information to suggest that flares at MSW landfills complying with 40 CFR 60.18(b) will not achieve at least 98 percent destruction of NMOCs (and methane), we solicit comments and additional information on flare performance specifically for this source category in order to determine whether non-enclosed flares continue to represent BSER for new landfills. Examples of information requested for this source category include: Prevalence of flaring; number and types of flares used; waste gas characteristics such as flow rate, composition and heat content; use of flare gas recovery and other flare emission minimization practices; and existing flare monitoring systems.

Gas control system as BSER. Based on the above, for this stage of the NSPS review, the EPA has determined that a control system designed and operated within the parameters demonstrated in the performance test to reduce NMOC (and, in turn, methane) by 98 percent by weight or reduction to 20 parts per million by volume, continues to represent BSER for controlling landfill gas emissions. Therefore, the EPA proposes in subpart XXX to maintain the current performance standard from subpart WWW for the gas control system.

Other current technologies. The EPA is also considering emission control technologies or practices other than GCCS that are currently in place as part of its review. The EPA qualitatively evaluated the emission reductions achieved by those systems in practice and also considered whether such technologies or practices could be relied upon in establishing a standard of performance under CAA section 111.

The EPA reviewed several best management practices (BMPs) for GCCS that may achieve greater reductions in landfill gas emissions than a well designed and well operated system alone. The EPA reviewed these BMPs to determine if and how they could be incorporated into subpart XXX in conjunction with the current performance-based standard.

One BMP the EPA considered was collecting landfill gas from leachate removal systems in order to control landfill gas that exists below the waste mass along the bottom of the landfill. The EPA is aware of landfills with leachate recirculation systems that have connected the landfill gas collection system and leachate collection system; however, references suggest that connection of these systems is not common at landfills that do not employ leachate recirculation.[10] The efficiency of capturing LFG emissions through this BMP depends on the efficiency of both the gas collection system and the leachate recirculation system. Proposed 40 CFR 60.762(b)(2)(i)(D) recognizes that leachate collection components may be part of a site-specific collection and control system design plan. Because the design plan is not prescriptive and instead contains design and operational standards that are site-specific, the design plan has the flexibility to include collection of landfill gas from leachate collection systems. However, since we do not currently have sufficient information on the efficacy of collecting gas from leachate removal systems in circumstances that do not include leachate recirculation and since the use of leachate recirculation is not prevalent in the landfill industry, the EPA does not currently consider this BMP to be part of BSER for controlling landfill gas, including methane, emissions. The EPA does, however, request comments on the efficacy and costs of enhancing gas collection systems to collect LFG from leachate removal or storage systems. The EPA also requests comment on the types of landfills currently collecting gas from leachate removal systems and the specifics of the gas collection systems used in practice. The EPA will use this information to evaluate if and when the use of an enhanced gas collection system that collects landfill gas from the leachate removal system may be appropriate.

Another BMP the EPA considered is requiring a gas collection system to prevent waterlogged wells, perhaps

[8] Air Emissions from Municipal Solid Waste Landfills—Background Information for Final Standards and Guidelines, EPA–453/R–94–021. EPA Office of Air and Radiation/Office of Air Quality Planning and Standards, Emission Standards Division, December 1995, page 2–79.

[9] U.S. EPA, Parameters for Properly Designed and Operated Flares, Report for Flare Review Panel, April 2012. *http://www.epa.gov/ttn/atw/flare/2012flaretechreport.pdf.*

[10] SCS Engineers, Technology and Management Options for Reducing Greenhouse Gas Emissions. Prepared for California Integrated Waste Management Board. Prepared by SCS Engineers. April 2008.

through the use of leachate removal pumps. Leachate and condensate can accumulate in collection wells, blocking landfill gas capture. Because a flooded well cannot collect gas, fixing a flooded well would have a high emission reduction potential. Wellhead operating parameters in proposed subpart XXX require that each owner or operator of an MSW landfill either operate the collection system with a negative pressure at each wellhead or, in areas with a geomembrane or synthetic cover, establish acceptable pressure limits in the design plan. These performance standards would help identify any inoperable wells resulting from flooding. The proposed surface emissions monitoring would also identify any elevated methane levels resulting from an inoperable well. The EPA has determined that the operating requirements in proposed subpart XXX provide a sufficient system to detect and correct waterlogged wells and thus ensure that the gas collection system is well operated.

The EPA does not currently consider requiring that the gas collection system be operated in such a way as to prevent waterlogged wells, rather than requiring that the wells be monitored so as to identify any such wells, to be BSER. Nonetheless, the EPA requests comment on whether the current combination of wellhead monitoring and surface emission monitoring is sufficient for identifying inoperable wells, especially in cases where wells have been installed for a significant amount of time. If the proposed monitoring systems are believed to be deficient for identifying flooded wells, the EPA also asks for comment on whether any additional recordkeeping, such as periodic measurement of liquid levels in gas wells, might be useful in identifying flooded wells that are not collecting gas.

The EPA also considered a BMP of requiring redundant seals and enhanced sealing materials on wellheads. One study includes a forward-looking infrared (FLIR) survey suggesting that landfill gas wellheads and other surface penetrations present high potential for concentrated leaks of organic compounds.[11] The use of advanced seals at wellheads may help to ensure that the well can apply sufficient vacuum to the landfill to facilitate gas extraction while preventing leaks of landfill gas to the atmosphere.

Proposed subpart XXX requires the preparation of a site-specific design plan by a professional engineer, which must be approved by the EPA or a delegated authority. Because the design plan is not prescriptive and instead contains design and operational standards that are site-specific, the design plan has the flexibility to determine the appropriate number or type of seals in order to accommodate the conditions and climates at different landfills. The EPA believes that this site-specific approach is preferable to specifying the use of a particular number of seals. This site-specific approach also provides for continued flexibility for future design plans to incorporate new sealing materials that may be more efficient than those currently available today. The design plan, coupled with wellhead and surface monitoring requirements, ensures that leaks from wells are minimized.

With this proposal, the EPA is clarifying that all cover penetrations must be checked during quarterly surface monitoring and this clarification would apply to checking around each wellhead for any elevated emission levels. Proposed subpart XXX requires corrective action for any surface monitoring reading over 500 ppm. Finally, the EPA is taking comment on tighter traverse patterns for surface monitoring, coupled with more rigorous surface maintenance activity, as another level of protection against leaks from improperly sealed wells.

Further, one reference indicates that many engineers already require two and sometimes three seals in a well when preparing design plans for GCCS. For all of these reasons, the EPA believes that a site-specific approach is more effective than prescribing the use of a particular number of seals or the use of a particular type of sealing material. As a result, at this point in its review, the EPA has determined that the use of advanced seals is not a component of BSER. The EPA, nevertheless, requests comment on whether the use of advanced seals should be a component of BSER.

The EPA also reviewed several emerging technologies that may achieve additional landfill gas emission reductions. The EPA evaluated whether the technology is adequately demonstrated and the extent to which the technology could be applied to new landfills.

The EPA considered a number of technologies that increase the methane oxidation rate of the landfill, thereby reducing the amount of methane that could escape through the surface of the landfill. Co-oxidation of NMOC has been observed during use of these alternative landfill cover materials, which has the potential to reduce odors and toxic air pollutants.[12] Oxidative covers, including biocovers, use methanotrophic bacteria to oxidize methane into water, carbon dioxide, and biomass. A biocover is an additional layer of final cover that is typically made of two layers, a permeable layer to evenly distribute the landfill gas to the oxidation media, and a layer of oxidation media typically made of soil, compost, or other porous media. While these innovative final cover practices at MSW landfills have the potential for achieving a moderate amount of methane emission reductions, final cover practices are currently addressed under Subtitle D of the Resource Conservation and Recovery Act (RCRA) and not under the CAA. As a result, the EPA does not currently consider them to be BSER; however, research indicates that biocovers may help to reduce emissions of methane, a primary constituent of landfill gas.

Another method for increasing the oxidation rate is to route passively vented landfill gas through a vessel containing methane-oxidizing media, commonly referred to as a biofiltration cell. Biofilters have been tested for use at landfills over only the past 10 to 15 years, and, although they may achieve moderate to high reductions in uncontrolled methane emissions, we cannot conclude at this time that these systems have been adequately demonstrated, as we explain below.[13] [14] Biofiltration cells are feasible for use only at small landfills or landfills with passive gas collection systems due to the size of the biofiltration bed required to treat the mixture of air and landfill gas. New landfills are expected to be large and have active gas collection systems to comply with the requirements in the proposed subpart XXX. In addition, due to the nature of passive gas collection systems, this technology lacks the ability to control and monitor the oxidation of methane in the landfill gas.[15]

No data exist on the long-term performance, effectiveness, or maintenance requirements of these

[11] ARCADIS. Quantifying Methane Abatement Efficiency at Three Municipal Solid Waste Landfills. Prepared for USEPA/ORD. January 2012.

[12] U.S. EPA. Available and Emerging Technologies for Reducing Greenhouse Gas Emissions from Municipal Solid Waste Landfills. June 2011.

[13] Buske, D. and M. Lannan. The Biofilter Effect on Landfill Gas Capture. 2009 SWANA Landfill Gas Symposium Proceedings.

[14] Gebert, J.; and Groengroeft, A., 2006, "Performance of a passively vented field-scale biofilter for the microbial oxidation of landfill methane". *Waste Management Research* 26: 399–407.

[15] USEPA. Available and Emerging Technologies for Reducing Greenhouse Gas Emissions from Municipal Solid Waste Landfills. June 2011. *http://www.epa.gov/nsr/ghgdocs/landfills.pdf.*

systems.[16] [17] [18] For these reasons, these methane oxidation technologies were not considered to be BSER. However, the EPA is requesting information about application of these technologies to better understand these characteristics for full-scale use of biocovers and biofilters. The EPA is seeking information and data about the long-term performance, effectiveness, and/or maintenance requirements of full-scale use of biocovers and biofilters, as well as comment on appropriate mechanisms to monitor the performance of these alternatives. Comment is also requested on biocover parameters and their effect on oxidation. Such parameters may include depth, soil characteristics, measurement, and their effect on percent oxidation.

B. What data and control criteria did the EPA consider in evaluating potential changes to the timing of installing, expanding, and removing the GCCS?

To examine the potential impact of changes to the timing of initiating landfill gas collection and control, the EPA developed a dataset of information for existing and new landfills, as described below, and applied a model to assess when controls were needed under the baseline control scenario as well as various regulatory options. Each regulatory option assessed variations in the design capacity and emission rate thresholds, as well as changes to the initial lag time and expansion lag time. The "initial lag time" is the time period between when the landfill exceeds the emission rate threshold and when controls are required to be installed and started up (30 months in subpart WWW). The "expansion lag time" is the amount of time allotted for the landfill to expand the GCCS into new areas of the landfill (5 years for active areas and 2 years for areas that are closed or at final grade in subpart WWW).

The EPA created a dataset of information for existing and new landfills, which included landfill-specific data such as landfill open and closure year, landfill design capacity, landfill design area, and landfill depth. The creation of the landfill dataset is detailed in the docketed memorandum, "Summary of Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations. 2014."

The EPA used attributes of these existing landfills to develop model landfills to represent new landfills opening in the first 5 years after subpart XXX is proposed (2014–2018). The model future landfills were developed by evaluating the most recently opened existing landfills and assuming that the sizes and locations of landfills opening in the future would be similar to the sizes and locations of landfills that opened in the last 8 years with complete data (2003–2010).

The EPA then incorporated technical landfill parameters from this dataset, such as landfill size, annual waste acceptance rate, and open year, into a model in order to estimate when each landfill would install GCCS under various regulatory options. This model used a first-order decay equation to model the landfill gas emissions (i.e., NMOC and methane) from each landfill for 50 years following the effective date of subpart XXX.

The EPA programmed a Microsoft® Access database to calculate the cost and emission impacts associated with different regulatory options (hereinafter referred to as the "model"). To determine when landfills exceeded regulatory emission thresholds, the model uses Tier 1 default values from subpart WWW for the methane generation potential (L_0) and the methane generation rate (k), but uses the NMOC concentration in "Compilation of Air Pollutant Emission Factors (AP–42 [19])" for determining when landfills would meet the regulatory NMOC emissions threshold. The Tier 1 default values in subpart WWW for L_0 and k are conservatively high for the purpose of estimating actual emissions; therefore, they are used only for estimating uncontrolled emissions to determine when landfills could exceed the threshold and be required to install controls. For the average NMOC concentration, the model uses the default value specified in AP–42. Subpart WWW allows the use of Tier 2 tests to determine NMOC concentration, and industry experience suggests the majority of landfills have conducted Tier 2 tests and obtained estimates that are consistent with the AP–42 NMOC value; thus, the AP–42 NMOC value was deemed to be more representative than Tier 1 NMOC values for determining when landfills would meet the regulatory NMOC emissions threshold for installing a landfill GCCS.

When modeled landfill gas emissions for a particular landfill exceeded the emission rate threshold, the EPA assumed that collection equipment was installed and started operating at the landfill after the initial lag time specified in each option. The EPA also assumed that as the landfill was filled over time, the landfill would expand the GCCS into new areas of waste placement in time intervals that coincide with the expansion lag time specified in each option.

To determine when controls may be capped or removed, and to calculate the amount of landfill gas, NMOC, and methane collected under each option, the model uses L_0, k, and NMOC values from AP–42 instead of the Tier 1 default values. To determine when control systems may be removed, subpart WWW requires landfills to conduct actual measurements of the collected gas flow rate and NMOC concentration. Because the AP–42 default values are more representative of actual emissions from landfills than Tier 1 values, they are more useful for predicting when a landfill would be able to remove its control system. For the same reason, AP–42 values were used to determine actual annual emissions reductions achieved by control systems.

To estimate the costs of each regulatory option, the EPA incorporated the estimated landfill gas recovery rates from the first-order decay equation and an estimated well field acreage into a set of cost equations based on EPA's Landfill Gas Energy Cost Model (LFGcost), version 2.3, which was developed by EPA's LMOP. (LFGcost estimates gas collection, flare and energy recovery system capital, operating, and maintenance costs.) The EPA also collected data on monitoring and testing costs such as initial performance tests, subpart WWW Tier 1 and Tier 2 calculations, and quarterly surface monitoring that were not provided in the LFGcost model.

The capital costs are all presented in year 2012 dollars and annualized using an interest rate of 7 percent over the lifetime of the equipment (typically 15 years), or in the case of drill mobilization costs, the length of time between each wellfield expansion. These annualized capital costs were added to the annual operating and maintenance costs estimated by LFGcost. The annualized cost includes capital requirements related to the purchase, installation, operation and maintenance of GCCS, and costs related to testing and monitoring requirements.

[16] Ibid.

[17] Abichou, T, J. Chanton, D. Powelson, "Field Performance of Biocells, Biocovers, and Biofilters to Mitigate Greenhouse Gas Emissions from Landfills," State University Systems of Florida, Florida Center for Solid and Hazardous Waste Management March 2006.

[18] Yazdani, R, and Imhoff, P. Contractor's report to CalRecycle: Biocovers at Landfills for Methane Emissions Reduction Demonstration. October 2010.

[19] U.S. EPA, AP–42, Fifth Edition, Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources. 1995. *http://www.epa.gov/ttnchie1/ap42/.*

For certain landfills that were expected to generate revenue by using the LFG for energy, the EPA also estimated LFG energy recovery rates and associated costs to install and operate the energy recovery equipment as well as the revenue streams from the recovered energy. These revenues were subtracted from the annualized capital and operating and maintenance costs at each landfill in order to obtain a net cost estimate for each option in each year. The emission reduction and cost and revenue equations and assumptions are detailed in the docketed memorandum, "Methodology for Estimating Cost and Emission Impacts of MSW Landfills Regulations. 2014."

Often the EPA examines the impacts of NSPS at 5 years after rule implementation; however, the EPA selected 10 years for this landfills NSPS review, 2023. Due to the emission characteristics of new landfills that begin to accept waste in 2014 or after and the applicability provisions of the NSPS, 5 years would not provide a representative population of landfills for evaluating alternative standards, and in fact none of the modeled landfills would be expected to have installed controls by year five. Landfills do not become subject to the control requirements of the NSPS on the date that they begin operation. Instead, landfills exceeding the design capacity threshold become subject to control requirements 30 months after the emissions exceed the NMOC emission threshold. It may take well over 5 years for a newly constructed landfill to exceed the NMOC threshold, depending on the rate of waste acceptance and other site-specific factors. Therefore, evaluating the impacts of the rule at 5 years would significantly underestimate the impacts that subpart XXX may have on affected facilities.

The EPA recognizes that landfills have a unique emissions and emission control timeline over their lifetime, compared to other stationary sources of emissions. The quantity of emission reductions achieved and the costs to achieve those reductions will vary depending on where each landfill is in its lifecycle. By year 10 (year 2023), landfills in this analysis are further along in their lifecycle than they would be at year five and over half of the modeled landfills have installed controls, incurred costs, and achieved emission reductions under several options the EPA considered in its review of the NSPS.

C. What control options did the EPA consider?

When determining which control options would represent BSER, the EPA ran many permutations of various control options. Some options adjusted a single threshold in isolation; for example, reducing the NMOC emission threshold while keeping the design capacity threshold constant, or conversely, reducing the design capacity threshold while keeping the NMOC emission threshold constant. Other options adjusted multiple control parameters simultaneously, taking into account the relationship between the parameters. For example, recognizing that NMOC emissions are a function of waste-in-place, some options that significantly reduced the NMOC emission threshold also reduced the design capacity thresholds to avoid situations where the NMOC emission threshold would be exceeded long before the design capacity threshold. Other options increased the design capacity threshold while reducing the NMOC emission threshold by relatively small increments in order to minimize the reporting-only burden that would be imposed on landfills that had exceeded the design capacity threshold, but not the NMOC emission threshold, and would therefore be reporting, but not controlling.

In addition to adjusting applicability and emission control thresholds, other model runs varied the initial and/or expansion lag times. These variations estimated the impacts of requiring landfill owners or operators to install gas collection systems more quickly after crossing each applicable NMOC emission threshold. Specifically, some model runs assessed the impacts of reducing the initial lag time from 30 months (modeled as 3 years for the purpose of this analysis, as discussed in the docketed memorandum "Methodology for Estimating Cost and Emission Impacts of MSW Landfills Regulations. 2014") to 2 years. Model runs varying the expansion lag time were also run. For expansion lag times, subpart WWW allows 2 years after initial waste placement in closed areas and 5 years after initial waste placement in active areas of the landfill. As a result, the actual expansion lag time varies by landfill depending on how quickly expansion areas are filled and closed. Modern large landfill designs tend to expand the collection system 5 years after initial waste placement in active areas of the landfill. Based on input received during public outreach, most modern large landfills do not reach final grade within 2 years and a majority of landfills are complying with the 5 year provision. Therefore, a 4-year expansion lag time was assumed to represent the baseline, as discussed in more detail in the docketed memorandum "Methodology for Estimating Cost and Emission Impacts of MSW Landfills Regulations. 2014." A shorter expansion lag time of 2 years after initial waste placement was examined as an alternative regulatory option. Some model runs evaluated the impacts of reducing both the initial and expansion lag times in parallel and other model runs evaluated the impacts of reduced emission and/or design capacity thresholds in conjunction with reduced initial and/or expansion lag times.

Preliminary results of the model runs showed that the current set of design capacity and NMOC emission threshold parameters in subpart WWW was the most cost effective option in year 2023. Options that reduced the NMOC emission threshold slightly, either in isolation or in conjunction with a reduction in the design capacity threshold had only a slightly higher cost effectiveness than the baseline. See the docketed memorandum "Cost and Emissions Impacts Resulting from the Landfills NSPS Review. 2014" and the docketed item "Modeling Database Containing Inputs and Results of Proposed Revisions to MSW Landfill NSPS. 2014." Options that reduced the initial and/or expansion lag times to 2 years were typically less cost effective than the options that reduced the NMOC emission threshold.

Based on the results of the preliminary analysis, the EPA presented different model runs during Federalism consultations and small entity outreach that represented the range of variation in both the threshold and lag time parameters. For the options presented, Small entity representatives (SERs) and Federalism consultation participants provided feedback to the EPA, which included implementation concerns with varying certain parameters as part of this NSPS review, as discussed in the following section. The EPA took these concerns into consideration when developing the set of proposed options in this action.

D. What are the implementation concerns with changing the design capacity criteria?

Options that increase the design capacity threshold provide some opportunities for reduced reporting burden; however, these options also introduce the potential to miss emission reduction opportunities at certain landfills that exceed the NMOC

emission thresholds but do not meet the design capacity thresholds. Further, installation of GCCS at landfills with design capacities between 2.5 and 3.0 million Mg are well demonstrated. According to the LMOP database, there are more than 50 landfills out of 70 in this size range that have installed GCCS.

Options that reduce the design capacity threshold without also lowering the NMOC emission threshold would create additional reporting and permitting burden without any additional environmental benefit. These types of options would not change the number of landfills required to control emissions, but they would increase the number of landfills required to obtain an operating permit and also increase the number of landfills required to complete Tier 1 or Tier 2 emission calculations and reports.

When the EPA promulgated the 2.5 million Mg design capacity threshold in 1996, we considered the impact on small entities based on public comment (61 FR 9910). Today, small entities still tend to own smaller sized landfills, whereas larger entities tend to own larger regional landfills. Approximately 10 percent of the landfills subject to subpart WWW or the MSW landfills state or federal plan implementing subpart Cc are owned by small entities. Further, the cost burden for installing a collection and control system is more significant for small landfills, which are more often owned by small entities, than larger landfills. Certain costs to construct the gas collection system (e.g., flat fees for drill rig mobilization, and monitoring and construction costs) remain relatively constant regardless of the size of the landfill.

For these reasons, the EPA is not proposing any changes to the current design capacity threshold of 2.5 million Mg and 2.5 million m^3.

E. What are the implementation concerns with reducing the NMOC threshold?

The EPA recognizes that NMOC emissions are site specific, varying widely from landfill to landfill and understands that a majority of landfills currently affected by subpart WWW conduct Tier 2 testing in order to refine their NMOC emission estimates before installing a GCCS.

Lowering the NMOC emission threshold would result in earlier GCCS installations, 13 percent more emission reductions, and a dollar-per-Mg cost to control NMOC that is higher than the baseline ($6,000/Mg NMOC vs. $4,400/Mg NMOC). Despite these higher costs, the EPA also recognizes the value of reducing methane emissions ($1.50/Mg CO_2e vs. $1.10/Mg CO_2e at baseline) that are associated with a lower NMOC emission threshold, as discussed in sections III and VI.B of this preamble. Based on these considerations, among others, the EPA is proposing to reduce the NMOC emission threshold from 50 Mg/yr to 40 Mg/yr. See section VI.B of this preamble for more details.

F. What are the implementation concerns with shortening the initial or expansion lag times?

The emission reductions achieved by reducing the initial or expansion lag time are affected by the size of the landfill, waste placement patterns, and annual acceptance rates. For example, the size of the landfill and the filling cycle affects how much and when emission reductions would be achieved. Based on comments received from SERs and Federalism consultation participants, modern landfill designs typically do not reach final grade before 7 years. Because the landfills NSPS allows two options for expanding the GCCS (2 years after initial waste placement in closed areas and 5 years after initial waste placement in active areas), any reduction to the 2 year lag time for closed areas would not likely achieve any actual additional reductions from these larger landfills because the majority of landfills are complying with the 5-year allowance period instead of the 2-year allowance period. Modifying the 5-year provision may also have a limited actual impact on emission reductions. Many landfills in wet climates install wells ahead of the 5-year schedule for odor or energy recovery purposes. When examining the effects of shortening the lag times, the emission reductions vary over the time period considered. To visually observe how reducing the lag times affects emissions and reductions over the 10-year period following proposal, see the charts comparing emissions from reduced lag times in the docketed memorandum, "Cost and Emissions Impacts Resulting from the Landfills NSPS Review. 2014."

When isolating the timeframe for initial GCCS installation from the other control criteria, modeling showed that the reductions in year 2023 are lower than those estimated to be achieved under the current baseline. Although the initial GCCS would be installed earlier, for example in year 2020, it would also be designed slightly smaller (i.e., a smaller number of wells) than a GCCS installed in a later year. By 2023, the system would not have been expanded yet, thus, the total amount of emission reductions achieved in 2023 will be less than the baseline until the system is expanded in 2024.

Reducing the expansion lag time would achieve a short period of modeled reductions during every expansion cycle because the GCCS would be expanded one year earlier. Emission reductions in year 2023 would be approximately 27 percent higher than an option that did not shorten the expansion lag time. However, when considered over a 10-year period, the additional emission reduction would be approximately 8 percent.

Small entity representatives and Federalism consultation participants expressed concern about the potential shortening of lag times. For details, refer to the docketed report "Summary of Small Entity Outreach. 2014."

According to the commenters, reduced lag times would result in the installation of more GCCS equipment in active fill areas. Wells located in these areas are more frequently damaged as a result of daily filling operations and the movement of equipment. Damaged wells must be repaired with well extensions and/or redrilling of wells. In addition, waste in active fill areas undergoes significant settlement. This settlement affects the alignment of gas header equipment, requiring more frequent repairs, troubleshooting, and replacement of equipment. These repairs can add a significant cost to the construction and operation of a GCCS that is not currently accounted for in the LFGcost estimates and also increase the amount of system downtime.

In addition to the implementation concerns, reducing the lag times would require more frequent mobilization of drill rig equipment, purchase of GCCS infrastructure, and system repairs, which could lead to higher costs. In year 2023, the dollar-per-Mg cost to reduce the initial and/or expansion lag times in conjunction with reducing the NMOC threshold are higher than the options that do not adjust the lag times ($6,900 to $11,300/Mg NMOC vs. $6,000/Mg NMOC). This higher cost is due in part to the timing of the first round of wellfield expansions at these new landfills, many of which were modeled to expand their systems in 2023, and thus incurring additional costs in that year to operate both the initial GCCS and the first set of expansion wells.

Small entity representatives and Federalism consultation participants raised several practical concerns with reducing the expansion lag time. Reducing the expansion lag time would result in more wells located in active fill areas because more of the face of the landfill is active after only 2 years of waste acceptance and the landfill owner

or operator must add wells into these active areas sooner.

In addition, active fill areas are still in the aerobic phase of waste decomposition. Installing wells in areas with high oxygen levels increases the chance of subsurface fires. It also leads to more frequent exceedances of the current wellhead monitoring standards for oxygen. In these cases the landfill owner or operator would also be unlikely to request a higher operating value for oxygen because they would have difficulty meeting the two criteria in proposed 40 CFR 60.763(c) for a higher operating value demonstration: A higher operating value must not cause fires and must not significantly inhibit anaerobic decomposition by killing methanogens. Neither of these criteria would apply to wells located in active fill areas.

Horizontal LFG collection wells may provide some relief to these implementation concerns that were raised by the SERs, while also allowing for the wells to be installed more quickly after the waste is placed in the landfill. These types of wells consist of perforated pipe in gravel-filled trenches constructed within the waste mass as an active area is filled. The wellheads are installed remotely outside of the active fill area to allow landfill owners/operators to monitor the wells. Although the horizontal collection infrastructure is installed as the waste is placed in the fill area, the collectors are not brought online under an active vacuum until a sufficient refuse layer has been placed on top of the collectors. This time period is necessary in order to prevent air infiltration in the landfill. However, this time period is often shorter than the timeframe needed to install vertical wells, and can be as short as a few months after refuse is buried.[20]

The EPA is aware of several horizontal collector installations, including several landfills in California[21] and 18 different landfills that reported using horizontal collectors in the voluntary data collection effort for this rulemaking (see "Summary of Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations. 2014").

The shorter length of time associated with bringing horizontal collectors online can be especially important at landfills employing liquids recirculation techniques or located in wetter climates, given the higher LFG generation rates at those sites (see section V.G of this preamble). Bringing these collectors online more quickly and more proactively addresses odor concerns at landfills. These systems are also useful in landfills that practice "over-filling," where new waste is placed on top of a section of the landfill that was capped temporarily. SERs did express some implementation concerns with horizontal collectors, indicating that these systems have a shorter lifetime than vertical wells and require more frequent replacement.

For the reasons presented in this section, the EPA is not proposing to shorten the initial or expansion lag times from the lag times codified in subpart WWW. However, the EPA requests comment on the feasibility and potential benefits of reducing either or both of the lag times. Specifically, the EPA requests comment on the practicality, cost, and emission reduction implications of installing or expanding the wellfield on active areas in a shorter timeframe. The EPA believes that this may be appropriate since horizontal collector systems have been installed at several landfills that were not in operation when the NSPS was originally promulgated in 1996. The EPA also requests data and/or comment on the potential emission reductions and corresponding costs that could result from reduced lag times. The EPA also notes that the cost analysis presented in section X of this preamble is based on vertical wells and the EPA is interested in any comments and data that address any differential in costs between these two types of systems.

G. Request for Comment on BSER

The EPA is requesting comment on several items regarding BSER. EPA is requesting comment on the proposed design and operational standards for new sources that EPA believes are necessary to ensure a GCCS is well designed and well operated. The EPA is requesting comment on additional emission control technologies that are in place at landfills—other than a GCCS as described here—that could be considered BSER. We request descriptions of such systems, an indication of their current use, data demonstrating emission reductions, and corresponding costs of such systems. The EPA is also requesting comment on whether a well designed and well operated GCCS in conjunction with any of the technologies or practices discussed in section V.A of this preamble should be considered to be BSER.

The EPA is also taking comment on whether it should consider reducing the design capacity threshold or initial lag times for landfills that are located in a wet climate or that recirculate leachate or add other liquids to the landfills to accelerate waste decomposition. Wetter wastes decompose more quickly than drier wastes and as a result generate more landfill gas in the short term. Therefore, it may be appropriate to require these landfills to install the gas collection system sooner, which SERs indicated is already occurring in practice for landfills in wetter climates. Similarly, smaller landfills in wetter climates, or those employing leachate recirculation, may also generate earlier spikes in landfill gas emissions that could exceed the NMOC threshold. Although these landfills are exempt from proposed subpart XXX under the design capacity threshold of 2.5 million Mg and 2.5 million cubic meters, if a smaller design capacity threshold were adopted for these wet landfills, more emission reductions may be achieved.

If a separate set of thresholds and/or lag times were to apply to these wet landfills, the EPA requests comment on how a wet landfill might be defined. For example, a wet landfill could be defined as a landfill that has precipitation of greater than 25 inches per year and/or recirculates leachate (or other liquids).

VI. Rationale for the Proposed Changes Based on Review of the NSPS

To determine which option to propose, the EPA considered the emission reductions that are expected to be achieved under the criteria in the baseline (subpart WWW), as well as emission reductions that would be achieved under several control options more stringent than the baseline.

A. What are the environmental impacts and costs associated with the baseline?

In this analysis, the baseline contains the same gas collection and control requirements and thresholds (2.5 million Mg or 2.5 million cubic meters and 50 Mg NMOC per year) that are in subpart WWW. For the baseline, the initial lag time is 30 months; and the expansion lag time is 2 years after initial waste placement in cells that are closed or at final grade or 5 years after initial waste placement in active areas of the landfill. These parameters are described in detail in section V of this preamble.

Table 2 of this preamble summarizes the impacts of the baseline for year 2023. The table includes emission reductions for NMOC, methane, and carbon dioxide equivalent (CO_2e) and corresponding annualized net costs based on the annualized control, testing,

[20] Barlaz et al., Controls on Landfill Gas Collection Efficiency: Instantaneous and Lifetime Performance 59 J. Air & Waste Mgmt. Ass'n 1399, 1402–03 (Dec. 2009).

[21] SCS Engineers, Technology and Management Options for Reducing Greenhouse Gas Emissions. Prepared for California Integrated Waste Management Board.

and monitoring costs, and annual revenues from energy recovery (when applicable), as discussed in section V.B of this preamble.

TABLE 2—BASELINE EMISSION REDUCTIONS AND COSTS IN 2023

Number of landfills affected	Number of landfills controlling	Number of landfills reporting but not controlling	Annual net cost ($2012)[a]	Annual NMOC reductions (Mg/yr)	Annual methane reductions (Mg/yr)	Annual CO_2e reductions (Mg/yr)	NMOC cost effectiveness ($/Mg)	Methane cost effectiveness ($/Mg)	CO_2e cost effectiveness ($/Mg)
17	8	9	2,708,000	610	94,800	2,371,000	4,400	29	1.1

[a] The annualized net cost ($2,708,000) is the difference between the average annualized revenue ($21,315,300) and the sum of annualized control cost ($23,956,900) and the average annualized testing and monitoring costs ($66,400).

The baseline is estimated to require control at eight landfills in 2023, and achieve reductions of 610 Mg/yr NMOC, 94,800 Mg/yr methane (2,371,000 Mg/yr CO_2e). The annualized net cost is $2.7 million. The cost effectiveness of the baseline is estimated to be $4,400 per Mg NMOC, and $29 per Mg methane ($1.10 per Mg CO_2e) if all of the control cost were attributed to each pollutant separately.

In this analysis, the EPA projects 21 new landfills would commence construction, reconstruction, or modification between 2014 and 2018. The basis of this projection is discussed in detail in the docketed memorandum "Summary of Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations. 2014." These 21 landfills are projected to emit, 1,040 Mg/yr of NMOC and 161,600 Mg/yr of methane in 2023 if the landfills had no emission controls in place. However, the baseline is modeled to require 38 percent (8/21) of these projected landfills to install emission controls by at least year 2023. In terms of emissions, the baseline is expected to achieve 59 percent reduction in estimated emissions from these landfills in 2023. Further, the eight landfills installing controls under the baseline represent 77 percent of the estimated total waste-in-place in 2023 from all 21 of the projected landfills.

The baseline allows landfills to remove the GCCS only after the following criteria are met (1) the landfill is closed, (2) the landfill has had the GCCS in operation for at least 15 years, and (3) three successive tests for NMOC emissions are below the NMOC emission threshold of 50 Mg/yr. Until the GCCS is removed, the landfill must continue to operate the system in accordance with 40 CFR 60.763, which includes wellhead monitoring and surface emissions monitoring to detect and correct for any emission exceedances.

B. How did the EPA determine which control option to propose?

When determining which control options would represent BSER, the EPA considered several factors: The implementation concerns identified in section V of this preamble; and the incremental emission reductions, cost, and co-benefits that would be achieved beyond the baseline.

The EPA compared the annualized net cost and emission impacts in 2023 of the various regulatory options to the annualized net costs and emission impacts in 2023 of the baseline. The EPA analyzed numerous iterations of alternate control and reporting thresholds and presented potential control options to SERs and Federalism consultation participants, as described in section V of this preamble. After considering feedback from the SERs and Federalism consultation participants, the EPA selected for consideration three regulatory alternatives as presented in Table 3 of this preamble. Table 3 of this preamble summarizes the incremental impacts of each control option, when compared to the baseline. The table shows the emission reductions and corresponding annualized net costs for NMOC and methane in 2023.

TABLE 3—EMISSION REDUCTIONS AND COSTS FOR CONTROL OPTIONS IN YEAR 2023

Control parameters	Number of landfills affected[a]	Number of landfills controlling[a]	Annual net cost (2012$)	Annual NMOC reductions (Mg/yr)	Annual methane reductions (Mg/yr)	Annual methane reductions (Mg CO_2e/yr)	NMOC cost effectiveness ($/Mg)	Methane cost effectiveness ($/Mg)	Methane cost effectiveness * ($/Mg CO_2e)
Baseline = 2.5 million Mg and m^3, design capacity and 50 Mg/yr NMOC									
Baseline (2.5 design capacity/50 Mg/yr NMOC)	17	8	2,708,000	610	94,800	2,371,000	4,400	29	1.1
Incremental values versus the Baseline									
Option (3.0 design capacity/40 Mg/yr NMOC	0	3	471,000	79	12,300	307,600	6,000	38	1.5
Option (2.5 design capacity/40 Mg/yr NMOC	0	3	471,000	79	12,300	307,600	6,000	38	1.5
Option (2.0 design capacity/40 Mg/yr NMOC	1	3	472,700	79	12,300	307,600	6,000	38	1.5

[a] Landfills are affected by the landfills NSPS based on design capacity. Once affected, they calculate and report emissions until they exceed the NMOC threshold, which triggers control requirements.

Baseline. The baseline affects 17 new landfills, meaning that 17 landfills meet the design capacity thresholds and would have to report their emissions during this period. Eight of these landfills would have controls in place in

year 2023. The baseline values are compared to landfills' emissions assuming that no GCCS are installed. This comparison to a no-control scenario may overestimate both the costs and emissions reduction resulting from implementation of subpart XXX due to other regulatory or voluntary reasons for installing GCCS, as discussed below.

The EPA is aware that some state or local ordinances require landfill gas combustion for odor, safety, or methane control reasons. For example, methane regulations in California [22] require GCCS to be installed at all landfills accepting waste after January 1, 1977, having at least 450,000 tons of waste-in-place, and having a gas heat input capacity threshold of 3.0 MMBtu/hr or greater to install GCCS. The emission reductions from these programs could not be quantified for the projected set of model landfills because the EPA cannot reliably estimate where these future landfills will be installed.

Finally, based on data from LMOP, the EPA is also aware of approximately 500 landfills that have voluntarily installed a gas collection system that would not otherwise be required under federal NSPS or emission guideline regulations (see section V.A of this preamble for details). These systems may have been installed to recover energy and generate revenue, including sale of electricity or landfill gas as well as to create carbon credits. However, because it is not known how many projected new landfills will voluntarily collect and combust their gas in the absence of NSPS regulation, the reductions associated with voluntary gas collection system installations were not considered when establishing the reductions associated with the baseline.

Regulatory options. The EPA considered three regulatory options more stringent than the baseline, as presented in Table 3 of this preamble. Based on the characteristics of the projected landfills, all three of the more stringent options would require a total of 11 landfills to install controls by 2023. Thus, 11 landfills would incur costs and achieve emission reductions in 2023 under all of the more stringent options, compared with eight landfills under the baseline.

Although the overall difference in the number of landfills requiring control in 2023 under the more stringent options is only three landfills, it is important to note that each of these options would require controls to be installed earlier than the baseline, because lower NMOC emission thresholds would subject landfills to the control requirements at an earlier date.

Table 4 presents the number of landfills with control systems installed, by year, for the baseline and options considered in this analysis. Due to the 30-month initial lag time period, no controls are anticipated to be installed prior to 2020 under any of the options under consideration.

TABLE 4—TOTAL NUMBER OF NEW LANDFILLS PROJECTED TO CONTROL LANDFILL GAS EMISSIONS IN EACH YEAR OF THE 10-YEAR PERIOD, BY OPTION

Control parameters	Number of landfills with control systems installed				
	2014–2019	2020	2021	2022	2023
Baseline 2.5/50	0	0	6	7	8
Option 3.0/40	0	3	6	7	11
Option 2.5/40	0	3	6	7	11
Option 2.0/40	0	3	6	7	11

Emission reductions. Under all three of the options considered, three additional landfills would be required to install controls in 2023 compared to the baseline. The reductions achieved under these three options are the same because each option has the same NMOC threshold trigger of 40 Mg/yr. The corresponding emission reductions in 2023 would be an additional 79 Mg/year NMOC, 12,300 Mg/year methane (307,600 Mg/year CO_2e) compared to the baseline. The wide range in magnitude of emission reductions among pollutants is due to the composition of landfill gas: NMOC represents less than 1 percent of landfill gas, while methane represents approximately 50 percent. CO_2e is an expression of methane in terms of the carbon dioxide equivalents, given the methane global warming potential (GWP) of 25.[23] Each of these options represents approximately a 13 percent reduction beyond the baseline.

Cost. Under both options 2.5/40 and 3.0/40, the incremental annual cost would be $471,000. The cost is identical for these two options because all of the projected new landfills that exceed the NMOC thresholds and install controls by 2023 have a design capacity greater than 3.0 million Mg. Based on the characteristics of recently constructed landfills, it is likely that most new landfills will be larger sites. The incremental annual cost of option 2.0/40 is $2,700 higher, at $472,700 due to additional reporting costs for one landfill that is projected to exceed the lowered design capacity threshold but not the NMOC threshold. All of these options represent approximately 17 percent in additional costs beyond the baseline.

In terms of cost effectiveness, the overall dollar-per-Mg cost for NMOC reductions is $4,400 per Mg NMOC under the baseline in Table 3 of this preamble. Note the cost of controlling methane is significantly lower than for NMOC because methane constitutes approximately 50 percent of landfill gas, while NMOC represents less than 1 percent of landfill gas. The incremental dollar-per-Mg cost for NMOC reductions is $6,000 per Mg NMOC under all of the other options. For option 2.0/40, however, there are additional reporting requirements for one landfill affected by this option that would result in a marginally higher actual cost compared with the option 2.5/40. Therefore, we are not proposing option 2.0/40. Other than the added reporting costs, the emission reductions and control costs are identical for options 2.5/40 and 3.0/40. For the reasons stated in section V.D of this preamble (potential to miss reductions at landfills that exceed the NMOC emission thresholds but do not

[22] California Code of Regulations, title 17, subchapter 10, article 4, subarticle 6, sections 95460 to 95476, Methane Emissions from Municipal Solid Waste Landfills.

[23] IPCC Fourth Assessment Report (AR4), 2007. Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, Pachauri, R.K and Reisinger, A. (eds.)]. IPCC, Geneva, Switzerland, 104 pp.

meet the design capacity thresholds and application of GCCS at landfills with design capacities between 2.5 and 3.0 million Mg is well demonstrated), alternative option 3.0/40 is also not being proposed.

Proposed option 2.5/40. Based on the emission reduction and cost discussions above and consistent with the President's Methane Strategy as discussed in section III of this preamble, the EPA is proposing to reduce the NMOC threshold to 40 Mg/yr. Lowering the NMOC threshold would result in earlier GCCS installations and additional NMOC and methane reductions compared to the baseline, as shown in Table 3 of this preamble. This lowered threshold achieves reductions without adjusting the initial and expansion lag times and incurring the associated costs and implementation concerns.

Reducing the NMOC threshold from the baseline-level of 50 Mg/yr to 40 Mg/yr would affect only three more landfills in 2023 but would achieve an estimated 13 percent additional reduction in emissions of NMOC and methane compared to the baseline. Further, this proposal would maintain the same control device removal criteria as the baseline except that the controls would have to stay on until three successive tests for NMOC emissions were below the NMOC emission threshold of 40 Mg/yr instead of 50 Mg/yr. Depending on the waste-in-place of the landfill at closure and other site-specific factors (e.g., waste composition, climate), it may take more than 30 years after closure for a large modern landfill to emit less than the NMOC emission threshold, and in turn qualify for capping or removing the GCCS. Although the emission reductions associated with these later years in the landfills' lifetimes are not incorporated in the environmental and economic impacts of the baseline and options under consideration, the lower threshold associated with this proposal would require controls to be installed for a slightly longer period than the baseline.

Although some commenters have expressed concerns about the quantity of emissions after landfills have closed and the GCCS has ceased to operate, the analysis the EPA conducted demonstrates that GCCS would be installed for a significant period after landfill closure that is commensurate with the size and corresponding emissions profile of each affected landfill. For these reasons, the EPA is proposing that emissions must be below an emissions threshold of 40 Mg/yr as one of the three criteria for determining when a GCCS may be capped or removed. The EPA is also requesting comment on whether these three criteria are appropriate, and if alternative criteria such as consecutive quarterly measurements below a surface emission threshold should also be considered. RCRA, specifically subpart F of Part 258, also requires supplemental basic post-closure care to maintain cover integrity.

Reducing the NMOC threshold also recognizes the opportunity to build upon progress to date and achieve even more reductions of landfill gas and its components, consistent with the President's Methane Strategy as discussed in section III of this preamble. Landfill gas generated from established waste (waste that has been in place for at least a year) is typically composed of roughly 50 percent methane and 50 percent carbon dioxide by volume, with less than 1 percent NMOC. Because the components of landfill gas are associated with substantial health, welfare, and climate effects, additional reductions of landfill gas would improve air quality and reduce health and welfare effects associated with exposure to landfill gas emissions. Note that in 2012, landfills continued to be the third largest source of human-related methane emissions in the United States, representing 18.1 percent of total methane emissions.[24] Methane emissions represent 8.7 percent of all GHG emissions (in CO_2e) in the United States.

Alternative option 2.0/34. Consistent with the President's Methane Strategy and the potential to achieve a near-term beneficial impact in mitigating global climate change (see section III of this preamble), the EPA considered even more stringent alternatives in its analysis of control options that may achieve additional reductions of methane and NMOC. For example, reducing the NMOC threshold below 40 Mg/yr in conjunction with reducing the design capacity to below 2.5 million Mg or 2.5 million cubic meters, an alternative option 2.0/34 would require controls at 11 landfills by 2023, which is the same number of landfills required to control under this proposal. However, under this more stringent option, four of the 11 landfills would install controls one year earlier. The extent of the emission reductions for this option depends on the time period considered. For example, in year 2023, emission reductions would not be any greater than the proposal. However, when averaged over the 10-year period (2014–2023), this more stringent option would achieve additional NMOC and methane reductions compared with the proposal. Refer to the Environmental Impacts Analysis,[25] and the docketed memoranda "Cost and Emissions Impacts Resulting from the Landfills NSPS Review. 2014" for details on the estimated reductions. Additional emission reductions would be expected to be achieved over the lifetime of the landfills subject to subpart XXX because the lower NMOC threshold would require earlier installation of controls and also require the controls to remain installed for a longer period. The annualized cost to implement alternative option 2.0/34 would be higher than the proposal. The EPA did not analyze an option that reduced the NMOC threshold below 40 Mg/year without also reducing the design capacity threshold. In light of these additional reductions, as well as the additional costs to affected entities, the EPA is soliciting comment on whether an NMOC threshold below 40 Mg/yr in conjunction with a reduced design capacity threshold should be considered for new landfills subject to subpart XXX.

VII. Summary of Clarifications and Resolutions That Are the Result of Implementation Activity

The EPA proposed amendments to the landfills NSPS (40 CFR part 60, subpart WWW) on May 23, 2002 (67 FR 36475) to address implementation issues. Consideration of public comments received and additional implementation activity led to the proposal of further clarifications on implementing the landfills regulations on September 8, 2006. After considering public comments received on the September 8, 2006 amendments and additional implementation activity, we are proposing resolutions and clarifications of the issues specifically identified below under new subpart XXX. The EPA plans to address amendments and clarifications resulting from implementation activities as they apply to subparts Cc and WWW in a separate document. The EPA will also address any potential changes to subparts Cc and WWW in a separate document. Thus EPA is not taking final action on either the May 23, 2002 or the September 8, 2006 proposed rules at this time. In addition to the specifically identified resolutions and clarifications associated with the May 23, 2002 and September 8, 2006 proposed rules, we are proposing a number of provisions in subpart XXX that are intended to address other implementation issues

[25] Municipal Solid Waste Landfills, Economic Impact Analysis for the Proposed New Subpart to the New Source Performance Standards.

that have arisen in the context of subpart WWW.

2002 Proposed amendments. On May 23, 2002 (67 FR 36475), the EPA proposed several amendments to subpart WWW, including clarifying what constitutes treated landfill gas by adding a definition of treatment system that specified that the system must filter, de-water, and compress landfill gas.

2006 Proposed amendments. Public comments on the May 23, 2002 amendments created new questions and caused the EPA to reconsider the approach we had taken on several proposed amendments, including our approach to clarifying what constitutes treated landfill gas. Specifically, we proposed refined definitions of "treated landfill gas" and "treatment system" by adding specific numerical values for filtration and de-watering to provide long-term protection of the combustion equipment, which would also support good combustion. The September 8, 2006 amendments also proposed to clarify the monitoring requirements for treatment systems.

The following resolutions and clarifications apply to proposed subpart XXX.

A. Definitions for Treated Landfill Gas and Treatment System and Treatment System Monitoring

Subpart XXX contains requirements for landfill gas treatment that are consistent with the September 8, 2006 proposed amendments, except that the treatment definition would require the water dew point of landfill gas to be reduced to at least 45 °F, rather than lowered by at least 20 °F. We also propose to specify a location for the temperature monitoring device that would demonstrate continuous compliance with the 45 °F requirement. The measurement device would be located at (or immediately after) the coalescing filter or other direct contact moisture removal device that follows the chiller and removes the condensed moisture. If a landfill owner/operator uses de-watering equipment that is not based on cooling the gas, such as a desiccant system, the landfill owner/operator would monitor dew point instead of temperature. For particulate matter filtration, we propose to retain the requirement for a filter system to have an absolute rating no greater than 10 microns.

We also propose to clarify monitoring, recordkeeping, and reporting requirements for treatment systems. To ensure that treatment systems are operating properly to achieve the filtration and de-watering levels specified in the revised proposed treatment system definition, owners/operators would install equipment to continuously monitor pressure drop across a filter, temperature for a chiller-based de-watering system, and dew point for a non-chiller-based de-watering system. Owners/operators would record 24-hour block averages. Owners/operators may use other site-specific monitoring parameters if they demonstrate that such parameters would effectively monitor filtration or de-watering system performance. For other site-specific monitoring parameters, owners/operators must develop operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis and submit those ranges, along with justification, for approval by the Administrator in an amended design plan. The proposed recordkeeping and reporting requirements for treatment systems are similar to those for control device temperature monitoring requirements already in the NSPS.

The EPA is considering and taking public comment on an alternative approach to defining landfill gas treatment and the corresponding monitoring requirements, as discussed in section IX.A of this preamble.

Uses of treated landfill gas. Subpart WWW allows landfill owners or operators the option of achieving compliance by routing the collected gas to a treatment system "that processes the collected gas for subsequent sale or use." We propose to include language in subpart XXX (40 CFR 60.762(b)(2)(iii)(C)) to clarify that the use of treated landfill gas is not limited to use as a fuel for a stationary combustion device, as some people have previously interpreted this compliance option, but also includes other uses such as the production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process.

B. Startup, Shutdown and Malfunction Provisions

The general provisions in 40 CFR part 60 provide that emissions in excess of the level of the applicable emissions limit during periods of startup, shutdown and malfunction (SSM) shall not be considered a violation of the applicable emission limit *unless otherwise specified in the applicable standard* (see 40 CFR 60.8(c))(emphasis added). As reflected in the italicized language, an individual subpart can supersede this provision. In today's action, the EPA is proposing standards in subpart XXX that apply at all times, including periods of startup or shutdown, and periods of malfunction. In addition, to enable the EPA to determine the severity of an emissions exceedance for periods when the gas collection system or a control device is not operating, the EPA is proposing to add a recordkeeping and reporting requirement for landfill owners or operators to estimate emissions during such periods.

C. Closed Areas

To determine whether NMOC emissions from nonproductive areas of the landfill are less than 1 percent of the total landfill NMOC emissions (and hence controls are not required), subpart WWW relies on modeled (calculated) NMOC rates (see 40 CFR 60.759(a)(3)(ii)). To refine the measurements of these nonproductive areas, the EPA is proposing to allow owners or operators of landfills subject to subpart XXX to use measured or modeled flow of landfill gas to determine if an area is nonproductive. The EPA proposes that owners or operators of physically separated, closed areas of landfills subject to subpart XXX may use the procedures in proposed 40 CFR 60.764(b), which determine the flow rate of landfill gas using actual or modeled measurements, to determine NMOC emissions.

D. Surface Monitoring

Subpart WWW requires quarterly surface monitoring to demonstrate that the cover and gas collection system are working properly. The intent of the surface monitoring provision is to maintain a tight cover that minimizes landfill gas emissions through the landfill surface. In this proposal, we are reiterating the intent that landfills must monitor along a pattern that traverses the landfill at specified intervals and where visual observations indicate elevated concentrations of landfill gas, which includes all cover penetrations and openings within the area of the landfill where waste has been placed and a gas collection system is required. The EPA is also considering and taking public comment on revisions to the surface monitoring requirements, as discussed in section IX of this preamble.

E. Electronic Reporting

The EPA is proposing electronic reporting of required performance test reports, NMOC emission rate reports, and annual reports. We also propose that industry should be required to maintain only electronic copies of the records to satisfy federal recordkeeping requirements. The proposed electronic submission and storage procedures are

discussed in detail in section VIII.E of this preamble.

The proposal to submit performance test data electronically to the EPA applies only to those performance tests conducted using test methods that are supported by the Electronic Reporting Tool (ERT). At this time, most of the methods in the landfills NSPS are not supported by the ERT. Thus, electronic reporting of performance tests may not be required for some landfills initially, but will be required when applicable methods are added to the ERT. A listing of the pollutants and test methods supported by the ERT is available at: *http://www.epa.gov/ttn/chief/ert/index.html.*

F. Wellhead Monitoring Requirements

Subpart WWW addresses operational standards for wellheads. Under 40 CFR 60.753(c), landfill owners/operators may request and demonstrate a higher operating temperature, nitrogen, or oxygen value at a particular well. The EPA is clarifying in this preamble the intent of the following requirement: "A higher operating value demonstration must be submitted to the Administrator for approval and must include supporting data demonstrating that the elevated parameter neither causes fires nor significantly inhibits anaerobic decomposition by killing methanogens." The demonstration must meet *both* criteria; that is a higher operating value must not cause fires *and* must not significantly inhibit anaerobic decomposition by killing methanogens.

The EPA proposes to clarify in subpart XXX that any alternate operating value for temperature, nitrogen, or oxygen proposed by an owner or operator according to the proposed 40 CFR 60.763(c) must be submitted to the Administrator (i.e., the EPA Administrator or delegated authority) for approval. The request may be submitted separately from a design plan revision. However, the design plan would have to be updated on the schedule described in the next section.

The EPA is also considering and taking comment on the landfill wellhead monitoring requirements, as discussed in the section IX.B of this preamble.

G. Requirements for Updating the Design Plan

We propose adding three criteria for when an affected source must update its design plan and submit it to the Administrator under subpart XXX (40 CFR 60.767(h)). We propose requiring submittal of a revised design plan as follows: (1) Within 90 days of expanding operations to an area not covered by the previously approved design plan; (2) prior to installing or expanding the gas collection system in a manner other than described in a previously approved design plan; and (3) prior to implementing an alternative operating parameter value for temperature, nitrogen, or oxygen.

H. Submitting Corrective Action Timeline Requests

Subpart WWW outlines the timeline for correcting for air infiltration in the gas collection system within 15 days of any exceedance of temperature, nitrogen, or oxygen parameters. We propose clarifying this requirement in subpart XXX (40 CFR 60.765(a)(5)) to require the landfill to submit an alternative corrective action timeline request to the Administrator if the landfill cannot correct for air infiltration within 15 calendar days of the initial exceedance and the landfill is unable to (or does not plan to) expand the gas collection within 120 days of the initial exceedance.

I. Other Corrections and Clarifications

We propose to standardize the terms "control system" and "collection and control system" throughout proposed subpart XXX in order to use consistent terminology throughout the regulatory text. Subparts Cc and WWW include phrases such as "control or treatment system"; however, 40 CFR 60.752(b)(2)(iii) indicates that a treatment system described in 40 CFR 60.752(b)(2)(iii)(C) is considered to be a type of control system, and therefore the term "control system" is sufficient and more concise. Further, some other parts of subpart WWW refer to "collection and control device" or "control equipment"; however, the terms "device" and "equipment" are synonymous with the term "system" in the context of these rules and were replaced with "control system" or "control system equipment" in several places as appropriate, for consistency. Finally, many parts of subpart WWW inaccurately reference "control system" instead of "collection and control system" when referring back to paragraphs in 40 CFR 60.752(b). These corrections and clarifications appear in subpart XXX.

We also propose to make the following clarifications and corrections to subpart XXX, which are consistent with the May 23, 2002 and September 8, 2006 proposed amendments in subpart WWW.

Consistent with the May 23, 2002 and September 8, 2006 proposed amendments, we propose to include language in subpart XXX to exempt owners/operators of boilers and process heaters with design capacities of 44 megawatts or greater from the requirement to conduct an initial performance test (40 CFR 60.762(b)(2)(iii)(B)).

Consistent with the September 8, 2006 proposed amendments, we propose to remove the term "combustion" from the requirement to monitor temperature of enclosed combustors (40 CFR 60.768(b)(2)(i) and 40 CFR 60.768(c)(1)(i)).

Consistent with the September 8, 2006 proposed amendments, we propose to incorporate a corrected test method cross-reference in 40 CFR 60.765(c)(3) of subpart XXX necessitated by the reorganization of Method 21 in appendix A to 40 CFR part 60.

Consistent with the September 8, 2006 proposed amendments, we propose to amend the definition of "household waste" and add a definition of "segregated yard waste" in subpart XXX (40 CFR 60.761) to clarify our intent regarding the applicability of the landfills NSPS to landfills that do not accept household waste, but accept segregated yard waste.

We are clarifying that the definition of "Modification" in subpart XXX includes a change in mass or volume and we are requesting comment on the definition of modification as discussed in section VIII.I of this preamble.

VIII. Rationale for the Clarifications and Resolutions That Are the Result of Implementation Activity

A. Definitions for Treated Landfill Gas and Treatment System and Treatment System Monitoring

Landfill gas treatment. In the May 23, 2002 proposed amendments, we proposed a definition for "treatment system" that would be used to determine if a facility qualifies for the treatment option provided in subpart WWW. The purpose of this definition was to provide consistency as to what qualifies as a treatment system and to reduce the burden on state and local agencies and EPA Regions currently performing case-by-case determinations related to the adequacy of treatment options being employed across the nation. The proposed definition of treatment system was "a system that filters, de-waters, and compresses landfill gas."

Following the May 23, 2002 proposal of the treatment system definition, several commenters requested further clarification as to what levels of filtration and de-watering would be considered acceptable to meet the definition of treatment. Some

commenters requested that EPA allow owners/operators to treat their gas such that it would meet the end-use combustion equipment "manufacturer's requirements" for fuel quality. Other commenters requested that EPA develop specific particulate, moisture, and compression targets that demonstrate "treated landfill gas."

We agreed with commenters that the definition of treatment system needed additional detail. We contacted manufacturers of combustion devices that are used to recover energy from landfill gas, and we obtained their written specifications and recommendations for fuel quality. As suggested by the commenters, we reviewed the available manufacturers' specifications for acceptable moisture and particulate levels. Because different manufacturers have different specifications, our proposed definition of "treatment system" did not refer directly to the manufacturers' requirements. Instead, we developed specific filtration and de-watering targets based on those requirements.

On September 8, 2006, we proposed levels of de-watering and filtration that were consistent with most manufacturers' specifications for landfill gas burned in energy recovery devices such as reciprocating engines, gas turbines, and boilers. We also proposed a supplemental definition of treatment system, as follows: ". . . a system that has an absolute filtration rating of 10 microns or less, lowers the water dew point of the landfill gas by at least 20 degrees Fahrenheit with a de-watering process, and compresses the landfill gas." The term "absolute filtration rating" means the diameter of the largest hard spherical particle that would pass through the filter. These treatment levels would minimize degradation of the combustion device and promote proper destruction of NMOC.

Following the September 8, 2006 supplemental amendments, several commenters objected to the 20 °F dew point reduction requirement and the requirement to monitor temperature reduction across the moisture removal system. Commenters cited several reasons, including the following:

- In cold climates, it might not be feasible to meet the proposed definition because the gas can be cooled from wellhead to temperatures in the 40 °F-range simply because of ambient conditions, and lowering the temperature further is not feasible.
- Verifying inlet and outlet temperatures is difficult because they vary depending on the pressures in the system. Accounting for these conditions could require multiple points of measure plus use of an algorithm to determine the reduction.
- The proposed standard does not take into account water removal that may be occurring in other parts of the gas collection system, such as the header.
- The level of treatment needed depends on the type and design of the specific combustion equipment being used, so some commenters favored case-by-case determinations.

The EPA maintains the position that the intent of the treatment option is to require active lowering of the dew point consistent with the better available treatment systems, and that we did not intend knock-out pots (for example) to qualify. The numerical specifications ensure that the treated gas is suitable for use in a wide range of applications. They also allow uniform national application of the NSPS, provide certainty to the landfill industry and regulated agencies, and avoid case-by-case determinations that are likely to be complex, time-consuming, and yield inconsistent results.

However, the EPA agrees with the comments that the 2006 proposed 20 °F dew point reduction requirement contains some ambiguity. For example, is the 20 °F relative to the gas temperature at the wells, in the main header prior to compression, or just prior to the chiller? Does the gas need to be chilled 20 °F below atmospheric temperature, which could be impractical in cold climates? We also agree with the commenters that if the treatment system first compresses and then chills the gas, measuring the gas temperature before the compressor and after the chiller would not give an accurate indication of the dew point reduction due to the change in pressure, and algorithms would be required to calculate the reduction.

In light of these comments, we reviewed designs from manufacturers of gas treatment compression-dehydration skids for the landfill gas utilization industry to determine if the numerical moisture requirement could be expressed as an absolute dew point or temperature that could be measured at a single location, rather than requiring a 20 °F reduction. Such a requirement would eliminate ambiguity and make it easier for landfills and regulatory agencies to determine compliance. Manufacturers commonly compress the gas first and then cool the gas to reduce the dew point. Manufacturers commonly offer dew points of 38 to 45 °F. They also reheat the final dehydrated product prior to it leaving their treatment unit. Therefore, we propose a dew point reduction to 45 °F, rather than a reduction by 20 °F.

The EPA requests comments on all aspects of this proposed definition of landfill gas treatment.

Continuous monitoring. To ensure continuous compliance with the treatment option, we are proposing similar monitoring requirements to the September 8, 2006 supplemental proposal, except that temperature or dew point is measured at a single location to determine that it has been reduced to 45 °F, rather than measuring it before and after the moisture removal device. Landfill owners/operators would install instrumentation to continuously monitor pressure drop across a filter, temperature for a chiller-based de-watering system, and dew point for a non-chiller-based de-watering system. These requirements would ensure that the treatment system is continuously operating in the manner in which it was designed to operate to achieve the specific filtration, de-watering, and compression targets that define a treatment system for the purposes of the landfills NSPS.

Continuous monitoring is appropriate for treatment systems because it ensures timely identification of sudden failures in equipment such as chillers and filters and ensures that treatment systems are operating properly to achieve the filtration and de-watering levels specified in the rule. Continuous monitoring is available for the selected treatment system operating parameters and is required to ensure continuous compliance.

For filtration systems, the pressure drop (24-hour average) across the filter would be continuously monitored and maintained above the minimum pressure drop established by engineering analysis or manufacturer's specifications. Alternatively, the owners/operators can request approval to monitor another parameter that indicates proper performance of the filtration system. Pressure drop was selected as a monitoring parameter because it is a good indicator of proper filter operation. A noticeable reduction in pressure drop across the filter indicates a breach of the filter material.

Continuous monitoring of temperature for a chiller-based de-watering system, dew point from a de-watering system that is not chiller-based, or another approved parameter that is indicative of proper performance of the de-watering system, would also be required. If the owner/operator requests to measure a parameter other than temperature or dew point, then the monitored parameter (24-hour average) would have to be kept within the operating range established by engineering analysis or manufacturer's

specifications. The owner or operator would submit the treatment system design and justification for the operating parameter ranges for approval by the Administrator in the design plan required by 40 CFR 60.752(b)(2) of subpart WWW.

For chiller-based de-watering systems, we selected temperature as a monitoring parameter because it indicates that the chiller is operating properly and the target 45 °F dew point is achieved. Continuous measurement of the gas temperature at the chiller outlet is required. The temperature measurement device should be located at (or immediately after) the coalescing filter or other direct contact moisture removal device that follows the chiller and removes the condensed moisture. Because the gas will be saturated at the temperature it leaves the filter, the temperature in that location is a good measure of the dew point. Temperature monitors are readily available, commonly used, reliable, and less expensive than alternative monitoring systems.

If a de-watering system that is not based on chilling, for example, a desiccant system, is used, then temperature would not be an appropriate parameter to monitor. In such cases, monitoring of the dew point would indicate whether the system is operating properly to achieve a temperature of 45 °F. Dew point can be continuously monitored using a hygrometer with a dew point readout. The hygrometer should be located after the equipment that performs the moisture removal. Dew point monitors are available and suitable for landfill gas applications.

Data collection is required at 15-minute intervals, consistent with current landfills NSPS requirements for flare pilot flame monitoring and enclosed combustor temperature monitoring that apply to landfills that opt to comply with the control options rather than the treatment option. A 24-hour block average for determining compliance with the treatment system operating parameter limits is sufficient to indicate any significant change in treatment system operation and would be less burdensome than more frequent averaging. Owners or operators of treatment systems would be required to report periods when the 24-hour block average for a monitored parameter (e.g., pressure drop, temperature, dew point) is outside the operating range established in the approved design plan.

Compliance schedule. Landfills subject to subpart XXX that choose to comply with subpart XXX by treating the landfill gas according to 40 CFR 60.762(b)(2)(iii)(C) would comply with the treatment requirements upon choosing to control landfill gas using the treatment option.

Uses of Treated Landfill Gas. Subpart WWW allows landfill owners or operators the option of achieving compliance by routing the collected gas to a treatment system "that processes the collected gas for subsequent sale or use." We propose language in subpart XXX (40 CFR 60.762(b)(2)(iii)(C)) to clarify that the use of treated landfill gas is not limited to use as a fuel for a stationary combustion device as some have interpreted the provision. We clarify the intent of the treatment option to allow other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Newer uses of landfill gas are being implemented and result in the production of useful energy or products, reducing the use of fossil fuels or other raw materials and the associated emissions. For the uses mentioned, the gas is treated at least as well as the specified treatment requirements. Site-specific approval of alternative monitoring parameters would be required for uses other than combustion because treatment systems for these end uses are relatively few in number and have unique designs. Owners or operators would be required to apply for approval of monitoring parameters.

B. Startup, Shutdown and Malfunction Provisions

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), *cert. denied,* 130 S. Ct. 1735 (U.S. 2010), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under CAA section 302(k), emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

Periods of startup or shutdown. Consistent with *Sierra Club* v. *EPA* (551 F.3d 1019 (D.C. Cir. 2008)), the EPA has established standards in subpart XXX that apply at all times. The part 60 general provisions, which define startup, shutdown and malfunction, were written for typical industrial or manufacturing sources and associated processes. Many of these sources and processes may, at times, be shut down entirely for clean-out, maintenance, or repairs, and then restarted. Applying the standards at all times, including periods of startup and shutdown, is intended to minimize excess emissions when the source or process ceases operation or commences operation, or malfunctions. Landfill emissions, however, are produced by a continuous biological process that cannot be stopped or restarted. For landfills, the primary SSM concern is with malfunction of the landfill GCCS and associated monitoring equipment, not with the startup or shutdown of the entire source. Thus, SSM provisions in the subpart XXX focus primarily on malfunction of the gas collection system, gas control system, and gas treatment system, which is part of the gas control system.

Periods of malfunction. Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. However, by contrast, malfunction is defined as "any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions" (40 CFR 60.2). The EPA has determined that CAA section 111 does not require that emissions that occur during periods of malfunction be factored into development of CAA section 111 standards. Nothing in CAA section 111 or in case law requires that the EPA anticipate and account for the innumerable types of potential malfunction events in setting emission standards. CAA section 111 provides that the EPA set standards of performance which reflect the degree of emission limitation achievable through "the application of the best system of emission reduction" that the EPA determines is adequately demonstrated. A malfunction is a failure of the source to perform in a "normal or usual manner" and no statutory language compels the EPA to consider such events in setting standards based on the "best system of emission reduction." The "application of the best system of emission reduction" is more appropriately understood to include operating units in such a way as to avoid malfunctions.

Further, accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might

occur. As such, the performance of units that are malfunctioning is not "reasonably" foreseeable. See, e.g., *Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) ("The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' ") See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) ("In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation."). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation and thus accounting for malfunctions could lead to standards that are significantly less stringent than levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 111 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 111 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 111 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 111 standard was, in fact, "sudden, infrequent, not reasonably preventable" and was not instead "caused in part by poor maintenance or careless operation" (40 CFR 60.2 (definition of malfunction)).

Further, to the extent the EPA files an enforcement action against a source for violation of an emission standard, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In several prior rules, the EPA had included an affirmative defense to civil penalties for violations caused by malfunctions in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense to provide a more formalized approach and more regulatory clarity. See *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); but see *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of "upsets beyond the control of the permit holder"). Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. Recently, the United States Court of Appeals for the District of Columbia Circuit vacated such an affirmative defense in one of the EPA's section 112(d) regulations. *NRDC* v. *EPA,* No. 10–1371 (D.C. Cir. April 18, 2014) 2014 U.S. App. LEXIS 7281 (vacating affirmative defense provisions in section 112(d) rule establishing emission standards for Portland cement kilns). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts lies exclusively with the courts, not the EPA. Specifically, the Court found: "As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' " See NRDC, 2014 U.S. App. LEXIS 7281 at *21 ("[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA."). In light of NRDC, the EPA is not including a regulatory affirmative defense provision in this rulemaking. As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the D.C. Circuit recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. Cf. NRDC, 2014 U.S. App. LEXIS 7281 at *24. (arguments that violation were caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same logic applies to EPA administrative enforcement actions.

Limit on SSM duration. Subpart WWW limits the duration of SSM events to 5 days for the landfill gas collection system and 1 hour for treatment or control devices. Proposed subpart XXX does not include the 5-day and 1-hour time limitations because some malfunctions cannot be corrected within these timeframes. Excluding these provisions is consistent with *Sierra Club* v. *EPA* (551 F.3d 1019 (D.C. Cir. 2008)), which concluded that that emission standards apply at all times, including periods of SSM, and 40 CFR 60.11(d), which states that at all times, including periods of startup, shutdown and malfunction, owners or operators shall, to the extent practicable, maintain and operate any source facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. The proposed revisions clarify that the NSPS standards continue to apply during periods of SSM.

To prevent free venting of landfill gas to the atmosphere during control device malfunctions, we propose to include a requirement in subpart XXX (40 CFR 60.763(e)) that states that in the event the collection or control system is not operating, the gas mover system must be shut down and all valves in the collection and control system contributing to venting of gas to the atmosphere must be closed within 1 hour. Note that 40 CFR 60.753(e) of subpart WWW says "inoperable." This provision was written when there was an allowance for periods of SSM: Subpart WWW (40 CFR 60.755(e)) allows SSM periods of 5 days for the landfill gas collection system and 1 hour for periods when collection or control devices were "not operable" due to malfunction. During those periods, the emission standards do not apply. However, proposed subpart XXX states that the standards apply at all times, including periods of SSM, and there is no allowance for SSM periods. Thus,

the term "inoperable" no longer applies. The EPA proposes to use the term "not operating," which includes periods when the gas collection or control system is not operating for whatever reason, including when the gas collection or control system is inoperable.

The practice to shut down the gas mover equipment and all valves contributing to venting of gas to the atmosphere minimizes emissions from the landfill while the control system is not operating and is being repaired. Compliance with 40 CFR 60.763(e) does not constitute compliance with the applicable standards in 40 CFR 60.762. Compliance with 40 CFR 60.763(e) is necessary to demonstrate compliance with the general duty to minimize emissions in 40 CFR 60.11(d) during control or collection system malfunctions.

Under subpart XXX, landfill owners/operators must keep records of combustion temperature, bypass flow, and periods when the flare flame or the flare pilot flame is out. However, without additional provisions, the EPA would have no way to gauge the severity of an emissions exceedance that may occur when these operating parameters are not being met or when the control device is not operating. Therefore, the EPA is including provisions for landfill owners/operators to estimate NMOC emissions when the control device or collection system is not operating. The landfill owners/operators may use whatever information is available to estimate NMOC emissions during the period, including but not limited to, landfill gas flow to or bypass of the control device, the concentration of NMOC (from the most recent performance test or from AP–42), and the amount of time the control device is not operating. Landfill owners/operators would keep records of the estimated emissions and would report the information in the annual compliance report. (See provisions in proposed subpart XXX: 60.767(f)(7) and 60.768(c)(5).)

C. Closed Areas

In the September 8, 2006 proposed amendments, the EPA requested public comments on how to address closed areas of landfills and when to allow removal of controls. Under 40 CFR 60.759(a)(3)(ii) of subpart WWW, landfills owners/operators can exclude from control, provided that the total NMOC emissions of all excluded areas can be shown to contribute less than 1 percent of the total amount of NMOC emissions from the landfill.

As discussed in the September 8, 2006 proposed amendments (71 FR 53277), it has come to our attention that there are situations in which the quantity of gas production has greatly declined in separate closed areas of some landfills, and the methane content has fallen such that the area is producing insufficient gas to properly operate a GCCS and control device. Actual measurements may show that the quantity of landfill gas from the area is less than 1 percent of the total gas from the entire landfill, but using the first order decay equation, it is calculated to be greater than 1 percent of the total gas from the entire landfill.

The EPA proposes in subpart XXX that owners or operators of physically separated, closed areas of landfills may use the procedures in 40 CFR 60.764(b), which determine the flow rate of landfill gas using actual measurements, to determine NMOC emissions. Alternatively, owners or operators of physically separated, closed areas may use subpart XXX (40 CFR 60.769(a)(3)(ii)), which relies on modeled (calculated) NMOC rates. The EPA proposes to allow the use of actual flow measurements because using actual flow measurements yields a more precise measurement of NMOC emissions for purposes of determining if NMOC emissions from the closed, nonproductive area of the landfill are less than 1 percent of the total NMOC emissions from the entire landfill. Landfills would be allowed to stop collecting gas from the closed separated area if it accounts for less than 1 percent of total landfill NMOC emissions.

The measurement approach would be allowed only in closed areas that are physically separated from other parts of the landfill (e.g., with liners). If the closed area is not separated, gas can migrate between that area and the rest of the landfill. In such a situation, measurements might not accurately reflect emissions from the given landfill area because gas could be moving underground and escaping or being collected from an adjacent section of the landfill.

D. Surface Monitoring

The landfills NSPS requires quarterly surface monitoring to demonstrate that the cover and gas collection system are working properly. The intent of the surface monitoring provision is to maintain a tight cover that minimizes the migration of emissions through the landfill surface. The operational requirements in subpart WWW specify that the landfill must "operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface testing around the perimeter of the collection area along a pattern that traverses the landfill at 30 meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover."

Several commenters on the September 8, 2006 notice asserted that the monitoring of every cover penetration was unnecessary or too burdensome. One commenter believed quarterly monitoring of penetrations was needed and suggested rule amendments to require the surface monitoring be conducted not only in areas where distressed vegetation and cracks or seeps in the cover can be seen, but also in other areas such as at the base of gas collection wells or at the top of the gas collection boot.

In proposed subpart XXX, we are reiterating the position that landfills must monitor all cover penetrations and openings within the area of the landfill where waste has been placed and a gas collection system is required. Specifically, landfill owners/operators must conduct surface monitoring at 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas. Cover penetrations can be observed visually and are clearly a place where gas would be escaping from the cover, so monitoring of them is required by the regulatory language. The regulatory language gives distressed vegetation and cracks as an example of a visual indication that gas may be escaping, but this example does not limit the places that should be monitored by landfill staff or by enforcement agency inspectors. Thus, the landfill must monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required. The EPA is clarifying this intent in 40 CFR 60.763(d), as follows: Owners/operator must also monitor "* * * where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations."

Regarding how to monitor landfill surfaces including surface penetrations, subpart XXX states that surface emission monitoring must be performed in accordance with section 8.3.1 of Method 21 of appendix A of part 60, except that the probe must be placed within 5 to 10 centimeters of the ground.

E. Electronic Reporting

Through this proposal, the EPA is presenting a process to increase the ease and efficiency of data submittal and improve data accessibility. Specifically, the EPA is proposing that owners or operators of MSW landfills submit electronic copies of required performance test reports, NMOC emission rate reports, and annual reports by direct computer-to-computer electronic transfer through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI).

The CDX is the EPA's portal for submittal of electronic data. The EPA-provided ERT software is used to generate electronic reports of performance tests that will be uploaded into the CDX using the CEDRI. NMOC emission rate reports and annual reports will be submitted using subpart specific forms in the CEDRI. The submitted report package will be stored in the CDX archive (the official copy of record) and the EPA's public database called WebFIRE. All stakeholders will have access to all reports and data in WebFIRE and accessing these reports and data will be very straightforward and easy (see the WebFIRE Report Search and Retrieval link at *http://cfpub.epa.gov/webfire/index.cfm?action=fire.searchERTSubmission*). A description and instructions for use of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site (*http://www.epa.gov/cdx*). A description of the WebFIRE database is available at: *http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main*.

Electronic data transmittal and reporting is becoming an increasingly common element of modern life (as evidenced by electronic banking and income tax filing). Electronic reporting of environmental data is also common practice in many media offices at the EPA; programs such as the Toxics Release Inventory (TRI), the Greenhouse Gas Reporting Program, Acid Rain and NO_X Budget Trading Programs, and the Toxic Substances Control Act (TSCA) new chemical program all require electronic submissions to the EPA. The changes being proposed today are needed to continue the transition to electronic reporting. Under current requirements, paper reports are often stored in filing cabinets or boxes, which make the reports more difficult to obtain and use for data analysis and sharing. Electronic storage of such reports would make data more accessible for review, analyses, and sharing. Electronic reporting can eliminate paper-based, manual processes. This will save time and resources, simplify data entry, eliminate redundancies, and provide data quickly and accurately to the affected sources, air agencies, the EPA, and the public.

Under an electronic reporting system, the EPA would have air emissions and performance test data in hand; thus, it is possible that fewer or less substantial information collection requests (ICRs) in conjunction with prospective CAA-required technology and risk-based reviews may be needed. This may result in a decrease in the need for industry staff time to respond to data collection requests.

Affected sources could also see reduced costs as a result of electronic reporting. The electronic reporting system forms will contain only the data elements specified by the regulations. As such, the data required to be included in each report will be clearly spelled out, reducing the time spent in determining required data elements and eliminating the time spent on including unnecessary data. The time savings realized by making the reports standardized could reduce facility costs. Reducing the reporting burden is also achieved through labor savings because some of the required data are already in existing EPA databases and do not need to be submitted again. Existing source files can be reused and already contain a portion of the required data. Electronic reporting could minimize submission of unnecessary or duplicative reports in cases where facilities report to multiple government agencies and the agencies opt to rely on the EPA's electronic reporting system to view report submissions. Where air agencies continue to require a paper copy of these reports and will accept a hard copy of the electronic report, facilities will have the option to print paper copies of the electronic reporting forms to submit to the air agencies, thus minimizing the time spent reporting to multiple agencies. Additionally, maintenance and storage costs associated with retaining paper records could likewise be minimized by replacing those records with electronically submitted data and reports.

Air agencies could benefit from more streamlined and automated review of the electronically submitted data. For example, because the performance test data would be readily-available in a standard electronic format, air agencies would be able to review reports and data electronically rather than having to conduct a review of the reports and data manually. Having reports and associated data in electronic format will facilitate review through the use of software "search" options, as well as the downloading and analyzing of data in electronic format. Additionally, air agencies would benefit from the reported data being accessible to them through the EPA's electronic reporting system wherever and whenever they want or need access (as long as they have access to the Internet).

The general public would also benefit from electronic reporting of emissions data because the data would be available for viewing sooner and would be easier for the public to access. The EPA Web site that stores the submitted electronic data will be easily accessible to the public and will provide a user-friendly interface that any stakeholder could access.

Another advantage to electronic reporting is that it makes data that can be used for the development of emission factors more readily available. An emission factor is a representative value that attempts to relate the quantity of a pollutant released to the atmosphere with an activity associated with the release of that pollutant (*e.g.*, kilograms of particulate emitted per megagram of coal burned). Such factors facilitate estimation of emissions from various sources of air pollution and are an important tool in developing emissions inventories, which in turn are the basis for numerous efforts including trends analysis, regional and local scale air quality modeling, regulatory impact assessments, and human exposure modeling. In most cases, emission factors are simply averages of all available data regardless of the data quality, and they are generally assumed to be representative of long-term averages for all facilities in the source category (*i.e.*, a population average).[26]

The EPA has received feedback from stakeholders asserting that many of the EPA's emission factors are outdated or not representative of a particular industry emission source. While the EPA believes that the emission factors are suitable for their intended purpose, we also recognize that emissions profiles on different pieces of equipment can change over time due to a number of factors (fuel changes, equipment improvements, industry work practices), and it is important for emission factors to be updated to keep up with these changes. The EPA is currently pursuing emission factor development improvements that include procedures to incorporate the source test data that we are proposing be submitted electronically. By requiring

[26] For more information on emission factors and their uses, see: *http://www.epa.gov/ttnchie1/ap42/*.

the electronic submission of the reports identified in this proposed action, the EPA would be able to access and use the submitted data to update emission factors more quickly and efficiently, creating factors that are characteristic of what is currently representative of the industry sector. Likewise, an increase in the number of test reports used to develop the emission factors will provide more confidence that the factor is of higher quality and representative of the whole industry sector. The EPA's new emission factor development procedures (*http://www.epa.gov/ttn/chief/efpac/procedures/index.html*) that incorporate the use of electronic test data automatically perform routines to indicate when a factor is no longer representative of an industry sector based on current data and calculates an updated factor. Because these routines are run automatically, the process is quick, and we are able to provide representative factors sooner. Emission factors are used in the development of emissions inventories, and as such, improved emission factors means that the quality of these inventories will be improved on a much quicker scale than they would under the current paper reporting requirements.

The electronic reporting system will also result in information that is submitted in a standardized format. Standardizing the reporting format will require the reporting of specific data elements, thereby helping to ensure completeness of the data and allowing for accurate assessment of data quality. In the past, incomplete test reports have resulted in lower quality emission factors because the data could not be adequately reviewed to determine representativeness. Imbedded quality assurance checks will perform some of the required method calculations, reducing errors in test reports. The system will perform statistical analyses routines to evaluate below detection limit data and outliers prior to performing the emission factor calculations. The result will be a factor of the highest quality rating that is most representative for the source category. And because the system is entirely electronic, it eliminates transcription errors in moving data from paper reports to data systems for analysis. These quality assurance checks and procedures will increase the accuracy of test report data, improve the overall quality of test data, and lead to more accurate emission factors and higher quality emissions inventories. These features benefit all users of the data.

Because those records, data, and reports that will be required to be submitted to the EPA electronically will be stored safely and will be available to all stakeholders at all times, we propose that industry should be required to maintain only electronic copies of these records to satisfy federal recordkeeping requirements. Thus, in this rulemaking, we are proposing to eliminate the requirement to maintain hard copies of records, data, and reports submitted to the EPA's CDX. This provision will benefit industry sources that currently maintain these reports in hardcopy form; no more rooms of file cabinets to store these reports will be needed, while maintaining the accessibility of this information on site. We note, however, that air agencies that require submission of reports in hardcopy form may also require hardcopy records.

We plan to store records, data, and reports submitted to the EPA's CDX electronically in two sites (CDX and WebFIRE), with frequent backups. Upon submission of a report, CEDRI will archive a copy of each submitted report in the CDX (this copy becomes the official copy of record). Both WebFIRE and CDX backup their files on a daily basis. The EPA's National Computer Center (where the WebFIRE files are stored) maintains a dual back-up file (one kept on site and the other stored off site). The CDX also employs a dual backup system to avoid problems in the event of a catastrophe at the location of the servers storing the files. Thus, the EPA has established redundancy into the electronic reporting and storage system to ensure submitted data are retained. In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with these reports would save industry; state, local, and tribal agencies; and the EPA significant time, money, and effort while also improving the quality of emission inventories and, as a result, air quality regulations.

F. Wellhead Monitoring Requirements

During implementation of subpart WWW, the question has been raised about whether a landfill needs agency approval to establish higher operating values for temperature, nitrogen, or oxygen as allowed under subpart WWW (40 CFR 60.753(c)). Subpart WWW (40 CFR 60.752(b)(2)(1)(B)) specifically states that the design plan shall include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions of subpart WWW proposed by the owner or operator. Therefore, the EPA is confirming in subpart XXX that alternative values allowed for under subpart XXX (40 CFR 60.763(c)) should be submitted for approval by the Administrator or the delegated state authority and then, after it is approved, submitted again to the Administrator or the delegated state authority as part of a design plan revision.

Another question has been raised during implementation concerning supporting data requirements for the allowance of an elevated wellfield monitoring parameter. The EPA is clarifying its intent in subpart XXX (40 CFR 60.763(c)), such that the demonstration must meet this criteria: A higher operating value must not cause fires and must not significantly inhibit anaerobic decomposition by killing methanogens.

G. Requirements for Updating Design Plan

Currently subpart WWW does not directly specify when a design plan should be updated and submitted to the Administrator for approval. To clarify questions received during implementation on the timing of submittals of updated design plans, we are proposing in subpart XXX to outline a set of three criteria under a consolidated section 40 CFR 60.767(h) for when a design plan must be submitted for approval. A revised design plan must be submitted for approval: Within 90 days of expanding operations to an area not covered by the previously approved design plan; before installing or expanding the gas collection system in a way that is not consistent the previous design plan; and prior to implementing an approved alternative operating parameter value for temperature, nitrogen, or oxygen, if the owner or operator has requested alternative operating parameter values.

The EPA is proposing to maintain the same site-specific design plan review and approval procedures, recognizing the unique site-specific topography, climate and other factors affecting the design of a GCCS. However, the EPA solicits comment on ways to streamline the design plan submission and approval procedures as part of its review of this NSPS. Examples of streamlining may include the potential development of a process by which approved alternative operating parameters could be automatically linked to updates of design plans or development of a process by which alternative operating parameters and updated design plans could be approved on a similar schedule.

H. Submitting Corrective Action Timeline Requests

During implementation of subpart WWW, the question has been raised about whether a landfill needs agency approval of corrective action timelines that exceed 15 calendar days but are less than the 120 days allowed for installing a GCCS. The intent of the rule is to require agency approval of corrective action timelines only if a landfill does not fix an exceedance in 15 days and is unable to or does not plan to expand the gas collection system within 120 days. We have included provisions in subpart XXX (40 CFR 60.765(a)(5)) to clarify this point. Excluding system expansion, all other types of corrective actions expected to exceed 15 calendar days should be submitted to the agency for approval of an alternate timeline. In addition, if a landfill owner or operator expects the system expansion to exceed the 120-day allowance period, it should submit a request and justification for an alternative timeline. We have not proposed a specific schedule for submitting these requests for alternative corrective action timelines because investigating and determining the appropriate corrective action, as well as the schedule for implementing the corrective action, will be site specific and depend on the reason for the exceedance. We clarify that a landfill should submit an alternative time line request as soon as possible (i.e., as soon as they know that they would not be able to correct the exceedance in 15 days or expand the system in 120 days) to avoid being in violation of the rule. If the landfill waits until 120 days after the exceedance to submit an alternative time line, then by the time the regulatory agency has the chance to review the time line and determine if it is approvable, the landfill will already be in violation of the requirement to expand the system within 120 days. After submitting the alternative timeline request, the landfill should work with its permitting authority to communicate the reasons for the exceedances, status of the investigation, and schedule for corrective action.

To address implementation concerns associated with the time allowed for corrective action, the EPA requests comment on an alternative that extends the requirement for notification from 15 days to as soon as practicable, but no later than 60 days. Many requests for an alternative compliance timeline express the need for additional time to make necessary repairs to a well that requires significant construction activities. Extending the time period to as soon as practicable, but no later than 60 days may reduce the burden and ensure sufficient time for correction. If the EPA were to extend the time period to as soon as practicable, but no later than 60 days, then the EPA is also considering the removal of the provision to submit an alternative timeline for correcting the exceedance. Thus, by no later than day 60, the landfill would have to either have completed the adjustments and repairs necessary to correct the exceedance, or be prepared to have the system expansion completed by day 120. The EPA is also requesting input on whether 60 days is the appropriate amount of time that would allow owners or operators to make the necessary repairs.

I. Other Corrections and Clarifications

The clarifications and provisions described in this section apply to new subpart XXX. During implementation of subpart WWW, the EPA learned about potential confusion in the rule caused by the terms "control and treatment system" and "control system." It was requested that the EPA revise the term "control or treatment system" to read "control system." We agree that the term treatment system is a subset of the control system as described in subpart WWW (40 CFR 60.752(b)(2)(iii)(C)) and are proposing to make this change in proposed subpart XXX. While making this change, we also conducted an extensive review of the remainder of the rule text to make several editorial and consistency changes to how the terms "control system" and "collection and control system" were used. As part of this review, we clarified our intent for the terms "device" and "equipment" to be used interchangeably with "system" in the context of the landfills NSPS; and we are proposing to replace these terms with "system" in several places, as appropriate, for consistency. We also identified editorial inconsistencies in the use of how the terms "control system" and "collection and control system" were referenced and we are proposing in subpart XXX to change the text to reference the correct term, consistent with the intent of the rule text.

We propose to include language in subpart XXX to exempt owners or operators of boilers and process heaters with design capacities of 44 megawatts or greater from the requirement to conduct an initial performance test. Available data demonstrate that boilers and process heaters with heat input capacities of 44 megawatts or greater consistently achieve the required level of control, and the exemption of these boilers from testing has been included in several other air regulations, such as those for the chemical industry and petroleum refineries.

We propose to apply new language in subpart XXX (40 CFR 60.768(b)(2)(i) and 40 CFR 60.768(c)(1)(i)) by removing the term "combustion" from the requirement to monitor temperature of enclosed combustors. The amendment clarifies that the "combustion" temperature does not have to be monitored, because, for some enclosed combustors, it is not possible to monitor temperature inside the combustion chamber to determine combustion temperature. Instead, temperature can be monitored at another location, as long as the monitored temperature relates to proper operation of the enclosed combustor.

We propose to include a corrected test method cross-reference in subpart XXX (40 CFR 60.765(c)(3)) necessitated by the reorganization of Method 21 in appendix A to 40 CFR part 60.

We propose to include definitions of "household waste" and "segregated yard waste" in subpart XXX (40 CFR 60.761) to clarify our intent regarding the applicability of subpart XXX to landfills that do not accept household waste, but accept segregated yard waste. We intend for subpart XXX to apply to municipal solid waste landfills that accept general household waste (including garbage, trash, sanitary waste), as indicated in the definitions. We did not intend these rules to apply to landfills that accept only segregated yard waste and non-household waste such as construction and demolition and yard waste.

We are clarifying the definition of "Modification" in subpart XXX to include an increase in the permitted design capacity in terms of not only the volume, but also the mass.

The EPA is exploring options to achieve additional emissions reductions from existing landfills under CAA section 111(d) in an ANPRM. The EPA will consider all of the information it receives in response to the ANPRM in the context of its review of the NSPS and will respond to that information accordingly. In light of our interest in valuing methane reductions in our review of these standards as well as the number of cost-effective measures for existing landfills described in the ANPRM, the EPA is also exploring whether it is reasonable to review the definition of modification for landfills. A revision to the definition may provide additional opportunities to apply cost-effective measures to mitigate landfill gas emissions in modified sources because of the close relationship of control strategies that may apply to both modified landfills and existing sources.

The EPA requests comment on changes that may be appropriate and whether these changes should be enacted to achieve additional emissions reductions.

IX. Request for Comment on Specific Provisions

The EPA is specifically requesting public comment on three issues: Landfill gas treatment, wellhead monitoring, and enhanced surface monitoring.

A. Definitions for Treated Landfill Gas and Treatment System and Treatment System Monitoring

The EPA is requesting public comment on an alternative approach for defining treatment system and treated landfill gas. The alternative approach would define *Treated landfill gas* as landfill gas processed in a treatment system according to subpart XXX and would define *Treatment system* as a system that filters, de-waters, and compresses landfill gas. The alternative approach would be available for only new landfills subject to subpart XXX that treat the landfill gas for subsequent sale or beneficial use. The EPA is considering providing this flexibility for new landfills that beneficially use landfill gas, given the site-specific and end-use specific treatment requirements for different energy recovery technologies. The EPA is also requesting comment on providing this flexibility for all landfills. Most landfills that beneficially use landfill gas either combust the landfill gas in a device that achieves 98 percent destruction of NMOCs or they treat gas for sale or on-site use. This level of treatment and subsequent combustion not only achieves the environmental benefits of reducing landfill gas emissions, but also utilizes landfill gas as an energy resource.

This technical aspects of this alternative approach are consistent with public comments on previous notices (67 FR 36475, May 23, 2002 and 71 FR 53271, September 8, 2006). It is also consistent with input from the SERs and recent Federalism consultation participants who stated that the extent of filtration, de-watering, and compression can be site dependent, and that different sites require different levels of gas treatment to protect the combustion devices that use treated landfill gas as a fuel and ensure good combustion. The alternative treatment provisions are also consistent with the 2002 proposed definition of treatment system as "a system that filters, de-waters, and compresses landfill gas." The alternative definition of treatment system gas allows the level of treatment to be tailored to the type and design of the specific combustion equipment in which the landfill gas is used. Instead of meeting numerical specifications for treated landfill gas, owners/operators would specify the level of treatment based on the type and design of the specific combustion equipment that uses the treated landfill gas. Owners/operators would identify monitoring parameters and keep records that demonstrate that such parameters effectively monitor filtration, de-watering, or compression system performance necessary for the end use of the treated landfill gas. We are also proposing to define "treated landfill gas" to mean landfill gas processed in a treatment system. The intent of the treatment option is to require active lowering of the dew point consistent with the better available treatment systems, as such, we did not intend knock-out pots (for example) to qualify.

Owners/operators would develop a site-specific treatment system monitoring plan that would not only accommodate site-specific and end-use specific treatment requirements for different energy recovery technologies, but would also ensure environmental protection. Most landfill owners and operators that treat landfill gas combust the landfill gas in a combustion device that achieves 98 percent destruction of NMOCs. Thus, the treatment option offers a similar level of environmental protection as combusting the landfill gas. Landfill owners and operators that are beneficially using landfill gas are motivated to efficiently treat landfill gas for the intended purpose in order to protect energy recovery equipment, maintain warranties on equipment, and meet the gas specifications often specified in contractual requirements with third parties purchasing the gas. Thus, preparing the monitoring plan would document procedures to ensure that the landfill gas has been adequately treated for the intended use. Having a properly operated and efficient treatment system should minimize downtime of the entire GCCS (or routing of the landfill gas to a flare due to shutdown of end-use equipment) because the end-use equipment will continue to operate properly and will need less maintenance if the gas is treated appropriately. By minimizing downtime of the entire system, the destruction of NMOC will be maximized.

The plan would be required to include monitoring parameters addressing all three elements of treatment (filtration, de-watering, and compression) to ensure the treatment system is operating properly for the intended end use of the treated landfill gas. The plan would be required to include monitoring methods, frequencies, and operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis for the intended end use of the treated landfill gas. Documentation of the monitoring methods and ranges, along with justification, must be included in the site-specific monitoring plan. In the plan, the owner/operator would also need to identify who is responsible (by job title) for data collection, explain the processes and methods used to collect the necessary data, and describe the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems.

The monitoring plan may rely on references to existing corporate documents (e.g., standard operating procedures, quality assurance programs or other documents) provided that the elements required by the monitoring plan are easily recognizable.

The owner or operator would be required to revise the monitoring plan to reflect changes in processes, monitoring instrumentation, and quality assurance procedures; or to improve procedures for the maintenance and repair of monitoring systems to reduce the frequency of monitoring equipment downtime.

The plan must be kept on site and must be available for inspection. In addition, upon request by the Administrator, the owner or operator would be required to make all information that is collected in conjunction with the monitoring plan available for review during an audit or inspection.

B. Wellhead Monitoring Requirements

The EPA is requesting public comment on alternative wellhead monitoring requirements in proposed subpart XXX. One alternative monitoring provision could be in the form of an exclusion from the temperature and oxygen/nitrogen monitoring requirements, or a reduction in the frequency of monitoring. For example, the EPA could reduce the frequency of wellhead monitoring for these three parameters (temperature and oxygen/nitrogen) from monthly to a quarterly or semi-annual schedule. Owners or operators would continue to monitor the wellhead for negative pressure.

The EPA is specifically requesting comment on whether this adjustment should apply only to landfills that

beneficially use landfill gas, and if so whether any quantity of the recovered LFG should qualify for alternative wellhead monitoring. Alternatively, the EPA is requesting comment on whether it would be more appropriate to require a certain percentage of the overall recovered LFG to be beneficially used in order to exempt landfills from or reduce the frequency of the wellhead monitoring requirements. The EPA also requests comments on the availability of this flexibility to small entities owning or operating landfills, regardless of beneficial use.

The EPA would provide these alternatives to encourage new landfills to beneficially use landfill gas. Both of these alternative options (exclusion or reduced monitoring frequency) would provide monitoring relief to these landfills. Landfill owners and operators must operate their GCCS in a manner that collects the most landfill gas and minimizes losses of landfill gas through the surface of the landfill. In addition, landfills would still have to prepare and submit to the regulating authority a gas collection design plan, prepared by a professional engineer.

As proposed, subpart XXX requires landfill owners and operators to operate each interior wellhead in the collection system with a landfill gas temperature less than 55 °C and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent. Instead of having the landfill owner or operator conduct monthly monitoring of temperature and nitrogen/oxygen at the wellheads, the EPA is considering relying on landfill surface emission monitoring requirements in combination with maintenance of negative pressure at wellheads to indicate proper operation of the GCCS and minimization of surface emissions. The potential removal of the temperature and nitrogen/oxygen operational standards and associated wellhead monitoring requirements for these three parameters would be complemented by the surface monitoring provisions discussed in this preamble. As discussed in section VII.F and VIII.F of this preamble, we are reiterating that landfills must monitor *all cover penetrations* and openings within the area of the landfill where waste has been placed and a gas collection system is required.

Given recent technological advancements in data storage and transmission, the EPA is also considering an alternative to automate the wellhead monthly monitoring provisions. Automation could reduce long-term burden on landfill owner/operators as well as delegated authorities by allowing for a more frequent, but less labor-intensive, data collection system consisting of remote wellhead sensors (i.e. thermistors, electronic pressure transducers, oxygen cells) and a centralized data logger.

The use of continuous monitoring would allow more immediate detection and repair. This would eliminate the time between when the exceedance of the parameter occurs and when it is detected. It could also improve enforceability of the rule by allowing inspectors to review information on the data logger in real time during a site visit. Another advantage to automating the monitoring is that it could provide flexibility for incorporating additional parameters into the monitoring program. The EPA is soliciting comment on this alternative, including the types of parameters that are best suited for an automated monitoring alternative, examples of successful automated monitoring programs at MSW landfills and their associated costs, additional considerations for equipment calibration, and input on any averaging times that might be appropriate to determine when one or more monitored parameters have been exceeded.

C. Enhanced Surface Monitoring Requirements

The EPA is requesting public comment on potential alternative approaches to the surface emission monitoring in proposed subpart XXX. Subpart XXX collection and control requirements are intended for landfills to maintain a tight cover that minimizes any emissions of landfill gas through the surface. The surface emissions monitoring procedures in proposed subpart XXX require quarterly surface emissions monitoring to demonstrate that the cover and gas collection system are working properly. The operational requirements in subpart XXX (40 CFR 60.763(d)) specify that the landfill must "`. . .` operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at 30 meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover."

Proposed subpart XXX requires quarterly monitoring and includes provisions for increased monitoring and corrective procedures if readings above 500 ppm are detected. Instrumentation specifications, monitoring frequencies, and monitoring patterns are structured to provide clear and straightforward procedures that are the minimum necessary to assure compliance.

In this document, we are requesting public comment on potential alternatives to the surface monitoring procedures in proposed subpart XXX. Potential alternatives could include provisions such as those in a California regulation (provisions in California Air Resources Board, Final Regulation Order, Methane Emissions from Municipal Solid Waste Landfills (Article 4, Subarticle 6, sections 95460 to 95476, title 17, California Code of Regulations)) and include changing the walking pattern that traverses the landfill, adding an integrated methane concentration measurement, and allowing sampling only when wind is below a certain speed.

For subpart XXX, we are requesting comment on reducing the interval for the walking pattern that traverses the landfill from 30 meters (98 ft.) to 25 ft. We are also requesting comment on the addition of a methane concentration limit of 25 ppm as determined by integrated surface emissions monitoring. This would be in addition to the 500 ppm emission concentration as determined by instantaneous surface emissions monitoring. Integrated surface emissions monitoring provides an average surface emission concentration across a specified area. For integrated surface emissions monitoring, the specified area would be individually identified 50,000 square foot grids. A tighter walking pattern and the addition of an integrated methane concentration would more thoroughly ensure that the collection system is being operated properly, that the landfill cover and cover material are adequate, and that methane emissions from the landfill surface are minimized. As part of these potential changes, the EPA is also considering not allowing surface monitoring when the average wind speed exceeds 5 miles per hour or the instantaneous wind speed exceeds 10 miles per hour because air movement can affect whether the monitor is accurately reading the methane concentration during surface monitoring. We are considering this change because measurements during windy periods are usually not representative of the emissions.

The EPA estimated the costs associated with both the proposed subpart XXX surface monitoring requirements (which are the same as the surface monitoring requirements in subpart WWW) and potential changes to the surface monitoring provisions under

the proposed option 2.4/40 and applied them to the set of new landfills that would be subject to control requirements under the respective option. To determine the costs, the EPA used the following assumptions: Most landfills will hire a contractor to conduct the quarterly monitoring. The landfill will incur labor costs based on the time it takes to walk the traverse (hours per acre), the size of the landfill (acres), and a labor rate (dollars per hour). The landfill will also incur an equipment rental rate (dollars per hour). Equipment rental rates are dollars per day/week/month, depending on the size of the landfill and time to traverse the acreage during each quarterly period. See the docketed memo "Methodology for Estimating Testing and Monitoring Costs for the MSW Landfill Regulations. 2014," which contains the details for determining the costs that a landfill would incur to conduct enhanced surface monitoring.

Using the techniques discussed in section V.A of this preamble, the EPA estimated the number of landfills that are expected to install controls under the baseline, as well as the proposed option 2.5/40. Then, the EPA applied surface monitoring costs to the respective set of landfills because landfills that must install controls must also conduct surface monitoring. Table 5 of this preamble compares the enhanced surface monitoring costs that would be incurred for new landfills under the baseline and proposed option 2.5/40.

TABLE 5—COMPARISON OF BASELINE SURFACE MONITORING VERSUS ENHANCED SURFACE MONITORING IN 2023

Control option	Surface monitoring option	Number of landfills affected	Number of landfills controlling	Total annual cost (2012$)	Incremental cost	Total cost per controlled landfill	Incremental cost per controlled landfill
Baseline (2.5/50) ...	No change (30 meter traverse).	17	8	42,300	N/A	5,300	N/A
	Enhanced (25-foot traverse, integrated sample).	17	8	312,800	270,500	39,100	33,800
Proposed option (2.5/40).	No change (30 meter traverse).	17	11	50,000	7,700	4,500	700
	Enhanced (25-foot traverse, integrated sample).	17	11	362,900	320,600	33,000	29,100

Several factors contribute to the cost of enhanced surface monitoring. Monitoring along a traverse with a 25 ft. interval would increase monitoring time, and thus the labor costs, compared to monitoring along a 30 meter (98 ft.) interval. Monitoring along the tighter traverse pattern would take approximately four times as long, because the distance is approximately four times. For a landfill to conduct the integrated surface emissions monitoring, the EPA assumed the landfill would rent a handheld portable vapor analyzer with a data logger. The data logger is necessary to obtain an integrated reading over a single 50,000 square foot grid. However, the EPA does not expect that requiring an integrated methane concentration would add significant cost because landfills could use the same instrument that they currently use for the instantaneous readings and these instruments can be programmed to provide an integrated value as well as an instantaneous value.

The EPA recognizes that these provisions could reduce surface emissions and that these emissions reductions are difficult to quantify. The EPA also understands that there are potential implementation concerns with these enhanced procedures. Surface monitoring is a labor intensive process and tightening the grid pattern would increase costs. Of the eight landfills expected to install controls under the baseline, it would take these landfills over 29 hours, on average, to complete each quarterly traverse pattern. Tightening the traverse pattern to 25-feet instead of 30-meters would require over 79 hours per quarter, or more than 200 additional hours per year compared to the current 30-meter traverse pattern. At this time, the EPA is not proposing surface monitoring provisions that differ from those outlined in subpart WWW, but we are soliciting comment on techniques and data to estimate the emission reductions associated with enhanced surface monitoring.

The EPA is requesting comment on allowing the use of alternative remote measurement and monitoring techniques for landfills that exceed the surface monitoring concentrations in subpart XXX. The EPA would like information to determine whether or not to allow these alternative techniques to be used to demonstrate that surface emissions are below the methane surface concentrations in the subpart XXX. Alternative remote measurement and monitoring techniques may include radial plume mapping (RPM), optical remote sensing, Fourier Transform Infrared (FTIR) spectroscopy, cavity ringdown spectroscopy (CRDS), tunable diode laser (TDL), tracer correlation, micrometeorological eddy-covariance, static flux chamber, or differential absorption. The EPA is also seeking comment on the frequency of testing and the format of the standard to use these technologies as an alternative to average surface concentration as measured by Method 21. Incorporation of these technologies in subpart XXX would require a change in format of the standard to be consistent with the technology.

D. Alternative Emission Threshold Determination Techniques

The EPA is considering adjusting the emission threshold determinations that dictate when a GCCS must be installed, including variations in the modeling parameters as well as adding site-specific emission threshold determination. These alternatives may provide additional reporting and compliance flexibilities for owners and operators of affected landfills.

1. Modeling Adjustments

As proposed, subpart XXX has three different tiers available to an affected landfill to estimate whether or not the landfill exceeds the NMOC emission threshold of 50 Mg per year. The

simplest Tier 1 calculation method uses default values for the potential methane generation capacity (L_0) and methane generation rate (k) to determine when the landfill exceeds the 50 Mg NMOC per year emission rate cutoff. The default L_0 is 170 m^3 per Mg of waste (equal to 5,458 cubic feet methane per ton of waste) and the k values are 0.05 per year for areas receiving 25 inches or more of rainfall per year and 0.02 per year for areas receiving less than 25 inches of rainfall. The Tier 1 default NMOC concentration is 4,000 ppmv as hexane. If the Tier 1 calculated NMOC exceeds 50 Mg per year, the landfill must install controls or demonstrate, using more complex Tier 2 or 3 procedures, that NMOC emissions are less than 50 Mg per year.

The EPA is soliciting comment on allowing for alternative Tier 1 default values and modeling techniques based on the amount of organics in the waste. For example, the L_0 is a function of the moisture content and organic content of the waste and L_0 decreases as the amount of organic matter decreases. Recent studies have shown that average U.S. landfill L_0 values have decreased 22 percent between 1990 and 2012 (from 102.6 m^3 per Mg of waste to 79.8 m^3 per Mg of waste) due to increased recovery of organic materials.[27] Subpart XXX could allow for landfill-specific L_0 values to be calculated based on the amount of degradable organic carbon (DOC), similar to components of Equation HH–1 in the GHGRP for MSW landfills (40 CFR part 98 subpart HH).

Subpart HH of the GHGRP also provides separate k-values for different types of materials, which could be used as alternate Tier 1 default values in the revised NSPS. Sewage sludge and food waste have the highest k values, followed by garden waste, diapers, paper, textiles, and wood and straw.[11]

The IPCC model employs a modeling method to accommodate separate k and DOC modeling parameters as well as separate calculations for six different categories of organic wastes.[28]

If the EPA incorporates alternative Tier 1 modeling values in subpart XXX, the EPA would also need to allow for an alternative first-order decay model structure to compute a total methane generation rate for the landfill based on the sum of the methane generated from each separate waste stream. This alternative model may incorporate material-specific k and L_0 values, instead of a single pair of k and L_0 values applied to bulk MSW. The EPA requests comment on whether the alternative modeling parameters and model structure in subpart HH, or other default parameters or modeling procedures would be appropriate to use for emission threshold determinations in subpart XXX.

2. Site-Specific Measurements

Under the proposed subpart XXX, there are three different tiers available to an affected landfill to estimate whether or not the landfill exceeds the NMOC emission threshold of 50 Megagrams per year. If an affected landfill fails a Tier 2 test (i.e., the calculated NMOC emissions are greater than 50 Mg/year), then the landfill must conduct Tier 3 testing or install and operate an active GCCS. The EPA received comments while conducting outreach with small entities that recommended a new Tier 4 surface emission monitoring (SEM) demonstration to allow increased flexibility for landfills that exceed modeled NMOC emission rates if they can demonstrate that site-specific methane emissions are low. This SEM demonstration would be conducted using similar procedures in proposed subpart XXX (see proposed 40 CFR 60.765(d)). If the monitoring finds that methane emissions are below a level that the EPA finalizes in the NSPS review, then installation of a GCCS could be delayed.

As an example, the California Air Resources Board (ARB) adopted the Methane Emissions from MSW Landfills regulation in 2009.[29] Under this rule, if a landfill exceeds the waste-in-place and heat input thresholds, the landfill may conduct an SEM demonstration prior to being required to install a GCCS. If the surface methane emissions show any exceedances above 200 ppm the landfill must install a GCCS. This SEM demonstration is similar to the Tier 4 option being considered by the EPA.

The EPA is soliciting comment about this new Tier 4 option or other ideas for more flexible emission threshold determination "Tiers" and what implementation procedures for each determination may be appropriate. As the EPA takes this new Tier 4 option under consideration, there are some implementation procedures that would need to be established. The EPA requests comment on all aspects of implementing a new Tier 4 option, including the following specific items: (1) Which areas of the landfill would be subject to SEM requirements because these areas would no longer be limited to areas with GCCS installed for applicability purposes; (2) what number of exceedances over a specified time period that would require GCCS installation (proposed subpart XXX specifies a new well must be installed at three or more exceedances in a quarter); (3) what frequency of SEM demonstration (e.g., quarterly monitoring for landfills accepting waste, annual monitoring for closed landfills) is appropriate; and (4) what exceedance level is appropriate for determining if a GCCS must be installed (200 ppm or some other level).

X. Impacts of Proposed Revisions

The impacts shown in this section are expressed as the incremental difference between facilities affected by baseline and the proposed reduction of the NMOC emission threshold to 40 Mg/yr from the current NSPS level of 50 Mg/yr. There are incremental costs, emissions, and secondary impacts associated with capturing and/or utilizing the additional LFG under this proposal.

As discussed in section V.B of this preamble, for most NSPS, impacts are expressed 5 years after the effective date of the rule. However, for the landfills NSPS, impacts are expressed 10 years after (year 2023) because the landfills regulations require controls at a given landfill only after the increasing NMOC emission rate reaches the level of the regulatory threshold. Additionally, the regulations allow the collection and control devices to be capped or removed at each landfill after certain criteria are met, which includes having the GCCS operate a minimum of 15 years. Controls would not be required over the same time period for all landfills. The impacts are a direct result of control; therefore, the annualized impacts change from year to year. By 2023, over half of the modeled new landfills are expected to have installed controls and thus, the EPA considered the impacts of the proposal relative to the baseline in 2023, as discussed in section V.B and VI of this preamble. The methodology for estimating the impacts of the NSPS is discussed in section VI of this preamble and in the docketed memorandum "Methodology for Estimating Cost and Emission Impacts of MSW Landfills Regulations. 2014." The results of applying this methodology to the population of future landfills potentially subject to this proposal are in the

[27] Stege, Alex. The Effects of Organic Waste Diversion on LFG Generation and Recovery from U.S. Landfills. SWANA's 37th Annual Landfill Gas Symposium. 2014.

[28] Intergovernmental Panel on Climate Change (IPCC), *IPCC Guidelines for National Greenhouse Gas Inventories*. Volume 5 (Waste), Chapter 3 (Solid Waste Disposal). 2006.

[29] California Code of Regulations, title 17, subchapter 10, article 4, subarticle 6, section 95463, Methane Emissions from Municipal Solid Waste Landfills.

docketed memorandum "Cost and Emission Impacts Resulting from the Landfill NSPS Review. 2014." The impacts of subpart XXX are summarized as the impacts to new landfills estimated to be built during the first 5 years of the standards, between 2014 and 2018. Table 3 of this preamble summarizes the emission reductions and costs associated with the control options considered.

A. What are the air quality impacts?

The proposal would achieve an additional 13 percent reduction in NMOC from landfills constructed since 2013, or 79 Mg/yr, when compared to the baseline, as shown in Table 6 of this preamble. The proposal would also achieve substantial reductions in methane emissions. These reductions are achieved by reducing the NMOC threshold from 50 Mg/yr to 40 Mg/yr.

TABLE 6—EMISSION REDUCTIONS IN 2023 FOR NEW LANDFILLS SUBJECT TO ADDITIONAL CONTROLS UNDER PROPOSED OPTION 2.5/40

Parameter	Quantity
Baseline NMOC Emission Reductions (Mg) [a]	610.
Proposed Incremental NMOC Emission Reductions (Mg)	79.
Baseline Methane Emission Reductions (Mg) [a]	94,800.
Proposed Methane Emission Reductions (Mg)	12,300.
Baseline Methane Emission Reductions (Mg CO_2e) [a]	2.4 million.
Proposed Methane Emission Reductions (Mg CO_2e)	307,600.
% Emission Reduction from Proposal	13% below baseline.

[a] These are the reductions that would be achieved from new landfills if subpart XXX retained the same gas collection and control requirements that are in subpart WWW.

B. What are the water quality and solid waste impacts?

Leachate is the liquid that passes through the landfilled waste and strips contaminants from the waste as the leachate percolates. Precipitation generates the vast majority of leachate volume. Installation of a gas collection system will generate additional liquid, in the form of gas condensate, and it will be routed to the same leachate treatment mechanisms in place for precipitation-based leachate. Collected leachate can be treated on site or transported off site to wastewater treatment facilities. Some landfills have received permits allowing for recirculation of leachate in the landfill, which may further reduce the volume of leachate requiring treatment. Additional liquid generated from gas condensate is not expected to be significant and insufficient data are available to estimate the increases in leachate resulting from expanded gas collection and control requirements.

The additional gas collection and control components required by this proposal have finite lifetimes (approximately 15 years) and these pipes and wells will be disposed of at the end of their useful life. There are insufficient data to quantify the solid waste resulting from disposal of this control infrastructure.

Further, the incremental costs of control for the proposal are not expected to have an appreciable market effect on the waste disposal costs, tipping fees, or the amount of solid waste disposed in landfills because the costs for gas collection represent a small portion of the overall costs to design, construct, and operate a landfill. There is insufficient information to quantify the effect increased gas control costs might have on the amount of solid waste disposed of in landfills versus other disposal mechanisms as recycling, waste-to-energy, or composting.

C. What are the secondary air impacts?

Secondary air impacts may include grid emissions from purchasing electricity to operate the GCCS components, by-product emissions from combustion of landfill gas in flares or energy recovery devices, and offsets to conventional grid emissions from new landfill gas energy supply.

The secondary air impacts are presented as net impacts, considering both the energy demand and energy supply resulting from the proposal. The methodology used to prepare the estimated secondary impacts for this preamble is discussed in the docketed memorandum "Estimating Secondary Impacts of the Landfills NSPS Review. 2014."

Because NO_X and SO_2 are covered by capped emissions trading programs, and methodological limitations prevent us from quantifying the change in CO and PM, we do not estimate an increase in secondary air impacts for this rule from additional demand for grid purchased electricity to operate control systems. The net impacts were computed for mercury and CO_2e. After considering the offsets from LFG electricity, the impacts of the proposal are expected to reduce overall mercury emissions by 577 tons per year (tpy) and reduce CO_2 emissions by 26,139 tpy. These CO_2 emission reductions are in addition to the CO_2e emission reductions achieved from the direct destruction of methane in flares or engines presented in Table 6 of this preamble.

D. What are the energy impacts?

The proposal is expected to have a very minimal impact on energy supply and consumption. Active gas collection systems require energy to operate the blowers and pumps and the proposal will increase the volume of landfill gas collected. When the least cost control is a flare, energy may be purchased from the grid to operate the blowers of the landfill gas collection system. However, when the least cost control option is an engine, the engine may provide this energy to the gas control system and then sell the excess to the grid. Considering the balance of energy generated and demanded from the estimated least cost controls, the proposal is estimated to have a net impact of 42,400 megawatt hours (MWh) of additional energy supply per year.

E. What are the cost impacts?

To meet the proposed emission limits, a landfill is expected to install the least cost control for combusting the landfill gas. The cost estimates (described in sections V and VI of this preamble) evaluated each landfill to determine whether a gas collection and flare or a gas collection with flare and engine equipment would be least cost, after considering local power buyback rates and whether the quantity of landfill gas was sufficient to generate electricity. The control costs include the costs to install and operate gas collection infrastructure such as wells, header pipes, blowers, and an enclosed flare. For landfills where the least cost control option was an engine, the costs also

include the cost to install and operate one or more reciprocating internal combustion engines to convert the landfill gas into electricity. Revenue from electricity sales was incorporated into the net control costs using state-specific data on wholesale purchase prices, where engines were deemed to be the least cost control option. Testing and monitoring costs at controlled landfills include the cost to conduct initial performance tests on the enclosed flare or engine control equipment, quarterly surface monitoring, continuous combustion monitoring, and monthly wellhead monitoring. At uncontrolled landfills, the testing and monitoring costs include calculation and reporting of NMOC emission rates using either Tier 1 or Tier 2 testing.

The nationwide incremental annualized net cost for the proposal is $471,000, of which $5,900 is testing and monitoring costs. Table 7 of this preamble presents the costs.

TABLE 7—INCREMENTAL COST IMPACTS IN 2023 FOR NEW LANDFILLS SUBJECT TO ADDITIONAL CONTROLS UNDER THE PROPOSAL

Option	Total number of landfills incurring cost[a]	Annualized control cost	Average annualized revenue	Average annualized testing and monitoring cost	Average net total annualized cost
Total Costs of Baseline ($2012)					
Baseline 2.5/50	13	23,956,900	21,315,300	66,400	2,708,000
Incremental Costs Above Baseline ($2012)					
Proposed 2.5/40	17	3,178,800	2,713,700	5,900	471,000

[a] Under proposal, a total of 11 landfills are expected to install controls by 2023, compared with eight landfills under the baseline. A total of 17 landfills meet the design capacity criteria of 2.5 million Mg and must report their NMOC emission rates under the proposal. This is the same number of landfills expected to report under the baseline.

F. What are the economic impacts?

Because of the relatively low cost of the proposal and the lack of appropriate economic parameters or model, the EPA is unable to estimate the impacts of the options on the supply and demand for MSW landfill services. However, because of the relatively low incremental costs of the proposal, the EPA does not believe the proposal would lead to changes in supply and demand for landfill services or waste disposal costs, tipping fees, or the amount of waste disposed in landfills. Hence, the overall economic impact of the proposal should be minimal on the affected industries and their consumers.

G. What are the benefits?

The proposal is expected to achieve additional emission reductions from MSW landfills from landfills constructed, modified or reconstructed on or after July 17, 2014. By lowering the NMOC emissions threshold to 40 Mg/yr, the proposal would achieve additional reductions of 79 Mg NMOC/year, 12,300 Mg/yr methane (307,000 Mg/yr CO_2e) in 2023. These pollutants are associated with substantial health, welfare, and climate effects.

This rulemaking is not an "economically significant regulatory action" under Executive Order 12866 because it is not likely to have an annual effect on the economy of $100 million or more. Therefore, we have not conducted a Regulatory Impact Analysis (RIA) or a benefits analysis for this rulemaking. Although we expect that these avoided emissions will result in improvements in air quality and reduce health effects associated with exposure to air pollution related emissions, we have not quantified or monetized the benefits of reducing these emissions for this rulemaking. This does not imply that there are no benefits associated with these emission reductions. We provide a qualitative description of benefits associated with reducing these pollutants below. When determining if the benefits of an action exceed its costs, Executive Orders 12866 and 13563 direct the agency to consider qualitative benefits that are difficult to quantity but nevertheless essential to consider.

H. What are the health and welfare effects of LFG emissions?

1. Health Impacts of VOC and Various Organic HAP

The pollutant regulated under the landfills NSPS is "MSW landfill emissions." Municipal solid waste landfill emissions, also commonly referred to as LFG, are a collection of air pollutants, including methane and NMOC, some of which are toxic. LFG generated from established waste (waste that has been in place for at least a year) is typically composed of roughly 50-percent methane and 50-percent CO_2 by volume, with less than 1 percent NMOC. The NMOC portion of landfill gas can contain a variety of air pollutants, including various organic HAPs and volatile organic compounds (VOCs). Nearly 30 organic HAPs have been identified in uncontrolled landfill gas, including benzene, toluene, ethyl benzene, and vinyl chloride.[30]

VOC emissions are precursors to both fine particulate matter ($PM_{2.5}$) and ozone formation. Exposure to $PM_{2.5}$ and ozone is associated with significant public health effects.[31] [32] $PM_{2.5}$ is associated with health effects, including premature mortality for adults and infants, cardiovascular morbidity such as heart attacks, and respiratory morbidity such as asthma attacks, acute and chronic bronchitis, hospital admissions and emergency room visits, work loss days, restricted activity days and respiratory symptoms, as well as visibility impairment.[33] Ozone is associated with

[30] U.S. EPA. 1998. Office of Air and Radiation, Office of Air Quality Planning and Standards. "Compilation of Air Pollutant Emission Factors, Fifth Edition, Volume I: Stationary Point and Area Sources, Chapter 2: Solid Waste Disposal, Section 2.4: Municipal Solid Waste Landfills". Available at: *http://www.epa.gov/ttn/chief/ap42/ch02/final/c02s04.pdf.*

[31] U.S. EPA. 2009. "Integrated Science Assessment for Particulate Matter (Final Report)." EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/.*

[32] U.S. EPA. 2013. "Integrated Science Assessment for Ozone and Related Photochemical Oxidents (Final Report)." EPA–600–R–10–076F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/.*

[33] U.S. EPA. 2009. "Integrated Science Assessment for Particulate Matter (Final Report)." EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/.*

health effects including premature mortality, lung damage, asthma aggravation and other respiratory symptoms, hospital and emergency department visits, and school loss days, as well as injury to vegetation and climate effects.[34]

2. Climate Impacts of Methane Emissions

In addition to the improvements in air quality and resulting benefits to human health and non-climate welfare effects previously discussed, this rule is expected to result in climate co-benefits due to anticipated methane reductions. In 2012, landfills were the third-largest anthropogenic source of methane emissions in the United States, accounting for approximately 18 percent of domestic methane emissions.[35] Methane is a potent GHG with a global warming potential that is 25 times greater than CO_2, which accounts for methane's stronger absorption of infrared radiation per ton in the atmosphere but also its shorter lifetime (on the order of a decade compared to centuries or millennia for carbon dioxide).[36] According to the Intergovernmental Panel on Climate Change (IPCC) 5th Assessment Report, methane is the second leading long-lived climate forcer after CO_2 globally.[37]

As discussed in detail in the 2009 Endangerment Finding, climate change caused by human emissions of GHGs threatens public health in multiple ways. By raising average temperatures, climate change increases the likelihood of heat waves, which are associated with increased deaths and illnesses. While climate change also increases the likelihood of reductions in cold-related mortality, evidence indicates that the increases in heat mortality will be larger than the decreases in cold mortality in the United States. Compared to a future without climate change, climate change is expected to increase ozone pollution over broad areas of the United States, including in the largest metropolitan areas with the worst ozone problems, and thereby increase the risk of morbidity and mortality. Other public health threats also stem from projected increases in intensity or frequency of extreme weather associated with climate change, such as increased hurricane intensity, increased frequency of intense storms, and heavy precipitation. Increased coastal storms and storm surges due to rising sea levels are expected to cause increased drownings and other health impacts. Children, the elderly, and the poor are among the most vulnerable to these climate-related health effects.

As documented in the 2009 Endangerment Finding, climate change caused by human emissions of GHGs also threatens public welfare in multiple ways. Climate changes are expected to place large areas of the country at serious risk of reduced water supplies, increased water pollution, and increased occurrence of extreme events such as floods and droughts. Coastal areas are expected to face increased risks from storm and flooding damage to property, as well as adverse impacts from rising sea level, such as land loss due to inundation, erosion, wetland submergence and habitat loss. Climate change is expected to result in an increase in peak electricity demand, and extreme weather from climate change threatens energy, transportation, and water resource infrastructure. Climate change may exacerbate ongoing environmental pressures in certain settlements, particularly in Alaskan indigenous communities. Climate change also is very likely to fundamentally rearrange U.S. ecosystems over the 21st century. Though some benefits may balance adverse effects on agriculture and forestry in the next few decades, the body of evidence points towards increasing risks of net adverse impacts on U.S. food production, agriculture and forest productivity as temperature continues to rise. These impacts are global and may exacerbate problems outside the United States that raise humanitarian, trade, and national security issues for the United States.

While the EPA recognizes the potential methane reductions resulting from the range of changes to the current control framework outlined in this proposal would provide for economic climate co-benefits, the EPA has not presented monetized estimates of these potential co-benefits because the U.S. Government (USG) has not released directly modeled estimates of the social cost of methane ($SC–CH_4$), a metric that estimates the monetary value of impacts associated with marginal changes in methane emissions in a given year.

In recent rulemakings expected to have impacts on methane emissions, the EPA has considered the benefits of methane emission reductions in sensitivity analyses using an approach to approximate the value of marginal non-CO_2 GHG emission reductions. In these sensitivity analyses, the global warming potential is used to convert the reductions in methane emissions to CO_2-equivalents, which are then valued using the USG $SC–CO_2$ estimates. The EPA has not presented these estimates in a main benefit-cost analysis due to the well-documented limitations associated with using GWP and the $SC-CO_2$ to value changes in non-CO_2 GHG emissions.

Methane is also a precursor to ground-level ozone, a health-harmful air pollutant. Additionally, ozone is a short-lived climate forcer that contributes to global warming. In remote areas, methane is a dominant precursor to tropospheric ozone formation.[38] Approximately 50 percent of the global annual mean ozone increase since preindustrial times is believed to be due to anthropogenic methane.[39] Projections of future emissions also indicate that methane is likely to be a key contributor to ozone concentrations in the future.[40] Unlike NO_x and VOC, which affect ozone concentrations regionally and at hourly time scales, methane emissions

[34] U.S. EPA. 2013. "Integrated Science Assessment for Ozone and Related Photochemical Oxidents (Final Report)." EPA–600–R–10–076F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/.*

[35] U.S. EPA. 2012. "Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2012. Executive Summary." Available at *http://www.epa.gov/climatechange/Downloads/ghgemissions/US-GHG-Inventory-2014-Chapter-Executive-Summary.pdf.*

[36] IPCC Fourth Assessment Report (AR4), 2007. Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, Pachauri, R.K. and Reisinger, A. (eds.)]. IPCC, Geneva, Switzerland, 104 pp.

[37] Stocker, T.F., D. Qin, G.-K. Plattner, L.V. Alexander, S.K. Allen, N.L. Bindoff, F.-M. Bréon, J.A. Church, U. Cubasch, S. Emori, P. Forster, P. Friedlingstein, N. Gillett, J.M. Gregory, D.L. Hartmann, E. Jansen, B. Kirtman, R. Knutti, K. Krishna Kumar, P. Lemke, J. Marotzke, V. Masson-Delmotte, G.A. Meehl, I.I. Mokhov, S. Piao, V. Ramaswamy, D.Randall, M. Rhein, M. Rojas, C. Sabine, D. Shindell, L.D. Talley, D.G. Vaughan and S.-P. Xie. 2013: "Technical Summary. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change" [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[38] U.S. EPA. 2013. "Integrated Science Assessment for Ozone and Related Photochemical Oxidents (Final Report)." EPA–600–R–10–076F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/.*

[39] Myhre, G., D. Shindell, F.-M. Bréon, W. Collins, J. Fuglestvedt, J. Huang, D. Koch, J.-F. Lamarque, D. Lee, B. Mendoza, T. Nakajima, A. Robock, G. Stephens, T. Takemura and H. Zhang, 2013: Anthropogenic and Natural Radiative Forc–ing. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Pg. 680.

[40] *Ibid.*

affect ozone concentrations globally and on decadal time scales given methane's relatively long atmospheric lifetime compared to these other ozone precursors.[41] Reducing methane emissions, therefore, may contribute to efforts to reduce global background ozone concentrations that contribute to the incidence of ozone-related health effects.[42] [43] These benefits are global and occur in both urban and rural areas.

XI. Statutory and Executive Order Reviews

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a "significant regulatory action" because it raises novel legal or policy issues. Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action (EPA–HQ–OAR–2003–0215).

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 2498.01.

The information required to be collected is necessary to identify the regulated entities subject to the proposed rule and to ensure their compliance with the proposed rule. The recordkeeping and reporting requirements are mandatory and are being established under authority of CAA section 114 (42 U.S.C. 7414). All information other than emissions data submitted as part of a report to the agency for which a claim of confidentiality is made will be safeguarded according to CAA section 114(c) and the EPA's implementing regulations at 40 CFR part 2, subpart B.

The proposed rule requires very similar information collection requirements as the ICR currently approved for existing landfills under subpart WWW (ICR number 1557.08). However, this ICR will affect new landfills that are constructed, modified or reconstructed on or after July 17, 2014 that have a design capacity of 2.5 million Mg or 2.5 million cubic meters.

The proposed rule will require affected landfills to submit a one-time initial design capacity report, and a periodic amended design capacity report if the design capacity is increased above the threshold. The proposed rule will also require an annual or every 5 year submittal of an NMOC emission rate report, depending on whether the landfill conducts Tier 1 or Tier 2 testing, respectively. Prior to installing GCCS, the proposed rule requires the landfill owner or operator to submit a design plan for approval by the delegated authority. The proposed rule also requires a one-time closure report after the landfill ceases to accept waste and another one-time report just prior to the removal or cessation of gas collection and control equipment. The proposed rule requires annual reports to be submitted to document any exceedances or periods when the GCCS was not operating as well an initial performance test of the control system. The proposed rule also requires records to be maintained for at least 5 years. The types of records depend on whether or not the landfill has installed gas collection and control equipment and are detailed in the supporting statement for ICR number 2498.01.

The EPA estimates that no new landfills will install controls during the first 3 years after the effective date of subpart XXX. Therefore, the burden estimates shown in this section represent the burden associated with many of the one-time recordkeeping and reporting requirements as well as the reports that are required from landfills with design capacities under the proposed threshold of 2.5 million Mg and 2.5 million cubic meters.

The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for the proposal is estimated to be 51 hours per response. An estimated eight responses per year will be submitted each year and there will be approximately 12 annual respondents per year. This burden is estimated to cost $39,300 per year. This includes an annual labor cost of $33,200 and a purchased services cost of $6,100. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, the EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA–HQ–OAR–2003–0215. Submit any comments related to the ICR to the EPA and OMB. See **ADDRESSES** section at the beginning of this document for where to submit comments to the EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after July 17, 2014, a comment to OMB is best assured of having its full effect if OMB receives it by August 18, 2014. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of the proposed rule on small entities, small entity is defined as: (1) A small business that is primarily engaged in the collection and disposal of refuse in a landfill operation as defined by NAICS codes 562212 with annual receipts less than $35.5 million; (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 that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities subject to the requirements of this proposed rule may include private small businesses and small governmental jurisdictions that

[41] *Ibid.*

[42] West, J.J., Fiore, A.M. 2005. "Management of tropospheric ozone by reducing methane emissions." Environ. Sci. Technol. 39:4685–4691.

[43] Anenberg, S.C., et al. 2009. "Intercontinental impacts of ozone pollution on human mortality," Environ. Sci. & Technol. 43: 6482–6487.

own or operate landfills. Although it is unknown how many new landfills will be owned or operated by small entities, recent trends in the waste industry have been towards consolidated ownership among larger companies. The EPA has determined that approximately 10 percent of the existing landfills subject to similar regulations (40 CFR Part 60 subparts WWW and Cc or the corresponding state or federal plan) are small entities.

Because the ownership of new landfills in the future is unknown, the EPA performed a screening analysis that assumed new landfills would be physically and financially similar to and have the same type of ownership as recently established landfills. Based upon historical data, the screening analysis predicted that four new landfills would be owned by small entities, but that none would be owned by small governments.

One of the four small landfills is predicted to be incrementally affected by proposal. The screening analysis compared estimated annualized compliance costs for the proposal to company sales based on historical data. The maximum ratio of compliance cost to company revenue was 12 percent for this modeled small entity. To determine whether the impacts estimated for 2023 are representative of longer-term impacts to small landfills, the EPA further investigated 30 years of cost information (2014–2043) for the four small model landfills. Over the 30-year time frame, two small landfills are never incrementally affected by the proposal. One landfill has impacts of up to 12 percent (as described above), but impacts of this magnitude only occur in two years of the 30 years. In general, average impacts over the 30-year timeframe are approximately 1 percent or less and maximum impacts are less than 3 percent. In some years, incremental impacts are negative, indicating that the proposed provisions are less costly than the baseline NSPS. These impacts are shown in more detail in the Economic Impact Analysis.

Based upon this analysis, we conclude there will not be SISNOSE arising from this proposal. First, these proposed revisions do not impact a substantial number of small entities. Only two small entities are potentially impacted, which does not constitute a substantial number. Additionally, the impacts to these small entities are not significant. Only one of the two landfills has impacts greater than 3 percent of sales in two of the 30 years examined. The costs incurred by small entities are the result of having to install controls earlier than would have been the case under the existing NSPS. (These costs would have been incurred in later years under the existing NSPS.) There will continue be a lag between the opening of the landfill and the implementation of controls during which the site will be generating revenue through tipping fees. This analysis only considers control costs and revenues associated with the collection of landfill gas and does not estimate the future collection of tipping fees which will be set at a level to adequately plan for known, future requirements.

Given the trend toward larger landfills, it is possible that there will be fewer small landfills in the future than in data from the past 5 years. Additionally, while we assume that the new landfills will be financially and operationally similar to recently opened landfills, numerous factors could influence the actual size, location, and revenue of landfills that open in the future. The model landfills are based on landfills currently in operation that will not be subject to the proposed revisions. All small landfills that will be subject to these proposed revisions will make decisions about their development and operations with full knowledge of the requirements proposed.

Although not required by the RFA to convene a Small Business Advocacy Review (SBAR) Panel because the EPA has now determined that this proposal would not have a significant economic impact on a substantial number of small entities, the EPA had originally convened a panel to obtain advice and recommendations from small entity representatives potentially subject to this rule's requirements. The panel was not formally concluded; however, a summary of the outreach conducted and the written comments submitted by the small entity representatives that the SBAR Panel consulted can be found in the docket for this rulemaking. Although this proposed rule will not have a significant economic impact on a substantial number of small entities, the EPA nonetheless has tried to reduce the impact of this rule on small entities. For more information, please refer to the economic impact and small business analysis that is in the docket. 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), 2 U.S.C. 1531–1538, requires federal agencies, unless otherwise prohibited by law, to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Federal agencies must also develop a plan to provide notice to small governments that might be significantly or uniquely affected by any regulatory requirements. The plan must enable officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates and must inform, educate, and advise small governments on compliance with the regulatory requirements.

This action does not contain a federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. This action applies to landfills that were constructed, modified or reconstructed on or after July 17, 2014. Impacts resulting from the proposed subpart XXX are far below the applicable threshold. Thus, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

In developing this rule, the EPA consulted with small governments pursuant to a plan established under section 203 of the UMRA to address impacts of regulatory requirements in the rule that might significantly or uniquely affect small governments. The EPA held meetings as discussed in section XI.E of this preamble under Federalism consultations.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed rule will not have impacts of $25 million or more in any one year. Thus, Executive Order 13132 does not apply to this action. Although section 6 of Executive Order 13132 does not apply to this action, the EPA did consult with state and local officials and representatives of state and local governments in developing this action. The EPA conducted a Federalism Consultation Outreach Meeting on September 10, 2013. Due to interest in that meeting, additional outreach meetings were held on November 7, 2013 and November 14, 2013. Participants included the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the U.S.

Conference of Mayors, the National Association of Counties, the International City/County Management Association, the National Association of Towns and Townships, the County Executives of America, the Environmental Council of States, National Association of Clean Air Agencies, Association of State and Territorial Solid Waste Management Officials, environmental agency representatives from 43 states, and approximately 60 representatives from city and county governments. The comment period was extended to allow sufficient time for interested parties to review briefing materials and provide comments. Concerns raised during that consultation include: Implementation concerns associated with shortening of gas collection system installation and/or expansion timeframes, the need for clarity in regards to the definition of landfill gas treatment, concerns regarding significant lowering of the design capacity or emission thresholds, the need for clarifications associated with wellhead operating parameters and the need for consistent, clear and rigorous surface monitoring requirements. The EPA provided responses to these concerns in sections V, VII, and VIII of this preamble.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comment on this proposed action from state and local officials.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Based on methodology used to predict future landfills as outlined in the docketed memorandum "Summary of Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations. 2014," future tribal landfills are not anticipated to be large enough to become subject to the rulemaking. Thus, Executive Order 13175 does not apply to this action. The EPA specifically solicits comment on this action from tribal officials.

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

The EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not a "significant energy action" as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects because there are a small number of new landfills expected to be subject control requirements under subpart XXX in 2023. Further, the energy demanded to operate these control systems will be offset by additional energy supply from landfill gas energy projects.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113 (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

The EPA conducted searches for VCS for the Landfills NSPS through the enhanced National Service Standards Network Database managed by the American National Standards Institute (ANSI). The EPA also contacted VCS organizations and accessed and searched their databases. Searches were conducted for EPA Methods 2E, 3, 3A, 3C, 21, 25, and 25C of 40 CFR part 60, appendix A. No applicable voluntary standards were identified for Methods 2E, 21, and 25C.

The search identified nine VCS that were potentially applicable for this rule in lieu of EPA reference methods. After reviewing the available standards, the EPA determined that the nine candidate VCS (ANSI/ASME PTC 19–10–1981 Part 10, ASTM D3154–00 (2006), ASME B133.9–1994 (2001), ISO 10396:1993 (2007), ISO 12039:2001, ASTM D5835–95 (2007), ASTM D6522–00 (2005), CAN/CSA Z223.2–M86 (1999), ISO 14965:2000(E)) identified for measuring emissions of pollutants or their surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data, and other important technical and policy considerations. The EPA's review, including review comments for these nine methods, is documented in the memorandum, "Voluntary Consensus Standard Results for Standards of Performance for Municipal Solid Waste Landfills 40 CFR Part 60, Subpart XXX" in the docket for this rulemaking (EPA–HQ–OAR–2003–0215).

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

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.

To gain a better understanding of the landfill source category and near-source populations, the EPA conducted a proximity analysis at a study area of 3 miles of the source category for this rulemaking. This analysis identifies, on a limited basis, the subpopulations that may be exposed to air pollution from the regulated sources and thus are expected to benefit most from this regulation. This analysis does not identify the demographic characteristics of the most highly affected individuals or communities, nor does it quantify the level of risk faced by those individuals or communities. To the extent that any minority, low-income or indigenous subpopulation is disproportionately impacted by hazardous air emissions due to the proximity of their homes to sources of these emissions, that subpopulation also stands to see increased environmental and health benefit from the emission reductions called for by this rule.

In regards to the landfills NSPS, the EPA has concluded that it is not

practicable to determine whether there would be disproportionately high and adverse human health or environmental effects on minority, low income, or indigenous populations from this proposed rule because it is unknown where new facilities will be located. The demographic analysis results and the details concerning their development are presented in the March 25, 2014 document entitled, "2014 Environmental Justice Screening Report for Municipal Solid Waste Landfills," a copy of which is available in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2003–0215).

List of Subjects 40 CFR Part 60

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

Dated: June 30, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend title 40, chapter I of the Code of Federal Regulations as follows:

PART 60—[AMENDED]

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

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

■ 2. Add subpart XXX to read as follows:

Subpart XXX—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification on or After July 17, 2014.

Sec.

Subpart XXX—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification on or After July 17, 2014.

§ 60.760 Applicability, designation of affected source, and delegation of authority.

(a) The provisions of this subpart apply to each municipal solid waste landfill that commenced construction, reconstruction or modification on or after July 17, 2014. Physical or operational changes made to a MSW landfill solely to comply with subpart Cc or WWW of this part are not considered construction, reconstruction, or modification for the purposes of this section.

(b) The following authorities shall be retained by the Administrator and not transferred to the state: § 60.764(a)(5).

(c) Activities required by or conducted pursuant to a CERCLA, RCRA, or state remedial action are not considered construction, reconstruction, or modification for purposes of this subpart.

§ 60.761 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act or in subpart A of this part.

Active collection system means a gas collection system that uses gas mover equipment.

Active landfill means a landfill in which solid waste is being placed or a landfill that is planned to accept waste in the future.

Closed landfill means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under § 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

Closure means that point in time when a landfill becomes a closed landfill.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

Controlled landfill means any landfill at which collection and control systems are required under this subpart as a result of the nonmethane organic compounds emission rate. The landfill is considered controlled at the time a collection and control system design plan is submitted in compliance with § 60.762(b)(2)(i).

Design capacity means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by the state, local, or Tribal agency responsible for regulating the landfill, plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site specific density, which must be recalculated annually.

Disposal facility means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

Emission rate cutoff means the threshold annual emission rate to which a landfill compares its estimated emission rate to determine if control under the regulation is required.

Enclosed combustor means an enclosed firebox which maintains a relatively constant limited peak temperature generally using a limited supply of combustion air. An enclosed flare is considered an enclosed combustor.

Flare means an open combustor without enclosure or shroud.

Gas mover equipment means the equipment (i.e., fan, blower, compressor) used to transport landfill gas through the header system.

Household waste means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). Household waste does not include fully segregated yard waste.

Industrial solid waste means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act, parts 264 and 265 of this title. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

Interior well means any well or similar collection component located inside the perimeter of the landfill waste. A perimeter well located outside

the landfilled waste is not an interior well.

Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined under § 257.2 of this title.

Lateral expansion means a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification unless it results in an increase in the design capacity of the landfill.

Modification means an increase in the permitted mass or volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of July 17, 2014. Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion.

Municipal solid waste landfill or *MSW landfill* means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA Subtitle D wastes (§ 257.2 of this title) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

Municipal solid waste landfill emissions or *MSW landfill emissions* means gas generated by the decomposition of organic waste deposited in an MSW landfill or derived from the evolution of organic compounds in the waste.

NMOC means nonmethane organic compounds, as measured according to the provisions of § 60.764.

Nondegradable waste means any waste that does not decompose through chemical breakdown or microbiological activity. Examples are, but are not limited to, concrete, municipal waste combustor ash, and metals.

Passive collection system means a gas collection system that solely uses positive pressure within the landfill to move the gas rather than using gas mover equipment.

Segregated yard waste means vegetative matter resulting exclusively from the cutting of grass, the pruning and/or removal of bushes, shrubs, and trees, the weeding of gardens, and other landscaping maintenance activities.

Sludge means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

Solid waste means any garbage, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C 2011 et seq.).

Sufficient density means any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors, and surface collectors, necessary to maintain emission and migration control as determined by measures of performance set forth in this part.

Sufficient extraction rate means a rate sufficient to maintain a negative pressure at all wellheads in the collection system without causing air infiltration, including any wellheads connected to the system as a result of expansion or excess surface emissions, for the life of the blower.

Treated landfill gas means landfill gas processed in a treatment system as defined in this subpart.

Treatment system means a system that has an absolute filtration rating of 10 microns or less, lowers the water dew point of the landfill gas to 45 degrees Fahrenheit or lower with a de-watering process, and compresses the landfill gas.

Untreated landfill gas means any landfill gas that is not treated landfill gas.

§ 60.762 Standards for air emissions from municipal solid waste landfills.

(a) Each owner or operator of an MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall submit an initial design capacity report to the Administrator as provided in § 60.767(a). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the report. Submittal of the initial design capacity report shall fulfill the requirements of this subpart except as provided for in paragraphs (a)(1) and (a)(2) of this section.

(1) The owner or operator shall submit to the Administrator an amended design capacity report, as provided for in § 60.767(a)(3).

(2) When an increase in the maximum design capacity of a landfill exempted from the provisions of § 60.762(b) through § 60.769 of this subpart on the basis of the design capacity exemption in paragraph (a) of this section results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator shall comply with the provision of paragraph (b) of this section.

(b) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, shall either comply with paragraph (b)(2) of this section or calculate an NMOC emission rate for the landfill using the procedures specified in § 60.764. The NMOC emission rate shall be recalculated annually, except as provided in § 60.767(b)(1)(ii) of this subpart. The owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters is subject to part 70 or 71 permitting requirements.

(1) If the calculated NMOC emission rate is less than 40 megagrams per year, the owner or operator shall:

(i) Submit an annual emission report to the Administrator, except as provided for in § 60.767(b)(1)(ii); and

(ii) Recalculate the NMOC emission rate annually using the procedures specified in § 60.764(a)(1) until such time as the calculated NMOC emission rate is equal to or greater than 40 megagrams per year, or the landfill is closed.

(A) If the NMOC emission rate, upon recalculation required in paragraph (b)(1)(ii) of this section, is equal to or greater than 40 megagrams per year, the owner or operator shall install and start up a collection and control system in compliance with paragraph (b)(2) of this section.

(B) If the landfill is permanently closed, a closure notification shall be submitted to the Administrator as provided for in § 60.767(d).

(2) If the calculated NMOC emission rate is equal to or greater than 40 megagrams per year, the owner or operator shall:

(i) Submit a collection and control system design plan prepared by a professional engineer to the Administrator within 1 year:

(A) The collection and control system as described in the plan shall meet the design requirements of paragraph (b)(2)(ii) of this section.

(B) The collection and control system design plan shall include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping or reporting provisions of §§ 60.763 through 60.768 proposed by the owner or operator.

(C) The collection and control system design plan shall either conform with specifications for active collection systems in § 60.769 or include a demonstration to the Administrator's satisfaction of the sufficiency of the alternative provisions to § 60.769.

(D) If the owner or operator chooses to demonstrate compliance with the emission control requirements of this subpart using a treatment system as defined in this subpart and according to the requirements of paragraph (b)(2)(iii)(C) of this section, then the collection and control system design plan must include:

(*1*) Design specifications for the filtration, de-watering, and compression systems that demonstrate conformance with the treatment system definition contained in § 60.761.

(*2*) The minimum pressure drop across the filtration system, or other monitoring parameter(s) and operating ranges that indicate proper performance of the filtration system. The collection and control plan must include information, such as manufacturer's recommendations or engineering analyses, to justify the minimum pressure drop or operating ranges for other monitoring parameters.

(*3*) The landfill gas temperature for a chiller-based de-watering system, the landfill gas dew point for a non-chiller-based de-watering system, or other operating parameters and operating ranges that indicate proper performance of the de-watering system. The collection and control plan must include information, such as manufacturer's recommendations or engineering analyses, to justify the operating ranges for temperature, dew point, or other monitoring parameters.

(E) The Administrator shall review the information submitted under paragraphs (b)(2)(i)(A), (B), (C), and (D) of this section and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems.

(ii) Install and start up a collection and control system that captures the gas generated within the landfill as required by paragraphs (b)(2)(ii)(A) or (B) and (b)(2)(iii) of this section within 30 months after the first annual report in which the emission rate equals or exceeds 40 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the emission rate is less than 40 megagrams per year, as specified in § 60.767(c)(1) or (2).

(A) An active collection system shall:

(*1*) Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control system equipment;

(*2*) Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of:

(*i*) 5 years or more if active; or

(*ii*) 2 years or more if closed or at final grade.

(*3*) Collect gas at a sufficient extraction rate;

(*4*) Be designed to minimize off-site migration of subsurface gas.

(B) A passive collection system shall:

(*1*) Comply with the provisions specified in paragraphs (b)(2)(ii)(A)(*1*), (*2*), and (2)(ii)(A)(*4*) of this section.

(*2*) Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners shall be installed as required under § 258.40.

(iii) Route all the collected gas to a control system that complies with the requirements in either paragraph (b)(2)(iii) (A), (B) or (C) of this section.

(A) An non-enclosed flare designed and operated in accordance with § 60.18 except as noted in § 60.764(e);

(B) A control system designed and operated to reduce NMOC by 98 weight-percent, or, when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at 3 percent oxygen. The reduction efficiency or parts per million by volume shall be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in § 60.764(d). The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this subpart.

(*1*) If a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone.

(*2*) The control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in § 60.766;

(C) Route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use such as fuel for combustion, production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. The treated gas must be used as a fuel, or must be used for other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air or combustion in a flare is not allowed under this option. (If flares are used, they must meet § 60.762(b)(2)(iii)(A) or (B)).

(D) All emissions from any atmospheric vent from the gas treatment system shall be subject to the requirements of paragraph (b)(2)(iii)(A) or (B) of this section. For purposes of this subpart, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of paragraph (b)(2)(iii)(A) or (B) of this section.

(E) Landfill gas that is treated for the uses listed in paragraph (b)(2)(iii)(C) of this section must be treated in a treatment system as defined in § 60.761 that meets the requirements of paragraph (b)(2)(i)(D) of this section. The landfill owner or operator who is treating landfill gas for the uses listed in paragraph (c)(3) of this section must apply for approval of monitoring parameters that demonstrate that the landfill gas is meeting the definition of treated landfill gas in § 60.761. The landfill owner or operator must meet the monitoring, recordkeeping, and reporting requirements listed in §§ 60.766, 60.767, and 60.768 that apply to treatment systems.

(iv) Operate the collection and control device installed to comply with this subpart in accordance with the provisions of §§ 60.763, 60.765 and 60.766.

(v) The collection and control system may be capped or removed provided that all the conditions of paragraphs (b)(2)(v)(A), (B), and (C) of this section are met:

(A) The landfill shall be a closed landfill as defined in § 60.761 of this subpart. A closure report shall be submitted to the Administrator as provided in § 60.767(d);

(B) The collection and control system shall have been in operation a minimum of 15 years; and

(C) Following the procedures specified in § 60.764(b) of this subpart, the calculated NMOC gas produced by the landfill shall be less than 40 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart, and no more than 180 days apart.

(c) For purposes of obtaining an operating permit under title V of the Act, the owner or operator of a MSW landfill subject to this subpart with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under part 70 or 71 of this chapter, unless the landfill is otherwise subject to either part 70 or 71. For purposes of submitting a timely application for an operating permit under part 70 or 71, the owner or operator of a MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters, and not otherwise subject to either part 70 or 71, becomes subject to the requirements of §§ 70.5(a)(1)(i) or 71.5(a)(1)(i) of this chapter, regardless of when the design capacity report is actually submitted, no later than:

(1) [*DATE 90 DAYS AFTER THE DATE THE FINAL RULE IS PUBLISHED IN THE* ***FEDERAL REGISTER***] for MSW landfills that commenced construction, modification, or reconstruction on or after July 17, 2014 but before [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**];

(2) Ninety days after the date of commenced construction, modification, or reconstruction for MSW landfills that commence construction, modification, or reconstruction on or after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**].

(d) When a MSW landfill subject to this subpart is closed, the owner or operator is no longer subject to the requirement to maintain an operating permit under part 70 or 71 of this chapter for the landfill if the landfill is not otherwise subject to the requirements of either part 70 or 71 and if either of the following conditions are met:

(1) The landfill was never subject to the requirement for a control system under paragraph (b)(2) of this section; or

(2) The owner or operator meets the conditions for control system removal specified in paragraph (b)(2)(v) of this section.

§ 60.763 Operational standards for collection and control systems.

Each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of § 60.762(b)(2)(ii) of this subpart shall:

(a) Operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:

(1) 5 years or more if active; or

(2) 2 years or more if closed or at final grade;

(b) Operate the collection system with negative pressure at each wellhead except under the following conditions:

(1) A fire or increased well temperature. The owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the annual reports as provided in § 60.767(f)(1);

(2) Use of a geomembrane or synthetic cover. The owner or operator shall develop acceptable pressure limits in the design plan;

(3) A decommissioned well. A well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes shall be approved by the Administrator;

(c) Operate each interior wellhead in the collection system with a landfill gas temperature less than 55 °C and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent. The owner or operator may establish a higher operating temperature, nitrogen, or oxygen value at a particular well. A higher operating value demonstration must be submitted to the Administrator for approval and must include supporting data demonstrating that the elevated parameter neither causes fires nor significantly inhibits anaerobic decomposition by killing methanogens. The demonstration must satisfy both criteria in order to be approved (i.e., neither causing fires nor killing methanogens is acceptable).

(1) The nitrogen level shall be determined using Method 3C, unless an alternative test method is established as allowed by § 60.762(b)(2)(i) of this subpart.

(2) Unless an alternative test method is established as allowed by § 60.762(b)(2)(i) of this subpart, the oxygen shall be determined by an oxygen meter using Method 3A or 3C except that:

(i) The span shall be set so that the regulatory limit is between 20 and 50 percent of the span;

(ii) A data recorder is not required;

(iii) Only two calibration gases are required, a zero and span, and ambient air may be used as the span;

(iv) A calibration error check is not required;

(v) The allowable sample bias, zero drift, and calibration drift are ±10 percent.

(d) Operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at 30 meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. The owner or operator may establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan shall be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30 meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing.

(e) Operate the system such that all collected gases are vented to a control system designed and operated in compliance with § 60.762(b)(2)(iii). In the event the collection or control system is not operating, the gas mover system shall be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere shall be closed within 1 hour; and

(f) Operate the control system at all times when the collected gas is routed to the system.

(g) If monitoring demonstrates that the operational requirements in paragraphs (b), (c), or (d) of this section are not met, corrective action shall be taken as specified in § 60.765(a)(3) through (5) or § 60.765(c) of this subpart. If corrective actions are taken as specified in § 60.765, the monitored exceedance is not a violation of the operational requirements in this section.

§ 60.764 Test methods and procedures.

(a)(1) The landfill owner or operator shall calculate the NMOC emission rate using either the equation provided in paragraph (a)(1)(i) of this section or the equation provided in paragraph (a)(1)(ii) of this section. Both equations may be used if the actual year-to-year solid waste acceptance rate is known, as specified in paragraph (a)(1)(i) of this section, for part of the life of the landfill and the actual year-to-year solid waste acceptance rate is unknown, as specified in paragraph (a)(1)(ii) of this section, for part of the life of the landfill. The values to be used in both equations are 0.05 per year for k, 170 cubic meters per megagram for L_O, and 4,000 parts per million by volume as hexane for the C_{NMOC}. For landfills located in geographical areas with a thirty year annual average precipitation of less than 25 inches, as measured at the nearest representative official meteorologic site, the k value to be used is 0.02 per year.

(i) The following equation shall be used if the actual year-to-year solid waste acceptance rate is known.

$$M_{NMOC} = \sum_{i=1}^{n} 2\,k\,L_o M_i \left(e^{-kt_i}\right)\left(C_{NMOC}\right)\left(3.6\times10^{-9}\right)$$

Where:

M_{NMOC} = Total NMOC emission rate from the landfill, megagrams per year.
k = methane generation rate constant, $year^{-1}$.
L_o = methane generation potential, cubic meters per megagram solid waste.
M_i = mass of solid waste in the i^{th} section, megagrams.
t_i = age of the i^{th} section, years.
C_{NMOC} = concentration of NMOC, parts per million by volume as hexane.
3.6×10^{-9} = conversion factor.

The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for M_i if documentation of the nature and amount of such wastes is maintained.

(ii) The following equation shall be used if the actual year-to-year solid waste acceptance rate is unknown.

$M_{NMOC} = 2L_oR\,(e^{-kc} - e^{-kt})\,C_{NMOC}\,(3.6 \times 10^{-9})$

Where:

M_{NMOC} = mass emission rate of NMOC, megagrams per year.
L_o = methane generation potential, cubic meters per megagram solid waste.
R = average annual acceptance rate, megagrams per year.
k = methane generation rate constant, $year^{-1}$.
t = age of landfill, years.
C_{NMOC} = concentration of NMOC, parts per million by volume as hexane.
c = time since closure, years; for active landfill c = O and $e^{-kc}1$.
$3.6 \times 10 - 9$ = conversion factor.

The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value of R, if documentation of the nature and amount of such wastes is maintained.

(2) *Tier 1.* The owner or operator shall compare the calculated NMOC mass emission rate to the standard of 40 megagrams per year.

(i) If the NMOC emission rate calculated in paragraph (a)(1) of this section is less than 40 megagrams per year, then the landfill owner shall submit an emission rate report as provided in § 60.767(b)(1), and shall recalculate the NMOC mass emission rate annually as required under § 60.762(b)(1).

(ii) If the calculated NMOC emission rate is equal to or greater than 40 megagrams per year, then the landfill owner shall either comply with § 60.762(b)(2), or determine a site-specific NMOC concentration and recalculate the NMOC emission rate using the procedures provided in paragraph (a)(3) of this section.

(3) *Tier 2.* The landfill owner or operator shall determine the NMOC concentration using the following sampling procedure. The landfill owner or operator shall install at least two sample probes per hectare of landfill surface that has retained waste for at least 2 years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The sample probes should be located to avoid known areas of nondegradable solid waste. The owner or operator shall collect and analyze one sample of landfill gas from each probe to determine the NMOC concentration using Method 25 or 25C of appendix A of this part. Taking composite samples from different probes into a single cylinder is allowed; however, equal sample volumes must be taken from each probe. For each composite, the sampling rate, collection times, beginning and ending cylinder vacuums, or alternative volume measurements must be recorded to verify that composite volumes are equal. Composite sample volumes should not be less than one liter unless evidence can be provided to substantiate the accuracy of smaller volumes. Terminate compositing before the cylinder approaches ambient pressure where measurement accuracy diminishes. If more than the required number of samples are taken, all samples must be used in the analysis. The landfill owner or operator must divide the NMOC concentration from Method 25 or 25C of appendix A of this part by six to convert from C_{NMOC} as carbon to C_{NMOC} as hexane. If the landfill has an active or passive gas removal system in place, Method 25 or 25C samples may be collected from these systems instead of surface probes provided the removal system can be shown to provide sampling as representative as the two sampling probe per hectare requirement. For active collection systems, samples may be collected from the common header pipe. The sample location on the common header pipe must be before any gas moving, condensate removal, or treatment system equipment. For active collection systems, a minimum of three samples must be collected from the header pipe.

(i) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results of the performance test, including any associated fuel analyses, according to the method specified by either paragraph (a)(3)(i)(A) or (B) of this section.

(A) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), the owner or operator must submit the results of the performance test to the Compliance and Emissions Data Reporting Interface (CEDRI) accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*), unless otherwise approved by the Administrator. Performance test data must be submitted in a file format generated through the use of the EPA's ERT. Owners or operators who claim that some of the performance test information being submitted is confidential business information (CBI) must submit a complete file generated through the use of the EPA's ERT, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used

electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. The same file with the CBI omitted must be submitted to the EPA via CDX as described earlier in this paragraph.

(B) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, the owner or operator must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(ii) The landfill owner or operator shall recalculate the NMOC mass emission rate using the equations provided in paragraph (a)(1)(i) or (a)(1)(ii) of this section and using the average NMOC concentration from the collected samples instead of the default value in the equation provided in paragraph (a)(1) of this section.

(iii) If the resulting mass emission rate calculated using the site-specific NMOC concentration is equal to or greater than 40 megagrams per year, then the landfill owner or operator shall either comply with § 60.762(b)(2), or determine the site-specific methane generation rate constant and recalculate the NMOC emission rate using the site-specific methane generation rate using the procedure specified in paragraph (a)(4) of this section.

(iv) If the resulting NMOC mass emission rate is less than 40 megagrams per year, the owner or operator shall submit a periodic estimate of the emission rate report as provided in § 60.767(b)(1) and retest the site-specific NMOC concentration every 5 years using the methods specified in this section.

(4) *Tier 3.* The site-specific methane generation rate constant shall be determined using the procedures provided in Method 2E of appendix A of this part. The landfill owner or operator shall estimate the NMOC mass emission rate using equations in paragraph (a)(1)(i) or (a)(1)(ii) of this section and using a site-specific methane generation rate constant k, and the site-specific NMOC concentration as determined in paragraph (a)(3) of this section instead of the default values provided in paragraph (a)(1) of this section. The landfill owner or operator shall compare the resulting NMOC mass emission rate to the standard of 40 megagrams per year.

(i) If the NMOC mass emission rate as calculated using the site-specific methane generation rate and concentration of NMOC is equal to or greater than 40 megagrams per year, the owner or operator shall comply with § 60.762(b)(2).

(ii) If the NMOC mass emission rate is less than 50 megagrams per year, then the owner or operator shall submit a periodic emission rate report as provided in § 60.767(b)(1) and shall recalculate the NMOC mass emission rate annually, as provided in § 60.767(b)(1) using the equations in paragraph (a)(1) of this section and using the site-specific methane generation rate constant and NMOC concentration obtained in paragraph (a)(3) of this section. The calculation of the methane generation rate constant is performed only once, and the value obtained from this test shall be used in all subsequent annual NMOC emission rate calculations.

(5) The owner or operator may use other methods to determine the NMOC concentration or a site-specific k as an alternative to the methods required in paragraphs (a)(3) and (a)(4) of this section if the method has been approved by the Administrator.

(b) After the installation and startup of a collection and control system in compliance with § 60.765, the owner or operator shall calculate the NMOC emission rate for purposes of determining when the system can be removed as provided in § 60.762(b)(2)(v), using the following equation:

$$M_{NMOC} = 1.89 \times 10^{-3} Q_{LFG} C_{NMOC}$$

Where:

M_{NMOC} = mass emission rate of NMOC, megagrams per year.

Q_{LFG} = flow rate of landfill gas, cubic meters per minute.

C_{NMOC} = NMOC concentration, parts per million by volume as hexane.

(1) The flow rate of landfill gas, Q_{LFG}, shall be determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control system using a gas flow measuring device calibrated according to the provisions of section 4 of Method 2E of appendix A of this part.

(2) The average NMOC concentration, C_{NMOC}, shall be determined by collecting and analyzing landfill gas sampled from the common header pipe before the gas moving or condensate removal equipment using the procedures in Method 25 or Method 25C of appendix A of this part. The sample location on the common header pipe shall be before any condensate removal or other gas refining units. The landfill owner or operator shall divide the NMOC concentration from Method 25 or Method 25C of appendix A of this part by six to convert from C_{NMOC} as carbon to C_{NMOC} as hexane.

(3) The owner or operator may use another method to determine landfill gas flow rate and NMOC concentration if the method has been approved by the Administrator.

(i) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner operator must submit the results of the performance test, including any associated fuel analyses, according to the method specified by either paragraph (b)(3)(i)(A) or (B) of this section.

(A) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), the owner or operator must submit the results of the performance test to the Compliance and Emissions Data Reporting Interface (CEDRI) accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*), unless otherwise approved by the Administrator. Performance test data must be submitted in a file format generated through the use of the EPA's ERT. Owners or operators who claim that some of the performance test information being submitted is confidential business information (CBI) must submit a complete file generated through the use of the EPA's ERT, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. The same file with the CBI omitted must be submitted to the EPA via CDX as described earlier in this paragraph.

(B) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, the owner or operator must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(ii) [Reserved]

(c) When calculating emissions for PSD purposes, the owner or operator of each MSW landfill subject to the provisions of this subpart shall estimate the NMOC emission rate for comparison to the PSD major source and significance levels in §§ 51.166 or 52.21

of this chapter using AP–42 or other approved measurement procedures.

(d) For the performance test required in § 60.762(b)(2)(iii)(B), Method 25 or 25C (Method 25C may be used at the inlet only) of appendix A of this part must be used to determine compliance with the 98 weight-percent efficiency or the 20 ppmv outlet concentration level, unless another method to demonstrate compliance has been approved by the Administrator as provided by § 60.762(b)(2)(i)(B). Method 3 or 3A shall be used to determine oxygen for correcting the NMOC concentration as hexane to 3 percent. The following equation shall be used to calculate efficiency:

Control Efficiency = ($NMOC_{in}$ – $NMOC_{out}$)/($NMOC_{in}$)

Where:

$NMOC_{in}$ = mass of NMOC entering control device.

$NMOC_{out}$ = mass of NMOC exiting control device.

(e) For the performance test required in § 60.762(b)(2)(iii)(A), the net heating value of the combusted landfill gas as determined in § 60.18(f)(3) is calculated from the concentration of methane in the landfill gas as measured by Method 3C. A minimum of three 30-minute Method 3C samples are determined. The measurement of other organic components, hydrogen, and carbon monoxide is not applicable. Method 3C may be used to determine the landfill gas molecular weight for calculating the flare gas exit velocity under § 60.18(f)(4).

(1) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by § 60.764(b) or (d) or this subpart according to the method specified by either paragraph (e)(1)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), the owner or operator must submit the results of the performance test to the Compliance and Emissions Data Reporting Interface (CEDRI) accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*), unless otherwise approved by the Administrator. Owners or operators who claim that some of the performance test information being submitted is confidential business information (CBI) must submit a complete file generated through the use of the EPA's ERT, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via CDX as described earlier in this paragraph.

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, the owner or operator must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(2) [Reserved]

§ 60.765 Compliance provisions.

(a) Except as provided in § 60.762(b)(2)(i)(B), the specified methods in paragraphs (a)(1) through (a)(6) of this section shall be used to determine whether the gas collection system is in compliance with § 60.762(b)(2)(ii).

(1) For the purposes of calculating the maximum expected gas generation flow rate from the landfill to determine compliance with § 60.762(b)(2)(ii)(A)(*1*), one of the following equations shall be used. The k and L_o kinetic factors should be those published in the most recent Compilation of Air Pollutant Emission Factors (AP–42) or other site specific values demonstrated to be appropriate and approved by the Administrator. If k has been determined as specified in § 60.764(a)(4), the value of k determined from the test shall be used. A value of no more than 15 years shall be used for the intended use period of the gas mover equipment. The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

(i) For sites with unknown year-to-year solid waste acceptance rate:

$$Q_m = 2L_oR\,(e^{-kc} - e^{-kt})$$

Where:

Q_m = maximum expected gas generation flow rate, cubic meters per year.

L_o = methane generation potential, cubic meters per megagram solid waste.

R = average annual acceptance rate, megagrams per year.

k = methane generation rate constant, $year^{-1}$.

t = age of the landfill at equipment installation plus the time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure, t is the age of the landfill at installation, years.

c = time since closure, years (for an active landfill c = O and $e^{-kc} = 1$).

(ii) For sites with known year-to-year solid waste acceptance rate:

$$Q_M = \sum_{i=1}^{n} 2kL_oM_i(e^{-kt}i)$$

Where:

Q_M = maximum expected gas generation flow rate, cubic meters per year.

k = methane generation rate constant, $year^{-1}$.

L_o = methane generation potential, cubic meters per megagram solid waste.

M_i = mass of solid waste in the ith section, megagrams.

t_i = age of the ith section, years.

(iii) If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with, the equations in paragraphs (a)(1)(i) and (ii) of this section. If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations using the equations in paragraphs (a)(1)(i) or (ii) or other methods shall be used to predict the maximum expected gas generation rate over the intended period of use of the gas control system equipment.

(2) For the purposes of determining sufficient density of gas collectors for compliance with § 60.762(b)(2)(ii)(*A*)(*2*), the owner or operator shall design a system of vertical wells, horizontal collectors, or other collection devices, satisfactory to the Administrator, capable of controlling and extracting gas from all portions of the landfill sufficient to meet all operational and performance standards.

(3) For the purpose of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with § 60.762(b)(2)(ii)(A)(*3*), the owner or operator shall measure gauge pressure in the gas collection header at each individual well, monthly. If a positive pressure exists, action shall be initiated to correct the exceedance within 5 calendar days, except for the three conditions allowed under § 60.763(b). If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days of the initial measurement of positive pressure. Any attempted corrective measure shall not cause exceedances of other operational or performance standards. An alternative timeline for correcting the exceedance may be submitted to the Administrator for approval.

(4) Owners or operators are not required to expand the system as required in paragraph (a)(3) of this

section during the first 180 days after gas collection system startup.

(5) For the purpose of identifying whether excess air infiltration into the landfill is occurring, the owner or operator shall monitor each well monthly for temperature and nitrogen or oxygen as provided in § 60.763(c). If a well exceeds one of these operating parameters, action shall be initiated to correct the exceedance within 5 calendar days. If correction of the exceedance cannot be achieved within 15 calendar days of the first measurement, then either the gas collection system shall be expanded to correct the exceedance within 120 days of the initial exceedance or an alternative timeline shall be submitted. If the owner or operator is unable to correct an exceedance within 15 days, or does not plan to expand the collection and control system within 120 days, then the owner or operator must submit to the Administrator for approval an alternative timeline for correcting the exceedance. The owner or operator must submit an alternative time line for any type of corrective action other than system expansion that will take longer than 15 days. The owner or operator must also submit an alternative time line and justification if they expect a system expansion to take longer than 120 days. Any attempted corrective measure shall not cause exceedances of other operational or performance standards. Any attempted corrective measure shall not cause exceedances of other operational or performance standards.

(6) An owner or operator seeking to demonstrate compliance with § 60.762(b)(2)(ii)(A)(*4*) through the use of a collection system not conforming to the specifications provided in § 60.769 shall provide information satisfactory to the Administrator as specified in § 60.762(b)(2)(i)(C) demonstrating that off-site migration is being controlled.

(b) For purposes of compliance with § 60.763(a), each owner or operator of a controlled landfill shall place each well or design component as specified in the approved design plan as provided in § 60.762(b)(2)(i). Each well shall be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

(1) 5 years or more if active; or

(2) 2 years or more if closed or at final grade.

(c) The following procedures shall be used for compliance with the surface methane operational standard as provided in § 60.763(d).

(1) After installation and startup of the gas collection system, the owner or operator shall monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the landfill at 30 meter intervals (or a site-specific established spacing) for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in paragraph (d) of this section.

(2) The background concentration shall be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells.

(3) Surface emission monitoring shall be performed in accordance with section 8.3.1 of Method 21 of appendix A of this part, except that the probe inlet shall be placed within 5 to 10 centimeters of the ground. Monitoring shall be performed during typical meteorological conditions.

(4) Any reading of 500 parts per million or more above background at any location shall be recorded as a monitored exceedance and the actions specified in paragraphs (c)(4)(i) through (v) of this section shall be taken. As long as the specified actions are taken, the exceedance is not a violation of the operational requirements of § 60.763(d).

(i) The location of each monitored exceedance shall be marked and the location and concentration recorded.

(ii) Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance shall be made and the location shall be re-monitored within 10 calendar days of detecting the exceedance.

(iii) If the re-monitoring of the location shows a second exceedance, additional corrective action shall be taken and the location shall be monitored again within 10 days of the second exceedance. If the re-monitoring shows a third exceedance for the same location, the action specified in paragraph (c)(4)(v) of this section shall be taken, and no further monitoring of that location is required until the action specified in paragraph (c)(4)(v) of this section has been taken.

(iv) Any location that initially showed an exceedance but has a methane concentration less than 500 ppm methane above background at the 10-day re-monitoring specified in paragraph (c)(4)(ii) or (iii) of this section shall be re-monitored 1 month from the initial exceedance. If the 1-month remonitoring shows a concentration less than 500 parts per million above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1-month remonitoring shows an exceedance, the actions specified in paragraph (c)(4)(iii) or (v) of this section shall be taken.

(v) For any location where monitored methane concentration equals or exceeds 500 parts per million above background three times within a quarterly period, a new well or other collection device shall be installed within 120 calendar days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes or control device, and a corresponding timeline for installation may be submitted to the Administrator for approval.

(5) The owner or operator shall implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

(d) Each owner or operator seeking to comply with the provisions in paragraph (c) of this section shall comply with the following instrumentation specifications and procedures for surface emission monitoring devices:

(1) The portable analyzer shall meet the instrument specifications provided in section 3 of Method 21 of appendix A of this part, except that "methane" shall replace all references to VOC.

(2) The calibration gas shall be methane, diluted to a nominal concentration of 500 parts per million in air.

(3) To meet the performance evaluation requirements in section 3.1.3 of Method 21 of appendix A of this part, the instrument evaluation procedures of section 4.4 of Method 21 of appendix A of this part shall be used.

(4) The calibration procedures provided in section 4.2 of Method 21 of appendix A of this part shall be followed immediately before commencing a surface monitoring survey.

(e) The provisions of this subpart apply at all times, including periods of startup, shutdown or malfunction.

§ 60.766 Monitoring of operations.

Except as provided in § 60.762(b)(2)(i)(B),

(a) Each owner or operator seeking to comply with § 60.762(b)(2)(ii)(A) for an active gas collection system shall install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:

(1) Measure the gauge pressure in the gas collection header on a monthly basis as provided in § 60.765(a)(3); and

(2) Monitor nitrogen or oxygen concentration in the landfill gas on a

monthly basis as provided in § 60.765(a)(5); and

(3) Monitor temperature of the landfill gas on a monthly basis as provided in § 60.765(a)(5).

(b) Each owner or operator seeking to comply with § 60.762(b)(2)(iii) using an enclosed combustor shall calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment.

(1) A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of ±1 percent of the temperature being measured expressed in degrees Celsius or ±0.5 degrees Celsius, whichever is greater. A temperature monitoring device is not required for boilers or process heaters with design heat input capacity equal to or greater than 44 megawatts.

(2) A device that records flow to and bypass of the control device. The owner or operator shall:

(i) Install, calibrate, and maintain a gas flow rate measuring device that shall record the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(c) Each owner or operator seeking to comply with § 60.762(b)(2)(iii) using a non-enclosed flare shall install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

(1) A heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light or the flame itself to indicate the continuous presence of a flame.

(2) A device that records flow to and bypass of the flare. The owner or operator shall:

(i) Install, calibrate, and maintain a gas flow rate measuring device that shall record the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(d) Each owner or operator seeking to demonstrate compliance with § 60.762(b)(2)(iii) using a device other than a non-enclosed flare or an enclosed combustor or a treatment system shall provide information satisfactory to the Administrator as provided in § 60.762(b)(2)(i)(B) describing the operation of the control device, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator shall review the information and either approve it, or request that additional information be submitted. The Administrator may specify additional appropriate monitoring procedures.

(e) Each owner or operator seeking to install a collection system that does not meet the specifications in § 60.769 or seeking to monitor alternative parameters to those required by § 60.763 through § 60.766 shall provide information satisfactory to the Administrator as provided in § 60.762(b)(2)(i)(B) and (C) describing the design and operation of the collection system, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator may specify additional appropriate monitoring procedures.

(f) Each owner or operator seeking to demonstrate compliance with § 60.765(c), shall monitor surface concentrations of methane according to the instrument specifications and procedures provided in § 60.765(d). Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 ppm or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

(g) Each owner or operator seeking to demonstrate compliance with § 60.762(b)(2)(iii) using a landfill gas treatment system must calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment.

(1) A device that monitors pressure drop across, or other approved parameter(s) for, the filtration system that is equipped with a continuous recorder that shall record such parameters at least once every 15 minutes. Records of hourly and 24-hour block averages computed from the continuous monitoring data must also be retained.

(2) A device that monitors the landfill gas temperature for a chiller-based dewatering system, the landfill gas dew point for a non-chiller-based dewatering system, or the approved operating parameter(s) for the dewatering system at the monitoring locations specified in the approved design plan. The temperature measurement device must be located at or immediately after the coalescing filter or other direct contact moisture removal device that follows the chiller and removes the condensed moisture. The dew point monitoring device should be located after the equipment that performs the moisture removal. Each monitoring device must be equipped with a continuous recorder that records such parameters at least once every 15 minutes. Records of hourly and 24-hour block averages computed from the continuous monitoring data must also be retained.

(3) Owners/operators may use monitoring parameters other than those listed in paragraphs (g)(1) and (2) of this section if they demonstrate that such parameters would effectively monitor filtration or de-watering system performance. Owners/operators must develop operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis and submit those ranges, along with justification, for approval in the design plan required by § 60.762(b)(2). Owners/operators must monitor the required parameters and keep them within the ranges specified in the approved design plan.

(4) A device that records flow to and bypass of the treatment system. The owner or operator must:

(i) Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the treatment system at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

§ 60.767 Reporting requirements.

Except as provided in § 60.762(b)(2)(i)(B),

(a) Each owner or operator subject to the requirements of this subpart shall submit an initial design capacity report to the Administrator.

(1) The initial design capacity report shall fulfill the requirements of the notification of the date construction is commenced as required by § 60.7(a)(1) and shall be submitted no later than:

(i) [*DATE 90 DAYS AFTER THE DATE THE FINAL RULE IS PUBLISHED IN THE* ***Federal Register***], for landfills that commenced construction, modification, or reconstruction on or after July 17, 2014 but before [DATE

THE FINAL RULE IS PUBLISHED IN THE **Federal Register**] or

(ii) Ninety days after the date of commenced construction, modification, or reconstruction for landfills that commence construction, modification, or reconstruction on or after [DATE THE FINAL RULE IS PUBLISHED IN THE **Federal Register**].

(2) The initial design capacity report shall contain the following information:

(i) A map or plot of the landfill, providing the size and location of the landfill, and identifying all areas where solid waste may be landfilled according to the permit issued by the state, local, or tribal agency responsible for regulating the landfill.

(ii) The maximum design capacity of the landfill. Where the maximum design capacity is specified in the permit issued by the state, local, or tribal agency responsible for regulating the landfill, a copy of the permit specifying the maximum design capacity may be submitted as part of the report. If the maximum design capacity of the landfill is not specified in the permit, the maximum design capacity shall be calculated using good engineering practices. The calculations shall be provided, along with the relevant parameters as part of the report. The state, Tribal, local agency or Administrator may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

(3) An amended design capacity report shall be submitted to the Administrator providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to or above 2.5 million megagrams and 2.5 million cubic meters. This increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in § 60.768(f).

(b) Each owner or operator subject to the requirements of this subpart shall submit an NMOC emission rate report to the Administrator initially and annually thereafter, except as provided for in paragraphs (b)(1)(ii) or (b)(3) of this section. The Administrator may request such additional information as may be necessary to verify the reported NMOC emission rate.

(1) The NMOC emission rate report shall contain an annual or 5-year estimate of the NMOC emission rate calculated using the formula and procedures provided in § 60.764(a) or (b), as applicable.

(i) The initial NMOC emission rate report may be combined with the initial design capacity report required in paragraph (a) of this section and shall be submitted no later than indicated in paragraphs (b)(1)(i)(A) and (B) of this section. Subsequent NMOC emission rate reports shall be submitted annually thereafter, except as provided for in paragraphs (b)(1)(ii) and (b)(3) of this section.

(A) [DATE 90 DAYS AFTER THE DATE THE FINAL RULE IS PUBLISHED IN THE **Federal Register**], for landfills that commenced construction, modification, or reconstruction on or after July 17, 2014, but before [DATE THE FINAL RULE IS PUBLISHED IN THE **Federal Register**], or

(B) Ninety days after the date of commenced construction, modification, or reconstruction for landfills that commence construction, modification, or reconstruction on or after [DATE THE FINAL RULE IS PUBLISHED IN THE **Federal Register**].

(ii) If the estimated NMOC emission rate as reported in the annual report to the Administrator is less than 40 megagrams per year in each of the next 5 consecutive years, the owner or operator may elect to submit an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate shall include the current amount of solid waste-in-place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based shall be provided to the Administrator. This estimate shall be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate shall be submitted to the Administrator. The revised estimate shall cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

(2) The NMOC emission rate report shall include all the data, calculations, sample reports and measurements used to estimate the annual or 5-year emissions.

(3) Each owner or operator subject to the requirements of this subpart is exempted from the requirements of paragraphs (b)(1) and (2) of this section, after the installation of a collection and control system in compliance with § 60.762(b)(2), during such time as the collection and control system is in operation and in compliance with §§ 60.763 and 60.765.

(c) Each owner or operator subject to the provisions of § 60.762(b)(2)(i) shall submit a collection and control system design plan to the Administrator within 1 year of the first report required under paragraph (b) of this section in which the emission rate equals or exceeds 40 megagrams per year, except as follows:

(1) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in § 60.764(a)(3) and the resulting rate is less than 40 megagrams per year, annual periodic reporting shall be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated emission rate is equal to or greater than 40 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated emission rate based on NMOC sampling and analysis, shall be submitted within 180 days of the first calculated exceedance of 40 megagrams per year.

(2) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant (k), as provided in Tier 3 in § 60.764(a)(4), and the resulting NMOC emission rate is less than 40 Mg/yr, annual periodic reporting shall be resumed. The resulting site-specific methane generation rate constant (k) shall be used in the emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of § 60.764(a)(4) and the resulting site-specific methane generation rate constant (k) shall be submitted to the Administrator within 1 year of the first calculated emission rate exceeding 40 megagrams per year.

(d) Each owner or operator of a controlled landfill shall submit a closure report to the Administrator within 30 days of waste acceptance cessation. The Administrator may request additional information as may be necessary to verify that permanent closure has taken place in accordance with the requirements of 40 CFR 258.60. If a closure report has been submitted to the Administrator, no additional wastes may be placed into the landfill without filing a notification of modification as described under § 60.7(a)(4).

(e) Each owner or operator of a controlled landfill shall submit an equipment removal report to the Administrator 30 days prior to removal or cessation of operation of the control equipment.

(1) The equipment removal report shall contain all of the following items:

(i) A copy of the closure report submitted in accordance with paragraph (d) of this section;

(ii) A copy of the initial performance test report demonstrating that the 15 year minimum control period has expired; and

(iii) Dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 40 megagrams or greater of NMOC per year.

(2) The Administrator may request such additional information as may be necessary to verify that all of the conditions for removal in § 60.762(b)(2)(v) have been met.

(f) The owner or operator of a landfill seeking to comply with § 60.762(b)(2) using an active collection system designed in accordance with § 60.762(b)(2)(ii) shall submit to the Administrator annual reports of the recorded information in (f)(1) through (f)(6) of this section. The initial annual report shall be submitted within 180 days of installation and startup of the collection and control system, and shall include the initial performance test report required under § 60.8, as applicable. For enclosed combustion devices, flares, and treatment systems reportable exceedances are defined under § 60.768(c).

(1) Value and length of time for exceedance of applicable parameters monitored under § 60.766(a), (b), (c), (d), and (g).

(2) Description and duration of all periods when the gas stream is diverted from the control device or treatment system through a bypass line or the indication of bypass flow as specified under § 60.766.

(3) Description and duration of all periods when the control device or treatment system was not operating and length of time the control device or treatment system was not operating.

(4) All periods when the collection system was not operating.

(5) The location of each exceedance of the 500 parts per million methane concentration as provided in § 60.763(d) and the concentration recorded at each location for which an exceedance was recorded in the previous month.

(6) The date of installation and the location of each well or collection system expansion added pursuant to paragraphs (a)(3), (b), and (c)(4) of § 60.765.

(g) Each owner or operator seeking to comply with § 60.762(b)(2)(iii) shall include the following information with the initial performance test report required under § 60.8:

(1) A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;

(2) The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas extraction devices and the gas mover equipment sizing are based;

(3) The documentation of the presence of asbestos or nondegradable material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;

(4) The sum of the gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area; and

(5) The provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and

(6) The provisions for the control of off-site migration.

(h) The owner or operator who has already been required to submit a design plan under § 60.767(c) must submit a revised design plan to the Administrator for approval as follows:

(1) Within 90 days of expanding operations to an area not covered by the previously approved design plan.

(2) Prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Administrator according to paragraph (c) of this section.

(3) Prior to implementing an approved alternative operating parameter value for temperature, nitrogen, or oxygen, if the owner or operator has requested alternative operating parameter values according to § 60.763(c).

§ 60.768 Recordkeeping requirements.

(a) Except as provided in § 60.762(b)(2)(i)(B), each owner or operator of an MSW landfill subject to the provisions of § 60.762(b) shall keep for at least 5 years up-to-date, readily accessible, on-site records of the design capacity report which triggered § 60.762(b), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(b) Except as provided in § 60.762(b)(2)(i)(B), each owner or operator of a controlled landfill shall keep up-to-date, readily accessible records for the life of the control system equipment of the data listed in paragraphs (b)(1) through (b)(5) of this section as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of 5 years. Records of the control device vendor specifications shall be maintained until removal.

(1) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.762(b)(2)(ii):

(i) The maximum expected gas generation flow rate as calculated in § 60.765(a)(1). The owner or operator may use another method to determine the maximum gas generation flow rate, if the method has been approved by the Administrator.

(ii) The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in § 60.769(a)(1).

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.762(b)(2)(iii) through use of an enclosed combustion device other than a boiler or process heater with a design heat input capacity equal to or greater than 44 megawatts:

(i) The average temperature measured at least every 15 minutes and averaged over the same time period of the performance test.

(ii) The percent reduction of NMOC determined as specified in § 60.762(b)(2)(iii)(B) achieved by the control device.

(3) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.762(b)(2)(iii)(B)(*1*) through use of a boiler or process heater of any size: A description of the location at which the collected gas vent stream is introduced into the boiler or process heater over the same time period of the performance testing.

(4) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.762(b)(2)(iii)(A) through use of a non-enclosed flare, the flare type (i.e., steam-assisted, air-assisted, or nonassisted), all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test as specified in § 60.18; continuous records of the flare pilot

flame or flare flame monitoring and records of all periods of operations during which the pilot flame of the flare flame is absent.

(5) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.762(b)(2)(iii) through use of a landfill gas treatment system:

(i) Hourly and 24-hour block averages computed from the device that monitors pressure drop across, or other approved parameter(s) for, the filtration system.

(ii) Hourly and 24-hour block average temperature (chiller-based system) or dew point (non-chiller based system) or the approved operating parameters for the device that monitors the dewatering system operating parameters.

(iii) Records of exceedances of the treatment system operating parameters that were approved in the design plan as required by § 60.762(b)(2)(i)(D).

(iv) Records of the flow of landfill gas to, and bypass of, the treatment system.

(c) Except as provided in § 60.762(b)(2)(i)(B), each owner or operator of a controlled landfill subject to the provisions of this subpart shall keep for 5 years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in § 60.766 as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

(1) The following constitute exceedances that shall be recorded and reported under § 60.767(f):

(i) For enclosed combustors except for boilers and process heaters with design heat input capacity of 44 megawatts (150 million British thermal unit per hour) or greater, all 3-hour periods of operation during which the average temperature was more than 28 °C below the average combustion temperature during the most recent performance test at which compliance with § 60.762(b)(2)(iii) was determined.

(ii) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under paragraph (b)(3) of this section.

(iii) For treatment systems used to demonstrate compliance with § 60.762(b)(2)(iii), all 24-hour periods of operation during which the average operating parameter values are outside of the approved ranges identified in § 60.762(b)(2)(i)(D) as those that indicate proper performance of the treatment system.

(2) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the indication of flow to the control system and the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines, specified under § 60.766.

(3) Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with § 60.762(b)(2)(iii) shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other state, local, Tribal, or federal regulatory requirements.)

(4) Each owner or operator seeking to comply with the provisions of this subpart by use of a non-enclosed flare shall keep up-to-date, readily accessible continuous records of the flame or flare pilot flame monitoring specified under § 60.766(c), and up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

(5) Each owner or operator of a landfill seeking to comply with § 60.762(b)(2) using an active collection system designed in accordance with § 60.762(b)(2)(ii) shall keep records of estimates of NMOC emissions for periods when the collection system or control device is not operating.

(d) Except as provided in § 60.762(b)(2)(i)(B), each owner or operator subject to the provisions of this subpart shall keep for the life of the collection system an up-to-date, readily accessible plot map showing each existing and planned collector in the system and providing a unique identification location label for each collector.

(1) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible records of the installation date and location of all newly installed collectors as specified under § 60.765(b).

(2) Each owner or operator subject to the provisions of this subpart shall keep readily accessible documentation of the nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection as provided in § 60.769(a)(3)(i) as well as any nonproductive areas excluded from collection as provided in § 60.769(a)(3)(ii).

(e) Except as provided in § 60.762(b)(2)(i)(B), each owner or operator subject to the provisions of this subpart shall keep for at least 5 years up-to-date, readily accessible records of all collection and control system exceedances of the operational standards in § 60.763, the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance.

(f) Landfill owners or operators who convert design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of "design capacity", shall keep readily accessible, on-site records of the annual recalculation of site-specific density, design capacity, and the supporting documentation. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

§ 60.769 Specifications for active collection systems.

(a) Each owner or operator seeking to comply with § 60.762(b)(2)(i) shall site active collection wells, horizontal collectors, surface collectors, or other extraction devices at a sufficient density throughout all gas producing areas using the following procedures unless alternative procedures have been approved by the Administrator as provided in § 60.762(b)(2)(i)(C) and (D):

(1) The collection devices within the interior and along the perimeter areas shall be certified to achieve comprehensive control of surface gas emissions by a professional engineer. The following issues shall be addressed in the design: depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expandability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closure end use, air intrusion control, corrosion resistance, fill settlement, and resistance to the refuse decomposition heat.

(2) The sufficient density of gas collection devices determined in paragraph (a)(1) of this section shall address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior.

(3) The placement of gas collection devices determined in paragraph (a)(1) of this section shall control all gas producing areas, except as provided by paragraphs (a)(3)(i) and (a)(3)(ii) of this section.

(i) Any segregated area of asbestos or nondegradable material may be excluded from collection if documented as provided under § 60.768(d). The

documentation shall provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and shall be provided to the Administrator upon request.

(ii) Any nonproductive area of the landfill may be excluded from control, provided that the total of all excluded areas can be shown to contribute less than 1 percent of the total amount of NMOC emissions from the landfill. The amount, location, and age of the material shall be documented and provided to the Administrator upon request. A separate NMOC emissions estimate shall be made for each section proposed for exclusion, and the sum of all such sections shall be compared to the NMOC emissions estimate for the entire landfill.

(A) The NMOC emissions from each section proposed for exclusion shall be computed using the following equation:

$Q_j = 2\ k\ L_o M_i (e^{-kt_i})\ (C_{NMOC})\ (3.6 \times 10^{-9})$

Where:

Q_j = NMOC emission rate from the i^{th} section, megagrams per year.

k = methane generation rate constant, $year^{-1}$.

L_o = methane generation potential, cubic meters per megagram solid waste.

M_i = mass of the degradable solid waste in the i^{th} section, megagram.

t_i = age of the solid waste in the i^{th} section, years.

C_{NMOC} = concentration of nonmethane organic compounds, parts per million by volume.

3.6×10^{-9} = conversion factor.

(B) If the owner/operator is proposing to exclude, or cease gas collection and control from, nonproductive physically separated (e.g., separately lined) closed areas that already have gas collection systems, NMOC emissions from each physically separated closed area shall be computed using either the equation in § 60.764(b) or the equation in paragraph (a)(3)(ii)(A) of this section.

(iii) The values for k and C_{NMOC} determined in field testing shall be used if field testing has been performed in determining the NMOC emission rate or the radii of influence (this distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for k, L_O and C_{NMOC} provided in § 60.764(a)(1) or the alternative values from § 60.764(a)(5) shall be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions provided the nature, location, age, and amount of the nondegradable material is documented as provided in paragraph (a)(3)(i) of this section.

(b) Each owner or operator seeking to comply with § 60.762(b)(2)(i)(A) shall construct the gas collection devices using the following equipment or procedures:

(1) The landfill gas extraction components shall be constructed of polyvinyl chloride (PVC), high density polyethylene (HDPE) pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to: Convey projected amounts of gases; withstand installation, static, and settlement forces; and withstand planned overburden or traffic loads. The collection system shall extend as necessary to comply with emission and migration standards. Collection devices such as wells and horizontal collectors shall be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations shall be situated with regard to the need to prevent excessive air infiltration.

(2) Vertical wells shall be placed so as not to endanger underlying liners and shall address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors shall be of sufficient cross-section so as to allow for their proper construction and completion including, for example, centering of pipes and placement of gravel backfill. Collection devices shall be designed so as not to allow indirect short circuiting of air into the cover or refuse into the collection system or gas into the air. Any gravel used around pipe perforations should be of a dimension so as not to penetrate or block perforations.

(3) Collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly shall include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices shall be constructed of PVC, HDPE, fiberglass, stainless steel, or other nonporous material of suitable thickness.

(c) Each owner or operator seeking to comply with § 60.762(b)(2)(i)(A) shall convey the landfill gas to a control system in compliance with § 60.762(b)(2)(iii) through the collection header pipe(s). The gas mover equipment shall be sized to handle the maximum gas generation flow rate expected over the intended use period of the gas moving equipment using the following procedures:

(1) For existing collection systems, the flow data shall be used to project the maximum flow rate. If no flow data exists, the procedures in paragraph (c)(2) of this section shall be used.

(2) For new collection systems, the maximum flow rate shall be in accordance with § 60.765(a)(1).

[FR Doc. 2014–16405 Filed 7–16–14; 8:45 am]

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Part V

Environmental Protection Agency

40 CFR Part 49
General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–HQ–OAR–2011–0151; FRL–9913–50–OAR]

RIN 2060–AR98

General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing general permits for use in Indian country pursuant to the Indian Country Minor New Source Review (NSR) rule for new or modified true minor sources in the following six source categories: Concrete batch plants, boilers, stationary spark ignition engines, stationary compression ignition engines, graphic arts and printing operations, and sawmills. In the alternative, the EPA is also proposing a permit by rule for use in Indian country for new or modified true minor sources in one of the six source categories: Graphic arts and printing operations.

DATES: Comments must be received on or before August 18, 2014.

Public Hearing. We will hold a public hearing on August 7, 2014.

Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2011–0151, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Email: *a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2011–0151 in the subject line of the message.
- Fax: (202) 566–9744, attention Docket ID No. EPA–HQ–OAR–2011–0151.
- Mail: Attention Docket ID No. EPA–HQ–OAR–2011–0151, EPA, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies.
- Hand Delivery: The EPA Docket Center, Public Reading Room, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2011–0151. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2011–0151. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should 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.B. of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: The EPA has established a docket for this rulemaking under Docket ID Number EPA–HQ–OAR–2011–0151. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or under Docket ID Number EPA–HQ–OAR–2011–0151, 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 Air Docket is (202) 564–1742.

ADDRESSES: The public hearing will be held on August 7, 2014, at the U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, Research Triangle Park, NC. The hearing will convene at 9:00 a.m. and end at 5:00 p.m. or after the last registered speaker has spoken, whichever is earlier. A lunch break is scheduled from 12:00 p.m. until 1:00 p.m. The EPA's Web site for the rulemaking, which includes the proposal and information about the hearing, can be found at: *http://www.epa.gov/air/tribal/tribalnsr.html.*

The hearing will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing is being held at a U.S. government facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. These requirements will take effect July 21, 2014. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma, or the state of Washington, you must present an additional form of identification to enter the federal buildings where the public hearings will be held. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses and military identification cards. We will list any additional acceptable forms of identification at: *http://www.epa.gov/air/tribal/tribalnsr.html.* In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Stoneman, Outreach and Information Division, Office of Air Quality Planning and Standards (C–304–01), Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, telephone number (919) 541–0823, facsimile number (919) 541–0072, email address: *stoneman.chris@epa.gov.*

If you would like to present oral testimony at the public hearing, please register no later than June 27, 2014, by contacting: Ms. Carolyn Childers,

Outreach and Information Division, Office of Air Quality Planning and Standards (C304–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5604; fax number (919) 541–0072; email address: *childers.carolyn@epa.gov*. If using email, please provide the following information: Name, affiliation, address, email address and telephone and fax numbers. All speakers are encouraged to pre-register in order to speak at the public hearing. Registration is not required to attend and listen to the testimony at the public hearing.

SUPPLEMENTARY INFORMATION:

Throughout this document, "reviewing authority," "we," "us" and "our" refer to the EPA. The information in this preamble is organized as follows:

Table of Contents

I. General Information

A. Does this action apply to me?

Entities potentially affected by this proposed action include the EPA, tribal governments that are delegated administrative authority to assist the EPA with the implementation of the tribal minor source air permitting program and owners, and operators of facilities located in Indian country as defined in 18 U.S.C. 1151 and as provided in the NSR rule from the following source categories:

TABLE 1—SOURCE CATEGORIES

Category	NAICS	Examples of Regulated Entities
Boilers	11****	Agriculture, Forestry, Fishing and Hunting.
	2211**	Electric Power Generation.
	311***	Food Manufacturing.
	321***	Wood Product Manufacturing (except sawmills).
	327***	Nonmetallic Mineral Product Manufacturing (except ready-mix concrete).
	424***	Wholesale Trade, Nondurable Goods.
	611110	Elementary and Secondary Schools.
	611210	Junior Colleges.
	611310	Colleges, Universities, and Professional Schools.
	62****	Health Care and Social Assistance.

TABLE 1—SOURCE CATEGORIES—Continued

Category	NAICS	Examples of Regulated Entities
	721120	Casino Hotels.
	813110	Religious Organizations.
	92****	Public Administration.
Concrete Batch Plants	327320	Central Mixed Concrete Manufacturing.
	327320	Concrete Batch Plants (including temporary).
	327320	Ready Mix Concrete Manufacturing and Distributing.
	327320	Transit Mixed Concrete Manufacturing.
	327320	Truck Mixed Concrete Manufacturing.
	327331	Concrete Manufacturing: All Types of Blocks and Bricks.
	327332	Concrete Manufacturing: All Types of Pipe and Conduit.
	327390	Concrete Manufacturing: All Structural Forms.
Engines (Spark Ignition and Compression Ignition).	2211**	Electric Power Generation.
	622110	Medical and Surgical Hospitals.
Graphic Arts and Printing Operations	323111	Printing: Flexographic, Rotogravure, Gravure, Letterpress, Lithographic, Digital.
	323113	Commercial Printing, Newspapers, Print Shops.
	323117	Printing Books.
Sawmills	321113	Sawmills.

This list is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be potentially affected by this action. To determine whether your facility could be affected by this action, you should examine the applicability criteria in the final minor NSR program for Indian country (40 Code of Federal Regulations (CFR) 49.153). If you have any questions regarding the applicability of this action to a particular entity, contact the appropriate person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What should I consider as I prepare my comments to the EPA?

1. Submitting CBI

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

Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, EPA, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2011–0151.

2. Tips for Preparing Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section 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 the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this proposal will also be available on the World Wide Web. Following signature by the EPA Administrator, a copy of this notice will be posted on the regulations and standards section of the NSR home page located at *http://www.epa.gov/nsr* and on the tribal NSR page at *http://www.epa.gov/air/tribal/tribalnsr.html.*

D. What acronyms, abbreviations and units are used in this preamble?

CAA Clean Air Act
CO_2 Carbon dioxide
CO Carbon monoxide
EPA Environmental Protection Agency
ESA Endangered Species Act
FIP Federal Implementation Plan
GDFs Gasoline dispensing facilities
HAPs Hazardous air pollutants
hp Horsepower
ICE Internal combustion engine
NAAQS National Ambient Air Quality Standards
NO_2 Nitrogen dioxide
NO_X Nitrogen oxides
NSR New Source Review
NHPA National Historic Preservation Act
NTTAA National Technology Transfer and Advancement Act
PM Particulate matter
PSD Prevention of Significant Deterioration
PTE Potential to emit
SIP State Implementation Plan
SO_2 Sulfur dioxide
tpy Tons per year
UMRA Unfunded Mandates Reform Act
VOC Volatile organic compounds

II. Purpose

A. Proposed Action

In July 2011, the EPA issued the Indian Country Minor NSR rule that established, among other things, the requirements and process for the preconstruction permitting of minor sources in Indian country. Under the rule, on or after September 2, 2014, an owner or operator must obtain a preconstruction permit from the reviewing authority [1] if the source will

[1] In this document, reviewing authority refers to an EPA regional office. However, tribes can become

construct a new true minor source,[2] or will modify an existing true minor source in Indian country. The rule also specified the process and requirements for using general permits as a streamlined permitting approach to authorize construction and modifications at true minor sources. General permits streamline the preconstruction permitting of new or modified true minor sources because they involve the issuance of one permit that can apply to multiple stationary sources that have similar emissions units.

On January 14, 2014, the EPA proposed general permits [3] for use in Indian country pursuant to the Indian Country Minor NSR rule for new or modified true minor sources in the following five source categories: Hot mix asphalt plants; stone quarrying, crushing, and screening facilities; auto body repair and miscellaneous surface coating operations; gasoline dispensing facilities (GDFs); and petroleum dry cleaning facilities. In the alternative, the EPA also proposed permits by rule for use in Indian country for new or modified minor sources in three of the source categories: Auto body repair and miscellaneous surface coating operations; GDFs; and petroleum dry cleaning facilities. The EPA also proposed certain changes to the Indian Country Minor NSR rule. The proposed changes include: Extending the deadline by when true minor sources in the oil and gas sector must receive minor source NSR permits; and allowing general permits and permits by rule for specific categories to be used to create synthetic minor sources. In the prior action, we also sought comment on a number of issues, some of which relate to the source categories contained in this proposal.

Today's proposal addresses a second group of activities; the EPA is proposing the use of two types of minor NSR preconstruction permits to help streamline permitting of true minor sources that construct or modify in Indian country and that belong to one of six additional source categories. The first type of permit is a general permit. A general permit is a document that the EPA will make available online that will contain all of the emissions limitations, monitoring, recordkeeping and reporting requirements to which a source in a given source category would be subject. Sources seeking coverage under a tribal general permit will need to submit a request for coverage or application to the EPA. The second type is a permit by rule, which uses a regulatory-type structure to permit sources by pre-authorizing construction and modification activities carried out in accordance with the permit's requirements. Sources seeking coverage under a tribal permit by rule must notify the EPA that it meets the terms of coverage and is complying with the permit's conditions, but does not need to await approval of a request for coverage.

As our preferred approach, we are proposing general permits for the six source categories: Concrete batch plants; boilers; stationary spark ignition engines; stationary compression ignition engines; graphic arts and printing operations; and sawmills. Specifically, we are proposing general permits for these source categories for permitting affected emissions units and emissions-generating activities in these source categories. As an alternative, for graphic arts and printing operations, the EPA is also requesting comment on whether, in lieu of establishing a general permit, we should instead adopt a permit by rule.

We are making available various permit implementation documents and tools on which we request public comment. In a prior action [4] in which we also proposed general permits and permits by rule for certain source categories of minor sources in Indian country, we proposed the regulatory framework that the EPA will use to establish permits by rule. That proposed regulatory framework is also relevant here.

B. Areas Where the EPA Is Seeking Comment

In this proposal, we are seeking comment on the following areas:

(1) All aspects of the permit documents and implementation tools of the following six source categories (Sections VI. and IX.):

a. Concrete batch plants;

b. Boilers;

c. Stationary compression ignition engines;

d. Stationary spark ignition engines;

e. Graphic arts and printing operations; and

f. Sawmills.

(2) The appropriateness of using a streamlined general permit/permit by rule application for one source category (Section IX.):

a. Graphic arts and printing operations.

(3) Different aspects of the EPA's conclusion on its control technology review that, because the control measures in this proposal are currently used by other similar sources in other areas of the country, the measures in the proposed permits are technically and economically feasible, and cost effective (Section V.);

(4) The process for sources to address the requirements of the Endangered Species Act (ESA) and the National Historic Preservation Act (NHPA) with respect to the six categories in today's proposal (Sections V. and VII.);

(5) Use of throughput limits and capacity limits as surrogate for tons per year (tpy) allowable emission limitations, or, alternatively, establishment of annual allowable emission limitations for each pollutant, and the use of throughput limits as surrogate monitoring measures to demonstrate compliance with tpy annual allowable emission limitations (Sections V. and VI.);

(6) Finalizing both permitting mechanisms for graphic arts and printing operations by providing authorization to construct or modify true minor sources in this category via permits by rule and by providing enforceable limitations to create synthetic minor sources in this category via general permits (Section X.); and

(7) Proposed rule changes to the Indian Country Minor NSR rule in one area (Section XI.):

a. Shortening the general permit application review process from 90 to 45 days for one source category out of the six in this proposal for which the EPA believes it is appropriate:

i. Graphic arts and printing operations.

In this proposal, we are not seeking comment on several issues already

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reviewing authorities if they decide to assume responsibility for implementing the minor NSR program in their area and are either delegated authority to implement the Indian Country Minor NSR rule or establish and obtain the EPA's approval of their own minor source program.

[2] True minor source means a source that emits, or has the potential to emit, regulated NSR pollutants in amounts that are less than the major source thresholds under either the Prevention of Significant Deterioration program at 40 CFR 52.21, or the Major NSR Program for Nonattainment Areas in Indian Country at 40 CFR 49.166 through 49.173, but equal to or greater than the minor NSR thresholds in 40 CFR 49.153, without the need to take an enforceable restriction to reduce its potential to emit (PTE) to such levels. The PTE includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the 28 source categories listed in part 51, Appendix S, paragraph II.A.4(iii) or 40 CFR 52.21(b)(1)(iii), as applicable.

[3] "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country," U.S. Environmental Protection Agency, January 14, 2014 (79 FR 2546), *http://www.gpo.gov/fdsys/pkg/FR-2014-01-14/pdf/2013-30345.pdf.*

[4] "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country," U.S. Environmental Protection Agency, January 14, 2014 (79 FR 2546), *http://www.gpo.gov/fdsys/pkg/FR-2014-01-14/pdf/2013-30345.pdf.*

proposed in the January 14, 2014, action that more broadly cover policy and other issues related generally to the functioning and use of general permits and permits by rule in Indian country. The Agency's final decision on those issues, though, has the potential to impact sources in the source categories proposed in this action. Those issues include the following:

(1) Several administrative aspects of general permits, including:

a. Whether the EPA's proposed approach of incorporating by reference each reviewing authority's approval of a request for coverage into the general permit is necessary and appropriate; and

b. The appropriateness of proposed permit terms related to the reviewing authority's ability to reopen, revise, or terminate an individual approval of coverage under the general permit;

(2) The regulatory framework that the EPA is proposing as an alternative to use to establish permits by rule and the streamlined review and issuance process that the EPA is proposing whereby a source can become covered by a permit by rule by notifying the EPA that it qualifies for the permit, meets the terms of coverage and is complying with the permit's conditions (but not having to wait for the reviewing authority's approval);

(3) Proposal to change the policy in the Indian Country Minor NSR rule to allow the use of both general permits and permits by rule to create synthetic minor sources;

(4) Use of more than one general permit and/or permit by rule for a source at a single location;

(5) Additional source categories for which the EPA is planning to propose general permits and/or permits by rule; and

(6) Proposed rule changes to the Indian Country Minor NSR rule in four areas in three provisions:

a. Adjusting the deadline by which minor sources covered by a general permit need to obtain a preconstruction permit;

b. Extending the permitting deadline for true minor sources within the oil and gas source category;

c. Removing a provision to make clear that sources may seek coverage under a general permit as soon as it is effective and need not wait an additional 4 months; and

d. Adjusting the deadline for oil and gas sources for certain registration-related requirements to be consistent with the proposed permitting deadline extension.

III. Background

A. Tribal Air Rule

On February 12, 1998,[5] the EPA used its authority under section 301(d) of the Clean Air Act (CAA) to find that we would not treat tribal governments the same as states with respect to specific plan submittal and implementation deadlines under the CAA for National Ambient Air Quality Standards (NAAQS)-related requirements. This finding applied to many section 110 requirements, including requirements under section 110(a)(2)(c) to submit a program to regulate the modification and construction of any stationary source as necessary to ensure that the NAAQS are achieved. Although we determined that Indian tribes were not obligated to implement a permitting program, the EPA also made clear that we continue to have a general obligation under the CAA to ensure the protection of air quality throughout Indian country. To that end, we also used our authority under sections 301(a) and 301(d)(4) to establish a requirement to promulgate such federal implementation plan (FIP) provisions as are necessary or appropriate to protect air quality in Indian country (40 CFR 49.11(a)). For a number of years, the only federal CAA NSR permitting program that applied in Indian country was the major NSR program for areas meeting the NAAQS ("attainment" areas) or areas for which there is insufficient information to determine whether they meet the NAAQS ("unclassifiable" areas). We call this program the Prevention of Significant Deterioration (PSD) program (40 CFR 52.21). No federal NSR permitting program has covered minor sources or major sources in nonattainment areas. Nor was there a readily available way for major sources to take enforceable limits and become synthetic minor sources.

On August 21, 2006, the EPA proposed the regulation: "Review of New Sources and Modifications in Indian Country" (i.e., the Indian Country NSR rule).[6] Within this regulation, the EPA proposed to protect air quality in Indian country by establishing a FIP program to regulate the modification and construction of minor stationary sources consistent with the requirements of section 110(a)(2)(c) of the CAA. We call this part of the Indian Country NSR rule the Indian Country Minor NSR rule. Under the Indian Country Minor NSR rule, we proposed to fill a regulatory gap and provide a mechanism for issuing preconstruction permits for the construction of new minor sources and certain modifications of major and minor sources in Indian country. In developing the rule, the EPA conducted extensive outreach and consultation and provided an extensive public comment period that ended on March 20, 2007. The comments we received provided detailed information specific to Indian country and the final Indian Country Minor NSR rule incorporated many of the suggestions we received. We promulgated final rules on July 1, 2011,[7] and the FIP became effective on August 30, 2011.[8]

B. Indian Country Minor NSR Rule

1. What is the Indian Country Minor NSR rule?

The Indian Country Minor NSR rule applies to new and modified minor stationary sources and to minor modifications at existing major stationary sources located in Indian country where there is no EPA-approved program in place. The rule also includes a pre-construction permits program for major sources proposing to construct in areas of Indian country that have not attained one or more NAAQS, i.e., nonattainment areas. After September 2, 2014, any new stationary sources that will emit, or will have the PTE, a regulated NSR pollutant in amounts that will be: (1) Equal to or greater than the minor NSR thresholds, established in the Indian Country Minor NSR rule; and (2) less than the amount that would qualify the source as a major source for purposes of the PSD or nonattainment major NSR programs,

[5] "Indian Tribes: Air Quality Planning and Management," U.S. Environmental Protection Agency, February 12, 1998 (63 FR 7254), *http://www.gpo.gov/fdsys/pkg/FR-1998-02-12/pdf/98-3451.pdf.*

[6] "Review of New Sources and Modifications in Indian Country," U.S. Environmental Protection Agency, August 21, 2006 (71 FR 48696), *http://www.gpo.gov/fdsys/pkg/FR-2006-08-21/html/06-6926.htm.*

[7] "Review of New Sources and Modifications in Indian Country," U.S. Environmental Protection Agency, July 1, 2011 (76 FR 38748), *https://www.federalregister.gov/articles/2011/07/01/2011-14981/review-of-new-sources-ond-modificotions-in-indion-country.*

[8] On January 17, 2014, the United States Court of Appeals for the District of Columbia Circuit issued an opinion and judgment vacating the Indian Country NSR rule with respect to non-reservation areas of Indian country. As a result, EPA does not currently have minor source NSR permitting authority in non-reservation areas of Indian country and any general permits and permits by rule issued under the Indian Country Minor NSR rule will not be immediately available in such areas of Indian country. Importantly, the court's decision does not affect the Indian Country Minor NSR rule with respect to reservations, whether formal or informal, and any final general permits and permits by rule issued under the Indian Country Minor NSR rule will be available in those areas. The EPA is currently considering, but has not yet determined, how best to implement the court's decision.

must apply for and obtain a minor NSR permit before commencing construction of the new source. Likewise, any existing stationary source (minor or major) must apply for and obtain a minor NSR permit before commencing construction of a physical or operational change that will increase the allowable emissions of the stationary source by more than the specified minor NSR threshold amounts, if the change does not otherwise trigger the permitting requirements of the PSD or nonattainment major NSR program(s).[9]

Among other things, the Indian Country Minor NSR rule created a framework for the EPA to streamline the issuance of preconstruction permits to true minor sources by using general permits. We explain this framework further in the sections below.

2. What is a true minor source and how does it differ from a synthetic minor source?

"True minor source" means a source that emits, or has the potential to emit, regulated NSR pollutants in amounts that are less than the major source thresholds under either the PSD program at 40 CFR 52.21, or the Major NSR program for Nonattainment Areas in Indian Country at 40 CFR 49.166 through 49.173, but equal to or greater than the minor NSR thresholds in 40 CFR 49.153, without the need to take an enforceable restriction to reduce its PTE to such levels. The PTE includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the 28 source categories listed in 40 CFR part 51, Appendix S, paragraph II.A.4(iii) or 40 CFR 52.21(b)(1)(iii), as applicable. For example, a hot mix asphalt facility, located in a sulfur dioxide (SO_2) attainment area, that has a maximum potential to emit of 135 tpy of SO_2, without the need to take an enforceable restriction to reduce its PTE to such levels, would qualify as a true minor source. By contrast, "synthetic minor source" means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above those for major sources, but that has taken a restriction so that its PTE is less than such amounts. Such restrictions must be enforceable as a legal and practical matter. For example, a hot mix asphalt facility, located in an SO_2 attainment area, that has an unrestricted PTE of 270 tpy, but that is legally constrained to emit only 135 tpy of SO_2 because the source has taken a throughput limit made enforceable through a permit (i.e., a limit on how much hot mix product it can produce), would qualify as a synthetic minor source. In the preamble to both the proposed and final Indian Country Minor NSR rule, the EPA indicated that it would not use general permits to allow otherwise major sources to create synthetic minor sources.[10]

3. What are the minor NSR thresholds?

The "minor NSR thresholds" establish cutoff levels for each regulated NSR pollutant. If a source naturally has a PTE in amounts lower than the thresholds, then it is exempt from the Indian Country Minor NSR rule (see Table 2 and 40 CFR 49.153) for that pollutant. New or modified sources which naturally have a PTE in amounts that are: (1) Equal to or greater than the minor NSR thresholds; and (2) less than the major NSR thresholds (generally 100 to 250 tpy) are "minor sources" of emissions and subject to the Indian Country Minor NSR rule requirements at 40 CFR 49.151 through 161.

TABLE 2—MINOR NSR THRESHOLDS FOR SOURCES IN INDIAN COUNTRY[11]

Regulated NSR pollutant	Minor NSR thresholds for nonattainment areas (tpy)	Minor NSR thresholds for attainment areas (tpy)
Carbon monoxide (CO)	5	10
Nitrogen oxides (NO_X)	[12] 5	10
SO_2	5	10
Volatile Organic Compounds (VOC)	[13] 2	5
PM (particulate matter)	5	10
PM_{10}	1	5
$PM_{2.5}$	0.6	3
Lead	0.1	0.1
Fluorides	NA	1
Sulfuric acid mist	NA	2
Hydrogen sulfide (H_2S)	NA	2
Total reduced sulfur (including H_2S)	NA	2
Reduced sulfur compounds (including H_2S)	NA	2
Municipal waste combustor emissions	NA	2
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	NA	10

4. What is a general permit?

The Indian Country Minor NSR rule specified the process and requirements for using general permits to authorize construction of and modifications at true minor sources as a streamlined permitting approach. A general permit, for purposes of this action, is a permit document that contains standardized requirements that multiple stationary sources can use. The EPA may issue a

[9] A source may, however, be subject to certain monitoring, recordkeeping and reporting (MRR) requirements under the major NSR programs, if the change has a reasonable possibility of resulting in a major modification. A source may be subject to both the Indian Country Minor NSR program and the reasonable possibility of being subject to the MRR requirements of the major NSR program(s).

[10] Note that the current regulatory language in the Tribal Minor NSR rule does not address the use of general permits in this manner.

[11] If part of a tribe's area of Indian country is designated as attainment and another part as nonattainment, the applicable threshold for a proposed source or modification is determined based on the designation where the source would be located. If the source straddles the two areas, the more stringent thresholds apply.

[12] In extreme ozone nonattainment areas, section 182(e)(2) of the CAA requires any change at a major source that results in any increase in emissions to be subject to major NSR permitting. In other words, any changes to existing major sources in extreme ozone nonattainment areas are subject to a "0" tpy threshold, but that threshold does not apply to minor sources.

[13] Id.

general permit for categories of emissions units or stationary sources that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar permit requirements.[14] "Similar in nature" refers to size, processes, and operating conditions. The purpose of a general permit is to provide for protection of air quality while simplifying the permit process for similar minor sources. General permits offer a cost-effective means of issuing permits and provide a quicker and simpler mechanism for permitting minor sources than the site-specific permitting process.

While the final Indian Country Minor NSR rule contemplated issuance of general permits by the EPA regions, we have determined (for the permits on which we are taking comment here) that a nationwide action is appropriate. Through this action, we are proposing to issue general permits to serve as preconstruction permit authorizations that contain emission limitations and other restrictions to govern how a source may construct, modify and operate. National general permits streamline the permit issuance process by establishing universal requirements through one notice for specific types of emissions activities at multiple sources across the country. The EPA believes that the general permit approach is appropriate for the source categories in today's proposal where the control equipment or techniques are generally similar from region to region.

A general permit also allows a reviewing authority to notify the public through one notice that it intends to apply these requirements to any eligible source that seeks coverage under the permit in the future. This minimizes the burden on reviewing authorities' resources by eliminating the need to issue separate permits for each individual minor source within the source type or category covered by the general permit. Use of a general permit also decreases the time required for an individual minor source to obtain a preconstruction permit because the application process is standardized.

The Indian Country Minor NSR rule describes the process the EPA will use to issue general permits for the minor NSR program. A general permit must be issued in accordance with the requirements in 40 CFR 49.156. Briefly, these requirements address public availability of information, public notification and participation, and public comments. In addition, as discussed in Section IX., we are providing implementation tools to guide sources through a series of questions to determine whether they meet the criteria to be eligible for coverage under a general permit.

C. What is a permit by rule?

Like a general permit, a permit by rule is a standard set of requirements that can apply to multiple stationary sources with similar emissions characteristics. For purposes of this action, a permit by rule would differ from a general permit in that the agency would codify a permit by rule directly into the Indian Country Minor NSR rule. The process for a source to apply for coverage under a permit by rule, and the process for the reviewing authority to grant coverage under a permit by rule, is more streamlined compared to a standard general permit, or a site-specific permit. In particular, a proposed project need not wait for a response from the permitting authority before starting construction under a permit by rule. Section VII. provides a description of the source application process for permits by rule.

IV. Description of General Permit Program in Indian Country and the EPA's Use of This Package To Satisfy the General Permit Issuance Process

A. General Permit Program

The EPA codified the framework it would follow to issue general permits for minor sources in the Indian Country Minor NSR rule in 40 CFR 49.156. While it was not necessary for the EPA to codify this framework to issue general permits, the EPA nonetheless created the regulatory framework to better inform the public of the process the EPA will use to issue general permits. Per the framework, to issue a general permit, the reviewing authority must follow the requirements for public participation contained in 40 CFR 49.157. These provisions require the reviewing authority then to provide a notice that a draft permit is available for comment. The regulations list a number of ways in which a reviewing authority can provide notice to the public, and also allow the reviewing authority to use other means of notification as appropriate (40 CFR 49.157(b)(1)(ii)(E)). We have opted to provide notice to the public regarding the present proposal of general permits for six source categories through use of the **Federal Register**. We believe this approach is appropriate in this case because we intend to apply these general permits in all areas of Indian country subject to the Indian Country Minor NSR Program and the **Federal Register** provides a nationwide circulation of the notice. We will also mail a copy of each permit for which the reviewing authority has approved coverage for a source to the appropriate Indian governing bodies and the tribal, state and local air pollution agencies in adjacent air jurisdictions that may be impacted by the air pollution sources that use the general permit in accordance with 40 CFR 49.157(b)(1)(i).

The existing regulations also identify the type of information that a reviewing authority must make available to the public, and list a number of elements to be included in the public notice (40 CFR 49.157(a) and (b)(2)). We are satisfying these requirements in this proposal in a wide-ranging manner by providing the public access to the application forms we will require an applicant to complete, and the other implementation tools for each general permit. (We discuss these tools in greater detail in Section IX. of this preamble.) Many of these requirements relate to information that is best made available when an individual applicant applies for coverage under a specific general permit. We will make information specific to an individual source's request for coverage under a general permit available at the time we provide notice of the source's request for coverage.

After providing adequate public notice of the availability of the draft permit, the reviewing authority must allow a period of at least 30 days for the public to comment on the permit, and to request a public hearing (40 CFR 49.157). We are satisfying these requirements by using this proposed rule to propose, take comments and hold a public hearing on the general permits. Once we finalize a general permit, it will be used by the EPA's regional office reviewing authorities[15] for sources requesting coverage under the permit.

The regulations set forth the provisions for a final permit to undergo administrative and judicial review in accordance with 40 CFR 49.159. The procedures governing appeals of NSR permits to the Environmental Appeals Board will govern administrative review of these general permits. Issuance of a general permit is a final agency action with respect to all aspects of the general

[14] "Review of New Sources and Modifications in Indian Country," U.S. Environmental Protection Agency, July 1, 2011 (76 FR 38770), *https://www.federalregister.gov/articles/2011/07/01/2011-14981/review-of-new-sources-and-modifications-in-indian-country.*

[15] The Administrator delegated the authority to each of the EPA Regional Administrators to carry out all aspects of the Indian Country Minor NSR program, including issuing general permits and approving individual coverage under a general permit.

permit except its applicability to an individual source. The provisions of 40 CFR 49.159 will continue to govern administrative and judicial review of the EPA's approval of an individual source's request for coverage. After the reviewing authority approves a request for coverage by an individual source, a party may appeal only the applicability of the general permit to that particular source.

Although we are using a **Federal Register** notice to initially establish the general permits, we intend to use other methods also consistent with procedures in 40 CFR 49.159 to reopen or administratively amend the final permits if we determine it is necessary and appropriate. A reviewing authority may reopen and revise a final general permit for cause after providing the opportunity for notice and comment under 40 CFR 49.157. Revisions to a final general permit may be appropriate, for example, when the reviewing authority decides to issue a new general permit for the same category to account for advances in control technology or for other pertinent reasons. However, when a reviewing authority issues a new general permit, sources operating under the existing general permit will be able to continue to operate under the existing permit unless and until the source subsequently proposes to modify.[16]

B. How do sources apply for general permits?

40 CFR 49.156(e) describes the procedure for sources to obtain coverage under a general permit. At the time a source submits a request for coverage under a general permit, it must submit a copy of such request to the appropriate Indian governing body for the area of Indian country where the source is locating. The reviewing authority must act on the source's request for coverage under the general permit as expeditiously as possible, but it must notify the source of the final decision within 90 days of its receipt of the coverage request. The source's reviewing authority must comply with a 45-day completeness review period to determine if the request for coverage under a general permit is complete. Therefore, within 30 days after the receipt of the source's coverage request, the reviewing authority must make an initial request for any additional information necessary to process the coverage request and the source must submit such information within 15 days. If the source does not submit the requested information within 15 days from the request for additional information and this results in a delay that is beyond the 45-day completeness review period, the 90-day permit issuance period for the general permit will be extended by the additional days the source takes to submit the requested information beyond the 45-day period. If the reviewing authority fails to notify the source within a 30-day period of any additional information necessary to process the source's coverage request, the source will still have 15 days to submit such information and the reviewing authority must still grant or deny the request for coverage under a general permit within the 90-day general permit issuance period and without any time extension.

If the reviewing authority determines that the source's request for coverage under a general permit has all the relevant information and is complete, it will notify the source in writing as soon as that determination is made. If the source does not receive from the reviewing authority a request for additional information or a notice that the request for coverage under a general permit is complete within the 45-day completeness review period, the request will be deemed complete.

After permit coverage is granted, under 40 CFR 49.156(e), coverage under a general permit becomes invalid if a source does not commence construction within 18 months after the effective date of coverage under a general permit, if the source discontinues construction for a period of 18 months or more, or if the source does not complete construction within a reasonable time. The reviewing authority may extend the 18-month period upon a satisfactory showing that an extension is justified, and the 18-month limit does not apply to the time period between construction of the approved phases of a phased construction project. In those cases, construction of each such phase must commence within 18 months of the projected and approved commencement date.

In Section XI., the EPA proposes to amend 40 CFR 49.156(e) to shorten the permit application procedure to 45 from 90 days for one source category in today's proposal: Graphic arts and printing operations.

In Section IX., we describe the implementation documents and tools that we are making available for comment to assist sources with applying for general permits.

C. What are the required permitting elements?

For general permits, these elements are discussed in the Indian Country Minor NSR rule promulgated at 40 CFR 49.155(a) and include:

- The effective date of the permit and the date by which a source must commence construction in order for the permit's coverage to remain valid (i.e., 18 months after the source obtains coverage under the general permit);
- The emissions units subject to the permit and their associated emission limitations (and other permit conditions);
- Monitoring, recordkeeping, reporting and testing requirements to ensure compliance with the emission limitations; and
- A severability clause to ensure the continued validity of the other portions of the permit in the event of a challenge to a portion of the permit.

V. Source Categories for Which Proposed General Permits in Indian Country Are Available for Public Review

A. Notice of Proposed General Permits

In accordance with 40 CFR 49.171(b)(1)(1)(E), we are providing the public with a copy of six proposed general permits covering six source categories: (1) Concrete batch plants, (2) boilers, (3) stationary spark ignition engines, (4) stationary compression ignition engines, (5) graphic arts and printing operations and (6) sawmills. Copies of each of these proposed permits and the following four associated permitting documents are available in the docket for this notice (EPA–HQ–OAR–2011–0151) and at *http://www.epa.gov/air/tribal/tribalnsr.html:*

(1) Request for Coverage (Application);
(2) Questionnaire;
(3) Instructions; and
(4) PTE calculator.

The application for one of the six source categories in today's proposal (i.e., graphic arts and printing operations) is streamlined and asks for contact and location information and basic solvent usage information (more detailed source-specific information would be required from sources seeking coverage under the other five general permits). This is discussed further in Section IX.

The general permits will authorize[17] construction of, or any modifications of,

[16] If the EPA revises an existing general permit, then the original permit can no longer be used for new and modified minor sources. The new general permit will be used for new and modified minor sources in the relevant source category. The existing general permit remains in place for existing facilities unless and until they choose to modify.

[17] To be eligible for a proposed general permit in today's action, the PTE of your facility, including

Continued

any of the affected emission units, or pollutant emitting activities named in the permit, at any proposed true minor source that meets the permit's applicability requirements and eligibility statements, and for which the reviewing authority approves coverage under the permit.

We request comment on all aspects of the general permits and the associated forms and documentation provided to assist the stationary sources specified in the permits in complying with the Indian country minor NSR preconstruction permitting and post-construction operating requirements. In Section VIII., we propose, in the alternative, a permit by rule for graphic arts and printing operations. Should we decide to finalize a permit by rule for this category, then we may not finalize the draft general permit for that category. Alternatively, we may opt to finalize both permitting mechanisms for this source category, and may tailor one of the permitting mechanisms to provide authorization to construct or modify true minor sources (i.e., permit by rule) and another to provide enforceable limitations to create synthetic minor sources (i.e., general permit). We specifically request comment on this "hybrid" approach (see Section XI. of the January 14, 2014 proposal [18] for further discussion on the hybrid approach).

For the six source categories in today's action, we are proposing general permits as our preferred approach. We have crafted our proposal to ensure air quality is protected and to provide more detailed or streamlined approaches, as appropriate. For concrete batch plants, boilers, stationary spark ignition engines, stationary compression ignition engines and sawmills, the EPA is proposing (1) that we retain the 90-day application review process provided in the Indian Country NSR Rule; and (2) that we provide more detailed applications that are appropriate for sources in these categories that involve multiple pollutants where the reviewing authority needs to conduct a review to evaluate whether an individual source meets the requirements in the permit. However, we also recognize that a more streamlined approach may be appropriate for other source categories with few pollutants of concern and in which the operations are less complex. For graphic arts and printing operations, the EPA is proposing to change the underlying rule to provide a shorter application review period (see Section XI.) and a shorter application (see Section IX.). The permit by rule proposed as an alternative for this source category would take that streamlining a step further (see Section VII.).

The remainder of this section outlines the general structure of each of the proposed general permits, and requests comment on issues that are common among the proposed general permits. Specifically, we are requesting comment on:

(1) Whether the EPA's proposed approach of incorporating by reference each reviewing authority's approval of a request for coverage into the general permit is necessary and appropriate; and

(2) The appropriateness of proposed permit terms related to the reviewing authority's ability to reopen, revise, or terminate an individual approval of coverage under the general permit.

This section also describes the general process we undertook for each of the control technology reviews required to establish the terms and conditions of each proposed general permit, and requests comment on our conclusions on several aspects of the control technology reviews.

Additional information and supporting analyses on each of these proposed permits are located in the background documents. These documents are available at Docket ID No. EPA–HQ–OAR–2011–0151 and online at *http://www.epa.gov/air/tribal/tribalnsr.html*.

B. Structure of General Permits

Each proposed general permit contains a similar overall structure. The cover page of each proposed permit contains general information on the proposed permit. First, it briefly describes the applicability of the permit to a particular source category or emissions activity the general permit regulates in accordance with 40 CFR 49.156(d)(1). This description varies for each of the proposed permits, depending on the emissions activity covered by the proposed permit.

Second, the cover page limits eligibility for coverage under the permit to true minor sources. We included this limitation to allow permitting authorities the ability to process a permit application for inherently larger sources using the more extended time periods the Indian Country Minor NSR rule provides for case by case, site specific review. We also include this limitation in the proposed permits to remain consistent with our current policy that we will not allow sources to use general permits to create synthetic minor sources.

We recognize, however, that limiting eligibility of these proposed permits to only true minor sources could limit the number and types of sources that could take advantage of the streamlined, general permitting process. In our prior proposal of January 14, 2014, we proposed to change the current policy in the Indian Country Minor NSR rule to allow general permits and permits by rule to create synthetic minor sources. Depending on the outcome of that proposal, we may amend one or more of the final permits in this proposal to allow any minor source to apply for coverage under that permit.

Third, following the eligibility statement, the proposed permit directs applicants to the specific information that an applicant must include in a request for coverage under the permit in accordance with 40 CFR 49.156(d)(2)(ii) and (iii). The request for coverage serves as the permit application and some of the information in the application will differ for each proposed permit. We discuss the application and implementation tools to assist true minor sources in determining whether a source is eligible for coverage under a general permit in Section IX.

Fourth, the proposed permit contains a statement that incorporates each reviewing authority's approval of a request for coverage into the general permit. Sections 1 through 6 of the general permit, and the most current approval of the request for coverage, must be posted prominently at the facility, and each affected emissions unit and any associated air pollution control technology must be labeled with the identification number listed in the Approval of the Request for Coverage for that permitted source. We request comment on the inclusion of this condition in the permits given that the Indian Country Minor NSR rule only requires posting of the approval of coverage.

As we developed the proposed permits, we envisioned situations in which the reviewing authority may need to revise information contained in the approval notice sometime after issuance. For example, a source covered by a general permit may subsequently change ownership. A reviewing authority may delegate responsibilities for the general permit to a tribal air pollution control agency. A source may subsequently need to revise something in its request for coverage that would

all existing, new, and modified emission units present at the facility, must be below the major source thresholds for NSR.

[18] "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country," U.S. Environmental Protection Agency, January 14, 2014 (79 FR 2546), *http://www.gpo.gov/fdsys/pkg/FR-2014-01-14/pdf/2013-30345.pdf*.

alter elements of the approval. For example, a source may misidentify an equipment identification number in its request for coverage, or decide to expand or limit the scope of the modification. A reviewing authority may need to alter its approval of the request for coverage for these situations. The general permit provisions at 40 CFR 51.156(b)(2) broadly reference 40 CFR 49.159, which specifically addresses the reviewing authority's ability to reopen or administratively amend permits. The provisions, however, do not specifically delineate how they apply to an approval of a request for coverage under a general permit. By incorporating the approval into the general permit, we ensure that the revision procedures contained in 40 CFR 49.159 apply to revisions a reviewing authority may make to the approval of the request for coverage. We request comment on this approach for incorporating the approval of the request for coverage into the general permit. Alternatively, we request comment on whether such incorporation is unnecessary and on whether to apply the procedures in 40 CFR 49.159 to the approval of the request for coverage, or whether the EPA should amend the existing regulations at 40 CFR 49.156 to address amendments to the request for coverage.

Fifth, the proposed permit contains information on the reviewing authority's right to terminate or revise the general permit. The general permit provisions in the Indian Country Minor NSR rule provide the reviewing authority the ability to revise, revoke and reissue, or terminate a general permit. In harmony with those provisions, the proposed permits include authority for a reviewing authority to revise or terminate an approval of a request for coverage. We are adding these provisions to the general permit, under the authority of 40 CFR 49.156(d), to clarify how the Indian Country Minor NSR rule intended these provisions to apply to an individual request for coverage. We request comment on inclusion of these provisions in the general permit, or, alternatively, whether the EPA should amend the Indian Country Minor NSR rule to expressly delineate the reviewing authority's right to revise or terminate an individual source's coverage under a general permit.

Finally, the proposed permit contains a statement indicating that the definitions contained in the Indian Country Minor NSR rule govern use of those terms within the general permit. The statement also refers permittees to a section of the permit that contains definitions that may be specific to the source categories or emissions activities covered by the general permit; and indicates that when a term is not otherwise defined we will interpret that term consistent with normal business use. We, nonetheless, request comment on whether we should include any additional definitions to improve the clarity of the general permits.

Following the general information section, each proposed permit contains the enforceable terms and conditions of the general permit. Section 1 of the Terms and Conditions provisions contains general provisions that, with only a few exceptions, are similar for all the general permits. These provisions contain statements that the Indian Country Minor NSR rule requires in each permit pursuant to 40 CFR 49.155.

In each permit, the general provisions are followed by emission limitations and other operational restrictions or specifications, and monitoring, recordkeeping, and reporting requirements that are unique to each of the permits. The notice and reporting requirements are followed by a section outlining the reviewing authority's ability to change the general permit, including the approval of the request for coverage, a section on requesting coverage under the permit, and attachments with abbreviations and acronyms, a list of definitions, and a list of reviewing authorities and areas of coverage. Attachments to the concrete batch plant and sawmill permits also contain requirements to minimize fugitive dust emissions. An attachment to the sawmill permit contains sample VOC calculations. Attachments to the graphic arts and printing operations general permit contain requirements for serious, severe or extreme ozone nonattainment areas and sample calculations for monthly VOC emissions.

C. The EPA's Control Technology Review

Each permit establishes specific numerical limitations on the quantity, rate or concentration of emissions for each regulated NSR pollutant emitted by each affected emissions unit. For each general permit, in a manner similar to what a permitting authority would be expected to do for an individual source, we established these control technology-based requirements by researching both state and local air quality programs to identify control technologies or other emissions reduction measures used by similar sources in surrounding areas, and by reviewing requirements contained in existing 40 CFR parts 60 and 63 emissions standards that apply to these source categories. Some of the proposed permits build upon the requirements in the 40 CFR parts 60 and 63 emissions standards by including some control technology measures found in state and local agencies' general permits for these source categories. The proposed permit for graphic arts and printing operations draws control information from control technique guidelines for flexible package printing and offset lithographic printing developed by the EPA covering activities in the printing industry.[19]

The background documents for each proposed permit explain the state and local programs we reviewed to identify control technology options in each source category. We believe that, because these control measures are currently used by other similar sources in other areas of the country, they are technically and economically feasible, and cost effective. We request comment on this conclusion, and invite commenters to submit specific information that would indicate that either: (1) The measures in the proposed permits are not economically feasible and/or cost effective; or (2) additional economically feasible and cost effective measures are available and appropriate to include in the final general permits.

In determining specific emission limitations and control measures for each permit, we considered air quality conditions in Indian country. Notably, Indian country contains both attainment and nonattainment areas for different regulated NSR pollutants.[20] In some cases, for areas designated as nonattainment for a given pollutant, the proposed permits contain more stringent emission limitations for that pollutant (or precursors of that pollutant). These control requirements will help mitigate any further degradation of air quality in those areas. In other cases, however, the proposed permits do not include different emission limitations based on the attainment status of the area. In these situations, we determined that the emission limitations are sufficient to protect air quality in both attainment and nonattainment areas.

For concrete batch plants, boilers, stationary spark ignition engines, stationary compression ignition engines,

[19] For more information, go to: *http://www.epa.gov/glo/SIPToolkit/ctgs.html.*

[20] Maps for those NAAQS for which the EPA has designated nonattainment areas in Indian Country are available online at *http://www.epa.gov/air/tribal/tribalnsr.html* and Docket ID No. EPA–HQ–OAR–2011–0151. NAAQS for which the EPA has designated nonattainment areas are: Ozone (2008 NAAQS), PM_{10} (1987 NAAQS), $PM_{2.5}$ 24-Hour (2006 NAAQS), and $PM_{2.5}$ Annual (1997 NAAQS). There are no tribal lands in nonattainment for SO_2 (2010 NAAQS), NO_2, lead (2008 NAAQS), and CO.

and sawmills, we also added additional provisions related to the location of the emitting activities and the source property boundary. We call these provisions, which are designed to minimize the impacts of emissions on air quality in the immediate vicinity of the source, setback requirements. Under the setback requirement, sources may not locate within a specific distance from the property boundary and nearest residences. In reviewing state and local air agency general permits, we found that permitting authorities in Alaska, Texas and Washington include setback requirements to protect local ambient air quality from potential source impacts. We find that these requirements are both reasonable and prudent measures to protect local air quality, and are economically feasible and cost effective. We, therefore, included similar measures in the proposed permits. We discuss the specific setback requirements for each category in Section VI.

We welcome comments on the use of these setback requirements. We also welcome comments on the types of buildings from which we should establish setback requirements (e.g., schools, nursing homes). We further request comment on whether the setback requirement conflicts with tribal authority over zoning-related matters, and, if so, then on how we should resolve that conflict.

To further protect against adverse local air quality impacts, the proposed permits ensure that no source will cause or contribute to NAAQS or PSD increment violations by prohibiting emissions that would result in such impacts. Thus, reviewing authorities will consider any air quality concerns unique to specific areas that arise after issuance of the general permits in this proposal when determining whether an individual permit applicant is eligible for coverage under the general permit. For example, if a source wants to locate in an area with air quality levels approaching or violating the NAAQS, the reviewing authority may need to request that a source apply for a site-specific permit so that the potential for greater control than that afforded by the general permit can be evaluated.

In conducting the control technology review, we also considered the anticipated growth rate of the source categories. In general, we do not anticipate significant increases in growth for these six source categories for the foreseeable future, as we identified no information indicating that to be the case.[21] Thus, we do not believe that emissions increases from these categories will pose unique or additional impacts on air quality in the foreseeable future that might warrant a more stringent approach to controlling emissions than contained in the proposed permits. We request comment on our conclusion about anticipated growth in these source categories and regions, and the reasonableness of the emission limitations and control measures specified in the proposed permits.

D. Scope of Coverage Under Each General Permit

In the Indian Country Minor NSR rule, the EPA stated that it may use the general permit mechanism to issue permits to "similar" types of emissions units or minor sources. This limitation on the ability to issue general permits is consistent with the EPA's longstanding interpretation of the CAA as it relates to the ability of a permitting agency and source to use standardized protocols to meet CAA minor source permitting requirements. The proposed general permits meet the limitation that general permits apply only to similar sources, because each of the permits covers only affected emission units or emissions generating activities that are: (1) Specifically identified by name in the permit; (2) generate the same regulated NSR pollutants in the same manner and magnitude; and (3) are associated only with operations within a defined source category.[22] We discuss the specific scope of each proposed general permit in more detail in Section VI. below and in the background document for each proposed general permit.

E. Surrogate Annual Allowable Emission Limitations

The Indian Country Minor NSR rule requires the reviewing authority to establish annual allowable emission limitations for each affected emissions unit and for each NSR regulated pollutant emitted by the unit, if the unit is issued an enforceable limitation lower than the PTE of that unit (40 CFR 49.155(a)(2)). For the six source categories in this proposal, the proposed general permits provide emissions limitations as annual tpy allowable emission limitations, throughput limits or input-based emissions limits, or some combination thereof, depending on the particular source category. In the case of concrete batch plants, we believe that a production limit serves as a reasonable surrogate for a tpy emission limitation, since there is a direct correlation between the amount of material processed and the amount of pollution emitted. We also believe that monitoring throughput rather than actual emissions may provide a more cost-effective method of demonstrating compliance. For example, concrete batch facilities regularly track a facility's throughput, but do not necessarily analyze specific emissions discharges. Thus, reliance on throughput limits provides a more cost-effective approach to regulating emissions and we believe this will enhance the potential for compliance with the proposed permit for this category.

The approach for engines (spark ignition and compression ignition) and boilers also relies on a concept of "surrogate" emissions limitations, but instead of using throughput limits, these permits rely on "surrogate" capacity limits. The capacity limits are set at levels to ensure that the sources remain below certain tpy emissions rates. We also believe that setting capacity limits rather than limitations on actual emissions may provide a more cost-effective and practical method of demonstrating compliance, which will enhance the potential for compliance with the proposed permit for this category.

For sawmills and graphic arts and printing operations, we provide tpy emissions limitations in the permit. We require sources in these two categories to track throughput and to calculate annual emissions based on their throughput using the calculator we have provided. The reason for providing this additional flexibility for the source is due to the uncertainty they face as to the exact nature of their production at the start of a reporting period. For example, a sawmill will not necessarily know what species of wood (each with different VOC content) it will process in a given year. The source, therefore, would need to track its board-feet throughput of each wood species and calculate the emissions associated with the wood species to ensure it stays within the permitted emissions limitations. The same approach is applicable to graphic arts and printing operations that may be engaged in several different types of printing operations that involve different solvents with different VOC contents. Those sources need similar flexibility

[21] See the following memo online at *http://www.epa.gov/air/tribal/tribalnsr.html* and in the docket (ID No. EPA–HQ–OAR–2011–0151): "Projected New Minor Sources in Indian Country," from Lillian Grace Bradley, Environmental Economist, EPA/OAQPS to Chris Stoneman, Policy Advisor, EPA/OAQPS, March 13, 2014.

[22] These criteria are not the sole manner for demonstrating that a general permit applies only to similar sources, but they serve as examples of the types of characteristics that may be relevant.

and would also need to track solvent usage and VOC content to ensure they stay within the permitted emissions limitations.

In Section VI. below, we request comment on these approaches for the six source categories.

In a related matter, in the January 14, 2014, proposal, we indicated that we granted reconsideration on the issue of allowing reviewing authorities to use general permits to create synthetic minor sources and proposed to change the current policy of not allowing their use for this purpose. If the EPA allows otherwise major sources to qualify as synthetic minor sources through use of general permits, we request comment on specific changes that we would need to include in the limits of each permit to properly regulate synthetic minor sources for the six categories in this proposal. For example, should the EPA establish higher annual tpy allowable emission limitations or surrogate production limits that are just below the major source thresholds for each regulated NSR pollutant, or should the EPA maintain the limitations in the current proposed permits to maintain an adequate compliance margin?

F. Requirements of the Endangered Species Act and the National Historic Preservation Act[23]

The ESA requires federal agencies to ensure, in consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service (the Services), that any action they authorize, fund, or carry out will not likely jeopardize the continued existence of any listed threatened or endangered species, or destroy or adversely modify the designated critical habitat of such species. Under relevant ESA implementing regulations, federal agencies consult with the Service(s) on actions that may affect listed species or designated critical habitat.

The NHPA requires federal agencies to take into account the effects of their undertakings on historic properties (i.e., properties that are either listed on, or eligible for listing on, the National Register of Historic Places) and to provide the Advisory Council on Historic Preservation (the Council) a reasonable opportunity to comment on such undertakings. Under relevant NHPA implementing regulations, NHPA consultations are generally conducted with the appropriate Tribal and/or State Historic Preservation Officers in the first instance, with opportunities for direct Council involvement in appropriate circumstances, including, for example, consultations in connection with undertakings affecting multiple tribes or states.

The Indian country minor NSR program has increased the number of activities for which the EPA is the permitting authority. To meet ESA and NHPA requirements, we have developed a process for compliance with these laws when issuing the general permits. The EPA intends to consult with the Services and the Council on our general permits and the proposed procedures to address potential effects on relevant protected resources.

For purposes of general permits, the EPA intends to adopt a framework that provides appropriate protection for listed species and critical habitat and historic properties. The EPA believes, based on the evaluation of available information, that the sources that are the subject of this proposal are unlikely to present a significant risk to listed species and critical habitat and to historic properties because they are by their nature small, low emitting sources. However, to ensure listed species and critical habitats and historic properties are protected, the EPA has developed a framework in the general permits that requires the applicant to identify and assess effects before a request for coverage under the general permit is submitted to the EPA. (As noted below, the applicant must submit the assessment to the EPA as part of the request for coverage.) Requiring this assessment should help identify any concerns related to potential impacts on listed species/critical habitat or historic properties early in the process when the greatest opportunities to mitigate or avoid any impacts—including changes to the facility's location or footprint—are available. This framework is similar to procedures established by the Office of Water for the National Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activities.[24] The EPA believes that requiring a process in the general air quality permits that is similar to the already-established process for the general stormwater permits will be beneficial for all concerned: The applicants, the EPA, the tribes, and the Services.

The screening processes developed in the permits for both the ESA and NHPA require the applicant to develop information about the possible effects of the proposed new or modified facility, which includes appropriate outreach to relevant expert resource agencies. Such information and a certification regarding the outcome of the applicant's screening procedures are submitted to the EPA as part of the request for coverage under the general permit. This information is included as an appendix to the applications for requests for coverage under the general permits. The EPA will review this information as part of determining whether a source is eligible for coverage under the general permit. Because we have limited the applicability of the general permits to categories of sources that have low emissions, we do not expect they are likely to adversely affect listed species/critical habitats, nor should they have potential effects on historic properties. However, if, through the procedures required in the permit, a source is determined to have an adverse effect on listed species/critical habitats or potential effects on historic properties, the EPA retains the authority to deny coverage under the general permit and to proceed with source-specific permitting and consultation with the appropriate resource agency(ies).

VI. Summary of Specific Terms and Conditions of the General Permits and Request for Comment

In the following sections, we provide a brief summary of the source category regulated by each general permit and the areas of each proposed general permit on which we specifically seek public comment. In this preamble, we are not delineating every aspect of the requirements of the general permits. Instead, we refer readers to the proposed permits and associated background information to review all of the detailed requirements we include in each general permit. Although we are soliciting comments on specific aspects of the proposed permits, we, nonetheless, invite the public to comment on all relevant aspects of the proposed permits.

Generally, we have designed the proposed permits to be as comprehensive as possible and, thus, they contain emission limitations requirements for several, potentially affected emission units that could be found at a source. If a source determines that it does not have all of the emission units that the general permit covers, it can still seek coverage for those units

[23] These requirements apply to both general permits and permits by rule. Only general permits are mentioned here but the requirements apply identically to both permit types. Section VII.C. is specific to permits by rule and notes that these requirements also apply to permits by rule.

[24] "Final National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Construction Activities," U.S. Environmental Protection Agency, February 29, 2012 (77 FR 12286), *http://www.gpo.gov/fdsys/granule/FR-2012-02-29/2012-4822/content-detail.html.*

the permit covers. The intent of the comprehensive permit is to help avoid sources with multiple emission units having to apply for multiple general permits. In any case, if a source determines that it is does not meet the qualifications of the general permit for a given category, then it can apply for a site-specific permit.

We are proposing the general permits for true minor sources in Indian country. To be eligible for a general permit as proposed in this action, a source would need to calculate the PTE for all of its NSR-regulated pollutants for all existing, new, and modified emission units. If the total PTE is less than the NSR major source thresholds, then the source is eligible for the permit, provided all other qualifying conditions are satisfied.

A. Concrete Batch Plants

1. What is a concrete batch plant?

A concrete batch plant is an operation that combines various ingredients to form concrete. Some of these inputs include sand, water, aggregate (rocks, gravel, etc.), fly ash, potash, and cement. There are two types of concrete batch plants: Ready mix plants and central mix plants. A concrete plant can have a variety of parts and equipment, including but not limited to: Mixers (either tilt-up or horizontal or in some cases both), cement batchers, aggregate batchers, conveyors, radial stackers, aggregate bins, cement bins, heaters, chillers, cement silos, batch plant controls, and dust collectors (to minimize environmental pollution).

Concrete is composed essentially of water, cement, sand (fine aggregate) and coarse aggregate. Approximately 75 percent of the U.S. concrete manufactured is produced at plants that store, convey, measure and discharge these constituents into trucks for transport to a job site. At most of these plants, sand, aggregate, cement and water are all gravity fed from the weight hopper into the mixer trucks. The concrete is mixed on the way to the site where the concrete is to be poured. At some of these plants, the concrete may also be manufactured in a central mix drum and transferred to a transport truck. Most of the remaining concrete manufactured is cast as products in a factory setting. Precast products range from concrete bricks and paving stones to bridge girders, structural components, and panels for cladding. Concrete masonry, another type of manufactured concrete, may be best known for its conventional 8 x 8 x 16-inch block. In a few cases concrete is dry batched or prepared at a building construction site.

Raw materials for concrete batch operations can be delivered to a plant by rail, truck or barge. The cement is transferred to elevated storage silos pneumatically or by bucket elevator. The sand and coarse aggregate are transferred to elevated bins by front end loader, clamshell crane, belt conveyor, or bucket elevator. From these elevated bins, the constituents are fed by gravity or screw conveyor to weigh hoppers, which combine the proper amounts of each material.

PM, consisting primarily of cement and pozzolan dust, but including some aggregate and sand dust emissions, is the primary pollutant of concern. In addition, there are emissions of metals that are associated with this PM. All but one of the emission points is fugitive in nature. The only point sources are the transfer of cement and pozzolan material to silos, and these are usually vented to a fabric filter or "sock." Fugitive sources include the transfer of sand and aggregate, truck loading, mixer loading, vehicle traffic, and wind erosion from sand and aggregate storage piles. The amount of fugitive emissions generated during the transfer of sand and aggregate depends primarily on the surface moisture content of these materials.

The extent of fugitive emissions control varies widely from plant to plant. Types of controls used may include water sprays, enclosures, hoods, curtains, shrouds, movable and telescoping chutes, central duct collection systems, and the like. A major source of potential emissions, the movement of heavy trucks over unpaved or dusty surfaces in and around the plant, can be controlled by good maintenance and wetting of road surfaces.[25]

2. What is in the proposed general air quality permit for new or modified true minor source concrete batch plants?

This proposed general permit would apply to the construction of new true minor source concrete batch plants or the modification of existing true minor concrete batch plants located in Indian country. The proposed permit is designed to be as comprehensive as possible and, thus, contains emission limitations requirements for:

- Storage silos;
- Batch drop points;
- Loading transfer areas;
- Weigh hoppers;
- Auxiliary storage bins;
- Non-emergency stationary engines;
- Emergency stationary engines; and
- Setbacks.

The proposed permit requires that the permittee maintain and operate each affected emission unit and any associated air pollution control equipment, considering the manufacturer's recommended operating procedures, so as to minimize emissions of NSR regulated pollutants. The reviewing authority will determine whether the permittee is using acceptable operating and maintenance procedures based on monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the permitted source. (Failure to meet these requirements would constitute a violation of the permit.)

The proposed permit requires each storage silo to be equipped with an audible alarm or an automatic shutoff system that warns when the silo is full. Loading operations cannot be conducted without a warning or shutoff device. Storage silos, weigh hoppers and auxiliary storage bins must be vented to a fabric or cartridge filter. The filter systems can be a centralized system. A suction shroud or other pickup device should be installed at each batch drop point (drum, truck loading etc.) and vented to a fabric or cartridge filter system. Loading and unloading areas must be well lit during non-daylight hours when the permitted source is in operation and visible emissions from each storage silo, weigh hopper and auxiliary storage bin must not exceed 10 percent opacity based on a six-minute average (according to EPA Method 9[26]). For portable and permanent concrete batch plants, the limit on production is a maximum annual production rate of 2,000,000 cubic yards. The proposed permit also requires a fugitive dust control plan.

The proposed permit contains requirements for non-emergency and emergency engines, in the event such engines are present at the concrete batch plant. Non-emergency compression ignition engines present at the site, excluding nonroad mobile engines, must comply with the following:

- Use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur;
- Each compression ignition engine that commenced construction on or after June 12, 2006 must be certified to the applicable Tier standards in 40 CFR 89.112 and 40 CFR 1039.101 through 1039.104, for all pollutants, for the same

[25] AP–42, Chapters 11.19.12, Concrete Batching, *http://www.epa.gov/ttn/chief/ap42/ch11/index.html.*

[26] Method 9—Visual Determination of the Opacity of Emissions From Stationary Sources, *http://www.epa.gov/ttn/emc/promgate/m-09.pdf.*

model year and maximum engine power; and

• Each compression ignition engine that commenced construction before June 12, 2006 shall meet certain standards as laid out in the permit based on the engine's maximum rated power.

If the source includes one or more emergency engines, each emergency engine must be equipped with a non-resettable hour meter and, if using fuel oil, then it must use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur. Newer emergency engines—model year 2006 or later for compression ignition engines and 2009 or later for spark ignition engines—must meet certain certification or emission requirements that are contained in the EPA emissions standards at 40 CFR part 89, 40 CFR part 90, 40 CFR part 1048 or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. Other, older emergency engines are required to meet certain routine maintenance requirements, and must follow the manufacturer's emission-related operation and maintenance instructions or the permittee must develop a maintenance plan, which must provide, to the extent practicable, for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions.

The proposed general permit includes monitoring that is sufficient to ensure compliance with the emission limitations that apply to the source, including ensuring the fabric/cartridge filters are operating properly, taking weekly opacity observations and fugitive emissions surveys and meeting certain other requirements. The permit also requires performance testing for emergency engines present at the plant that must meet certain emissions standards, but are not certified by the manufacturer to those standards and are not required to be certified by the manufacturer. This requirement is needed since the EPA certification program for certain engines is voluntary. The proposed general permit includes recordkeeping and reporting sufficient to ensure compliance with the monitoring requirements.

3. Request for Comment on the Proposed General Air Quality Permit for New or Modified True Minor Source Concrete Batch Plants

We request comment on all aspects of the general permit for concrete batch plants. We specifically request comment in the following three areas:

a. Throughput Production Limit as a Surrogate for Annual Tons Per Year Allowable Emission Limitations

The proposed concrete batch plant general permit contains a throughput-based production limit that serves as a surrogate for annual tpy allowable emission limitations. We discuss the use of surrogate limits in Section V.E. above. For portable and permanent concrete batch plants, as stated above, the limit on production is a maximum annual production rate of 2,000,000 cubic yards.

The background information document for the proposed permit contains the approximate tpy emission thresholds for which the throughput limits act as surrogates. The proposed permit does not establish different throughput limits based on the attainment status of the area. We request comment on our use of throughput limits as a surrogate for tpy emission limitations for this source category, and on whether there should be different production throughput limits in attainment and nonattainment areas.

In establishing specific limits for concrete batch facilities, we considered whether we should compute the production throughput limits on a tpy basis, or over a shorter period of time to ensure continuous compliance. For concrete batch plants, where PM_{10} is the limiting pollutant for non-fugitive emissions, we elected an annual production limit to ensure annual compliance. We request comment on whether we should instead establish a monthly total emission limitation based on a 30-day rolling total or on any other appropriate averaging period.

b. Setback Requirement

The proposed general permit requires concrete batch plants to locate at least 150 feet from the nearest property boundary and 1,000 feet from the nearest residence. A number of states include setback requirements in their general permits for this source category.[27] We believe that this requirement will minimize the impact of emissions from these sources on localized air quality. We request comment on whether we should include the setback requirement in the final permit to provide additional protection against adverse impacts to localized air quality. In addition, we request comment on whether there are other neighboring types of buildings for which a setback should apply (e.g., schools, nursing homes) and whether to require owners/operators of concrete batch plants subject to the permit to use physical markers on their property to show compliance with the setback requirement.

c. Authorizing Multiple Locations

Concrete batch plants can operate as portable stationary sources. A plant will locate in a single area for a specified period of time and then disassemble and relocate to another area. We structured the proposed general permit to accommodate relocation of a plant. A source may identify multiple sites of operation in its request for coverage. The reviewing authority will consider the request for each location, and will specify approval of one or more of these locations in the approval of the request for coverage. If the reviewing authority does not approve a specific location, then the source will need to reapply for coverage under the general permit or for a site specific permit before relocating to this site. The general permit also requires a source to submit a notification to the reviewing authority each time it relocates to a pre-approved site. We request comment on the use of the general permit to authorize relocation of a plant to pre-approved site locations.

B. Boilers

1. What is a boiler?

A boiler is a device in which water typically is heated to provide steam to drive turbines or engines, supply heat, or process materials. This proposed permit covers steam generating units located at institutional, commercial, and industrial facilities which combust non-solid fossil fuels such as natural gas and fuel oil. This permit does not cover boilers located at electric utilities or boilers used for the burning of other fuels such as coal and wood. This source category does not cover the manufacturers of boilers. The proposed General Air Quality Permit for New or Modified True Minor Source Boilers only covers new, true minor source boilers and modifications of existing true minor source boilers.

Boilers designed to burn fuel oil primarily combust distillate oils and residual oils.[28] These boilers can be of water tube, fire tube, cast iron, or tubeless design. Water tube boilers are used in a variety of applications ranging from supplying large amounts of process steam to providing space heat for

[27] Information on state setback provisions is available at: Background Document: General Air Quality Permit for New or Modified True Minor Source Concrete Batch Plants, Docket ID No. EPA–HQ–OAR–2011–0151, *http://www.epa.gov/air/tribal/tribalnsr.html.*

[28] AP–42, Chapter 1.3—Fuel Oil Combustion, *http://www.epa.gov/ttnchie1/ap42/ch01/.*

industrial facilities. In a water tube boiler, combustion heat is transferred to water flowing through tubes which line the furnace walls and boiler passes. The tube surfaces in the furnace (which houses the burner flame) absorb heat primarily by radiation from the flames. The tube surfaces in the boiler (adjacent to the primary furnace) absorb heat primarily by convective heat transfer. Fire tube boilers are used primarily for heating systems, industrial process steam generators, and portable power boilers. In fire tube boilers, the hot combustion gases flow through the tubes while the water being heated circulates outside of the tubes. A cast iron boiler is one in which combustion gases rise through a vertical heat exchanger and out through an exhaust duct. Water in the heat exchanger tubes is heated as it moves upward through the tubes. Cast iron boilers produce low pressure steam or hot water, and generally burn oil or natural gas. They are used primarily in the residential and commercial sectors. (Note that residential boilers are not covered by the proposal.) Tubeless boilers incorporate nested pressure vessels with water in between the shells. Combustion gases are fired into the inner pressure vessel and are then sometimes recirculated outside the second vessel.

Natural gas combustion boilers are used to generate industrial electric power, produce industrial process steam and heat, and heat residential and commercial space.[29] (Note that residential boilers are not covered by the proposal.) Natural gas is generally more than 85 percent methane with varying amounts of ethane, propane, butane, and inert gases (typically nitrogen, carbon dioxide (CO_2), and helium). Natural gas combustion boilers may be of water tube, fire tube, or cast iron design. Water tube boilers can be distinguished either as field erected units or packaged units; the former are built onsite in either wall-fired or tangential-fired configurations and generally have heat input levels exceeding 100 million British thermal units (MMBtu)/hour, while the latter are shipped where needed, are always wall-fired, and generally have heat input levels of less than 100 MMBtu/hour.

The emissions from fuel oil-fired boilers include PM, SO_2, NO_X, CO, small amounts of VOCs, and trace elements. The emissions from natural gas-fired boilers include NO_X, CO, CO_2, nitrous oxide, VOCs, trace amounts of SO_2, and PM.

[29] AP–42, Chapter 1.4—Natural Gas Combustion, *http://www.epa.gov/ttnchie1/ap42/ch01/.*

2. What is in the proposed General Air Quality Permit for New or Modified True Minor Source Boilers?

This proposed general permit would apply in Indian country to the construction of new, true minor source boilers and modifications of existing true minor source boilers. The proposed permit is designed to be as comprehensive as possible and, thus, contains requirements for:

- Boiler capacity limits;
- Emissions and opacity limitations;
- Boiler stacks;
- Fuel usage;
- Setbacks; and
- Emergency engines.

The proposed permit requires that the permittee maintain and operate each affected emission unit and any associated air pollution control equipment, considering the manufacturer's recommended operating procedures, so as to minimize emissions of NSR regulated pollutants. The reviewing authority will determine whether the permittee is using acceptable operating and maintenance procedures based on monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the permitted source. (Failure to meet these requirements would constitute a violation of the permit.)

The proposed permit uses boiler capacity limits as emissions limitations. The permit provides a capacity limit for an individual boiler located in an attainment or nonattainment area of less than 100 MMBtu/hour. Further, the proposed permit restricts capacity by laying out a matrix of combined maximum rating capacity limits for different fuel types (i.e., liquid, gaseous) by boiler size or type. The combined capacity limits vary by area designation/classification. The combined capacity limits are set at levels intended to ensure the covered sources remain below major source levels.

The proposed permit also provides output-based and input-based emission limitations for boilers rated at 10 MMBtu/hour or greater. The proposed permit restricts fuel use to natural gas or fuel oil (i.e., diesel or biodiesel) with a sulfur content of 0.0015 percent or less by weight. In addition, a natural gas unit may use fuel oil as a backup emergency fuel for up to 500 hours per calendar year.

The proposed permit requires that the boiler(s) must not discharge into the atmosphere any gases that exhibit 5 percent opacity or greater averaged over any six-consecutive-minute period. The boiler stack(s) must be above the buildings in the vicinity, discharge vertically, and have no obstructions to gas flow such as rain caps, except for hinged rain caps. Each boiler must undergo biennial tune-ups.

If the permittee is operating the boiler(s) in a severe or extreme ozone nonattainment area, then the permittee must comply with additional requirements. Boilers located in severe or extreme ozone nonattainment areas must meet tighter emissions limitations for NO_X.

The proposed permit contains requirements for emergency engines located at the same facility as a boiler. Each emergency engine must be equipped with a non-resettable hour meter and, if using fuel oil, then it must use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur by weight. Newer emergency engines—model year 2006 or later for compression ignition engines and 2009 or later for spark ignition engines—must meet certain certification or emission requirements that are specified in the EPA emissions standards at 40 CFR part 89, 40 CFR part 90 and 40 CFR part 1048 or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. Older emergency engines are required to meet certain routine maintenance requirements, and must follow the manufacturer's emission-related operation and maintenance instructions or the permittee must develop a maintenance plan, which must provide, to the extent practicable, for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions.

The proposed permit includes monitoring that is sufficient to ensure compliance with the emission limitations that apply to the source, including visible emissions surveys and an initial and additional periodic performance testing. The proposed permit also requires performance testing for emergency engines located at the same source that must meet certain emissions standards, but are neither required to be certified by the manufacturer nor are certified by the manufacturer as meeting those standards. The basis for this requirement is the fact that the EPA certification program for certain engines is voluntary. The proposed permit includes recordkeeping and reporting sufficient to ensure compliance with the monitoring requirements.

3. Request for Comment on the Proposed General Air Quality Permit for New or Modified True Minor Source Boilers

We request comment on all aspects of the general permit for boilers. We specifically request comment in the following three areas:

a. Surrogate Annual Allowable Emission Limitations

The boilers general permit contains capacity limits that serve as surrogate annual tpy allowable emission limitations. We discuss the use of surrogate limits in detail in Section V.E. above. In addition, we request comment on the use of these surrogate capacity limits. In lieu of establishing surrogate limits, we request comment on whether, instead of containing surrogate limits, the final permits should contain tpy emission limitations and require the use of monitoring of material use to demonstrate compliance. We also request comment on finalizing two boiler general permits—one intended for smaller, simpler sources that uses capacity limits and one for larger, more complex sources that uses tpy emission limitations together with additional monitoring and recordkeeping requirements. Other requirements in the permits would be essentially the same. Finally, we request comment on the appropriateness of establishing different capacity limits based on the attainment status of the area and whether the specified capacity limits should be lower in nonattainment areas than attainment areas.

b. Should we establish different requirements for severe or extreme ozone nonattainment areas?

The proposed general permit contains emissions limits for sources that locate in severe or extreme ozone nonattainment areas. We request comment on the need for these limits.

c. Setback Requirement

The proposed general permit requires the exhaust from each boiler or heater to be located a minimum of 50 feet from the nearest property line and 150 feet from any adjacent residential or commercial establishment or place of public assembly. The EPA's 40 CFR parts 60, 61, and 63 regulations do not contain setback requirements affecting boilers or heaters. However, certain states include setback requirements in their general permits for certain source categories, although not necessarily for boilers. We believe that these requirements will minimize the impact of emissions from these sources on localized air quality. These setbacks are less stringent than the proposed setback permit provisions in the proposed concrete batch plant, engine and sawmill permits. We believe a different (lesser) setback requirement is warranted for the boilers general permit compared to the other general permits because of the different type of equipment associated with the stationary sources covered by this proposed permit. This proposed permit would generally be used for institutional, commercial, and small industrial operations which tend to have less air impact. In addition, the boilers general permit contains specific numerical limits on NO_X and CO emissions that will further limit air impacts.

We request comment on whether we should include these setback requirements in the final permit to provide additional protection against adverse impacts to local air quality. In addition, we request comment on whether there are other neighboring types of buildings from which the setback should apply (e.g., schools, nursing homes) and whether to require owners/operators of the boilers subject to the permit to use physical markers on their property to show compliance with the setback requirements.

C. Stationary Compression Ignition and Spark Ignition Engines

1. What are compression ignition and spark ignition engines?

Engines covered by these proposed general permits [30] are stationary internal combustion engines (ICE or engine) that convert heat energy into mechanical work and are not mobile. This source category does not include combustion turbines or nonroad [31] engines (mobile ICE) such as those on forklifts, off-highway mobile cranes, bulldozers, and lawnmowers. Stationary ICE include reciprocating ICE, rotary ICE, and other ICE, except combustion turbines as noted above. Engine manufacturers are not included in this source category. In addition, these general permits only apply to engines located at true minor sources.

The proposed general permits cover both stationary non-emergency and emergency stationary ICE. Emergency stationary ICE include any stationary internal combustion engine whose operation is limited to emergency situations and for which testing and maintenance are required. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire, flood, or other adverse event. Stationary ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.[32]

There are two types of ICE: Spark ignition and compression ignition. A spark ignition engine is a gasoline, natural gas, or any other type of engine with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark ignition engines usually use a throttle to regulate intake air flow to control power during normal operation. Dual-fuel engines in which a liquid fuel (typically diesel fuel) is used for compression ignition ICE and a gaseous fuel (typically natural gas) is used as the primary fuel at an annual average ratio of less than 2 parts diesel fuel to 100 parts total fuel on an energy equivalent basis are spark ignition engines. A compression ignition ICE is defined as an engine that is not a spark ignition engine. These engines are typically diesel engines where the heat generated from compression is enough to initiate the combustion process, without needing an external spark.[33]

Gasoline, diesel (No. 2 fuel oil), and natural gas are the three primary fuels used for ICE. Most natural gas-fired reciprocating engines are used in the natural gas industry at pipeline compressor and storage stations and at gas processing plants.[34] Gasoline and small diesel ICE (with capacities equal to or less than 600 horsepower (hp)) are used in a wide variety of industrial applications such as generators, pumps, and material handling equipment (such as conveyors). Gasoline is used primarily for mobile and portable engines. Diesel fuel oil is the most versatile fuel and is used in compression ignition engines of all

[30] The EPA is making available for comment two proposed general permits: One for spark ignition internal combustion engines and one for compression ignition internal combustion engines.

[31] As defined in 40 CFR 1068.30, a nonroad engine is used to propel a motor vehicle, aircraft, or a vehicle used solely for competition.

[32] The definitions for emergency and stationary engines are adopted from the definitions in 40 CFR 60.4219.

[33] The definitions for spark ignition and compression ignition engines are adopted from the definitions in 40 CFR 60.4219.

[34] AP–42, Chapter 3.2—Natural Gas-fired Reciprocating Engines, *http://www.epa.gov/ttnchie1/ap42/ch03/.*

sizes. Substantial differences in engine duty cycles exist.[35]

Large stationary diesel ICE (with capacities greater than 600 hp) are often used in oil and gas exploration and production. These engines, in groups of 3 to 5, supply mechanical power to operate drilling (rotary table), mud pumping, and hoisting equipment, and may also operate pumps or auxiliary power generators. Another frequent application of large stationary diesel ICE is electricity generation for both base and standby service. Smaller uses include irrigation, hoisting, and nuclear power plant emergency cooling water pump operation.[36]

The primary criteria pollutants emitted by engines are NO_X, CO, and VOC. The formation of NO_X is exponentially related to combustion temperature in the engine cylinder. The other pollutants, CO and VOC, are primarily the result of incomplete combustion. PM emissions include trace amounts of metals, non-combustible inorganic material, and condensible, semi-volatile organics which result from volatized lubricating oil, engine wear, or from products of incomplete combustion. Emissions of sulfur compounds, mainly SO_2, are directly related to the sulfur content of the fuel.

Three generic control techniques have been developed for reciprocating engines: Parametric controls (timing and operating at a leaner air-to-fuel ratio); combustion modifications such as advanced engine design for new sources or major modification to existing sources (clean-burn cylinder head designs and pre-stratified charge combustion for rich-burn engines); and post-combustion catalytic controls installed on the engine exhaust system. Post-combustion catalytic technologies include selective catalytic reduction, nonselective catalytic reduction, and CO oxidation catalysts.[37]

2. What is in the proposed General Air Quality Permits for New or Modified True Minor Source Spark Ignition and Compression Ignition Engines?

These two proposed general permits would apply to the construction of new, true minor source stationary compression ignition and spark ignition engines or the modification of existing, true minor source engines located in Indian country. We created separate proposed general permits, one for compression ignition engines and one for spark ignition engines, because there are different requirements for each type of engine. Both engine general permits cover emergency and non-emergency engines. (Sources that only have emergency engines and also intend to construct a boiler may want to consider the boiler general permit, which allows for greater boiler and emergency engine capacity.) However, we have written both proposed general permits to accommodate emergency engines of both engine types because the emissions from emergency engines are relatively small and we did not want a particular source to not be able to qualify for the general permit if, for example, they happen to have a small compression ignition emergency engine at a source of non-emergency spark ignition engines. As a result, the spark ignition engine general permit covers non-emergency spark ignition engines, emergency spark ignition engines, and emergency compression ignition engines. The compression ignition general permit covers non-emergency compression ignition engines, emergency compression ignition engines, and emergency spark ignition engines.

The proposed general permits for compression ignition and spark ignition engines require that the permittee, considering the manufacturer's recommended operating procedures, maintain and operate each affected emission unit and any associated air pollution control equipment so as to minimize emissions of NSR regulated pollutants. The reviewing authority will determine whether the permittee is using acceptable operating and maintenance procedures based on monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the permitted source. (Failure to meet these requirements would constitute a violation of the permit.)

The proposed compression ignition general permit imposes different requirements depending upon where the source chooses to locate or modify and whether the engine is for emergency or non-emergency purposes. The proposed permit contains a setback requirement. Each non-emergency compression ignition engine must not be located less than 150 feet from the nearest property boundary and 1,000 feet from the nearest residence.

The proposed compression ignition general permit contains two options for meeting capacity limits for engines locating in ozone attainment, unclassifiable or attainment/unclassifiable areas or ozone marginal and moderate nonattainment areas. Option 1 allows for a source to have greater non-emergency engine capacity (up to 3800 hp) if the non-emergency engines are within a set of certain parameters, mainly related to whether the engines are part of a generator set. These types of engines must meet much more stringent emission limits, resulting in fewer emissions, and, thus, the permit provides the ability to increase the capacity limit. Option 2 allows for less capacity for non-emergency engines (1900 hp) but does not require non-emergency engines to be within the specific parameters in Option 1. The proposed permit also contains an additional overall capacity limit for engines locating or modifying in serious ozone nonattainment areas (1100 hp for non-emergency engines and 750 hp for emergency engines) and does not allow permit coverage for engines locating or modifying in severe or extreme ozone nonattainment areas.

The capacity limits restrict the size of engines that would be covered by the proposed general permit. The proposed capacity limits serve as surrogate emissions limitations and are set at levels that correspond to emission rates intended to ensure emissions from sources covered by the general permit are below major source levels.

The proposed compression ignition permit also includes requirements for auxiliary heaters present at the new or modified facility so that the permittee would not need to seek a separate permit for that emissions unit. For the auxiliary heaters, the permit provides capacity limits which require that the combined maximum heat input of all auxiliary heaters not be greater than 10 MMBtu/hour and they can only burn natural gas. Non-emergency compression ignition engines can only use distillate fuel (i.e., diesel or biodiesel) containing no more than 15 ppm (0.0015 percent) sulfur by weight. Each of the engines must be model year 2014 or later and certified by the manufacturer to the applicable standards in 40 CFR part 89 and the Tier 4 standards in 40 CFR 1039.101 through 1039.104, for all pollutants, for the same model year and maximum engine power.

Under the proposed spark ignition general permit, spark ignition engines must meet certain capacity limits intended to ensure the sources operate as minor sources. The combined maximum engine power of all non-emergency spark ignition engines at a single permitted source location shall be no greater than 1750 hp. The combined maximum engine power of all

[35] AP–42, Chapter 3.3—Gasoline and Diesel Industrial Engines, *http://www.epa.gov/ttnchie1/ap42/ch03/.*

[36] AP–42, Chapter 3.4—Large Stationary Diesel and All Stationary Dual-fuel Engines, *http://www.epa.gov/ttnchie1/ap42/ch03/.*

[37] AP–42, Chapter 3.2—Natural Gas-fired Reciprocating Engines, *http://www.epa.gov/ttnchie1/ap42/ch03/.*

emergency engines at a single permitted source location must be no greater than 800 hp. Non-emergency spark ignition engines must comply with the limitations and standards in 40 CFR part 1054, 40 CFR part 1048, or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. The Permittee must operate and maintain each engine certified by the manufacturer, and any associated control device, according to the manufacturer's emission-related written instructions. Each natural gas-fired engine may be operated using propane for a maximum of 100 hours per year as an alternative fuel solely during emergency operations, provided such records are kept.

The proposed spark ignition general permit also contains a setback requirement. Each non-emergency spark ignition engine must not be located less than 150 feet from the nearest property boundary and 1,000 feet from the nearest residence.

The proposed compression ignition and spark ignition permits contain requirements for emergency engines located at the same source as the boiler(s), in the event such engines are present at the same facility as the boiler(s). Each emergency engine must be equipped with a non-resettable hour meter and, if using fuel oil, then it must use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur by weight. Newer emergency engines—model year 2006 or later for compression ignition engines and 2009 or later for spark ignition engines—must meet certain certification or emission requirements that are specified in the EPA emissions standards at 40 CFR part 89, 40 CFR part 90 and 40 CFR part 1048 or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. Older emergency engines are required to meet certain routine maintenance requirements, and must follow the manufacturer's emission-related operation and maintenance instructions or the permittee must develop a maintenance plan, which must provide, to the extent practicable, for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions.

The proposed compression ignition and spark ignition permits include monitoring that is sufficient to ensure compliance with the emission limitations that apply to the covered ICE, including requirements to monitor fuel use on a monthly basis for each engine and to conduct performance tests for engines not certified by the manufacturer. The proposed permits also require performance testing for spark ignition emergency engines that must meet certain emissions standards, but are neither required to be certified by the manufacturer nor certified by the manufacturer to those standards and are not required to be certified by the manufacturer. This requirement is necessary because the EPA certification program for certain engines is voluntary. The proposed spark ignition general permit also includes, for each engine equipped with an air-to-fuel ratio controller, a requirement for proper maintenance and operation of the engine and emissions control device to ensure its smooth operation. The proposed permits include recordkeeping and reporting requirements.

3. Request for Comment on the Proposed General Air Quality Permits for New or Modified True Minor Source Spark Ignition and Compression Ignition Engines

We request comment on all aspects of the proposed general permits for engines. We specifically request comment in the following four areas:

(a) The Use of Capacity Limits as Surrogate Annual Allowable Emission Limitations

In addition to fuel sulfur content limits and output-based limitations for auxiliary heaters, the EPA is proposing to use capacity limits as surrogate annual allowable emission limitations for the engines source category. The capacity limits are set at levels intended to ensure that the engines operate as minor sources.[38] We request comment on the appropriateness of these capacity limits. We also request comment on whether the required emissions limitations should be expressed as capacity limits or in another form.

(b) Setback Requirement

The proposed general permits require stationary spark ignition and compression ignition engines to locate at least 150 feet from the nearest property boundary and 1,000 feet from the nearest residence. The EPA's 40 CFR parts 60, 61, and 63 regulations do not contain setback requirements affecting these engines. However, certain states include setback requirements in their general permits for certain source categories, but not necessarily for engines alone. We believe that it is prudent to propose a setback for engines due to the potential for local scale air quality impacts due to NO_X emissions from compression ignition engines that can transform in the atmosphere to nitrogen dioxide (NO_2) and have local NO_2 impacts, as well as CO emissions from spark ignition engines that can have local CO impacts. We believe that these requirements will minimize the impact of emissions from these sources on localized air quality. We request comment on whether we should include these setback requirements in the final permits to provide additional protection against adverse impacts to local air quality. In addition, we request comment on whether there are other neighboring types of buildings from which the setback should apply (e.g., schools, nursing homes) and whether to require owners/operators of the engines subject to the permit to use physical markers on their property to show compliance with the setback requirements.

(c) Should we establish different requirements for compression ignition engines locating or modifying in serious ozone nonattainment areas?

The proposed general permit for compression ignition engines contains additional requirements for sources that locate or modify in serious ozone nonattainment areas. These requirements consist of overall capacity limits for non-emergency and emergency engines. We added this requirement to provide extra air quality protection for areas with poorer ozone air quality. We request comment on the need for these enhanced requirements in serious ozone nonattainment areas.

(d) Should owners and operators seeking to locate compression ignition engines in severe, and/or extreme ozone nonattainment areas (or to modify engines already located in those areas) be allowed to use the proposed general permit?

The proposed compression ignition general permit contains requirements for engines locating or modifying in marginal, moderate and serious ozone nonattainment areas. Engines locating or modifying in severe or extreme ozone nonattainment areas are not eligible for coverage under the proposed general permit. This is because the appropriate capacity limits that EPA would set in order to keep an engine from being a major NO_X source in a severe or extreme nonattainment would be too low to be viable. We request comment on whether our reasoning here is sound and whether we should restrict applicability of the proposed compression ignition engine general permit to marginal,

[38] Information on the source of these capacity limits is available at: Background Document: General Air Quality Permits for New or Modified True Minor Source Compression Ignition and Spark Ignition Engines, Docket ID No. EPA–HQ–OAR–2011–0151, *http://www.epa.gov/air/tribal/tribalnsr.html.*

moderate, and serious ozone nonattainment areas.

D. Graphic Arts and Printing Operations

1. What is a graphic arts and printing operation?

The term "graphic arts" as used here means four basic processes of the printing industry: Web offset lithography, web letterpress, rotogravure, and flexography.[39] (Screen printing and manual sheet-fed techniques are not included in this source category description.) Printing may be performed on coated or uncoated paper and on other surfaces, as in metal decorating and some fabric coating. The material to receive the printing is called the substrate. The distinction between printing and paper coating, both of which may employ rotogravure or lithographic methods, is that printing invariably involves the application of ink by a printing press, whereas paper coating does not involve that process. Printing and paper coating do, however, have these elements in common: Application of a relatively high-solvent-content material to the surface of a moving web or film; rapid solvent evaporation by movement of heated air across the wet surface; and solvent-laden air exhausted from the system. Printing inks vary widely in composition, but all consist of three major components: Pigments, which produce the desired colors and are composed of finely divided organic and inorganic materials; binders, the solid components that lock the pigments to the substrate and are composed of organic resins and polymers or, in some inks, oils and rosins; and solvents, which dissolve or disperse the pigments and binders and are usually composed of organic compounds. The binder and solvent make up the "vehicle" part of the ink. The solvent evaporates from the ink into the atmosphere during the drying process.

VOCs are the primary pollutant of concern from printing operations. Such emissions vary with the printing process, ink formulation and coverage, press size and speed, and operating time. The type of paper (coated or uncoated) has little effect on the quantity of emissions, although low levels of VOC emissions are derived from the paper stock during drying. Most of the solvent contained in the ink and used for dampening and cleanup is eventually emitted into the atmosphere; however, some solvent does remain with the printed product leaving the plant and is released to the atmosphere later. Overall, VOC emissions can be computed using a material balance concept, except in cases where a direct flame dryer is used and some of the solvent is thermally degraded.

2. What is in the proposed General Air Quality Permit for New or Modified True Minor Source Graphic Arts and Printing Operations?

This proposed general permit would apply to the construction of new, true minor source graphic arts and printing facilities or the modification of existing, true minor source facilities, located in Indian country.

The proposed permit requires that the permittee maintain and operate each affected emission unit and any associated air pollution control equipment, considering the manufacturer's recommended operating procedures, so as to minimize emissions of NSR regulated pollutants. The reviewing authority will determine whether the permittee is using acceptable operating and maintenance procedures based on monitoring results, review of operating and maintenance procedures, and inspection of the permitted source. (Failure to meet these requirements would constitute a violation of the permit.)

This proposed general permit is not available to sources that are major sources of hazardous air pollutants (HAPs). Under section 112 of the CAA, a source is considered major for HAPs if it emits 25 tpy or more of any combination of HAPs or 10 tpy of any single HAP. We are proposing that the general permit for this source category not be applicable to a major source of HAPs because additional requirements apply to these types of source and we believe the general permits should be reserved for sources with straightforward permitting requirements. We believe that permit applications for such major sources should receive greater scrutiny than a general permit would provide. We welcome comment on this issue.

The proposed permit requires that VOC emissions from an individual printing press (i.e., printing line) not exceed 25 tpy. We included this requirement to avoid the need for add-on control requirements. We believe smaller printing presses (i.e., those that emit less than 25 tpy of VOC) do not warrant the need for add-on controls. Sources applying for this permit that nevertheless intend to install add-on controls would not be prohibited from obtaining this general permit, but they would need to be able to demonstrate compliance with the permit without the consideration of controls. Thus, this general permit is only intended for smaller graphic arts and printing operations, as larger operations would likely require more site-specific review and add-on controls.

The proposed permit also requires that VOC emissions from the combination of all graphic arts and printing operations (all printing lines at the facility) not exceed certain tpy limitations that vary by ozone area designation and classification. For nonattainment areas, the numerical limitations become more stringent as the classification increases from marginal to extreme.

For flexible packaging printing operations, the permit contains VOC content limitations for each coating, ink or adhesive used. However, the permit provides an exemption that allows up to 110 gallons per calendar year of VOC containing material to not meet the VOC content limitations standards for graphic arts and printing operations located in areas designated as ozone attainment, unclassifiable, attainment unclassifiable, marginal nonattainment or moderate nonattainment. This is to allow the use of a small amount of specialty coating, inks, or adhesives.

For offset lithographic and letterpress printing operations, the permit contains VOC limitations that vary depending upon the type of printing operation. The permit provides limitations for heatset web offset lithographic printing, sheet-fed offset lithographic printing and coldset web offset lithographic printing. The permit provides an exemption from VOC limitations for sheet-fed offset lithographic printing operations that use sheet-fed presses with sheet sizes of 11 inches by 17 inches or smaller OR any press with a total fountain solution reservoir of less than 1 gallon.

The permit provides additional VOC limits for permitted sources that locate or modify in a serious, severe or extreme ozone nonattainment area for the following materials:

- Lithographic ink;
- Letterpress ink;
- Rotogravure ink;
- Flexographic ink non-porous substrate;
- Flexographic ink porous substrate;
- Flexographic fluorescent ink;
- Coating;
- Adhesive; and
- Fountain solution.

The permit requires that: (1) The VOC content of cleaning materials used for cleaning operations not exceed 70 percent by weight; (2) all VOC-containing material (e.g., inks, adhesives, coatings, thinners, and clean-

[39] AP–42, Chapter 4.9—AP–42, *http://www.epa.gov/ttn/chief/ap42/ch04/index.html.*

up solvents) be stored in closed containers with labels that clearly identify the contents of the container; and (3) all waste materials containing VOC (e.g., soiled rags) be stored in sealed containers until properly disposed.

The permittee must implement procedures to minimize spills of any VOC-containing material during handling and transfer to and from containers, enclosed systems, waste receptacles and other equipment.

The proposed permit contains requirements for new or modified emergency engines, in the event such engines are present at the new or modified graphic arts and printing facility. Each emergency engine must be equipped with a non-resettable hour meter and, if using fuel oil, then it must use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur by weight. Newer emergency engines—model year 2006 or later for compression ignition engines and 2009 or later for spark ignition engines—must meet certain certification or emission requirements that are contained in the EPA emissions standards at 40 CFR part 89, 40 CFR part 90 and 40 CFR part 1048 or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. Other, older emergency engines at the new or modified facility are required to meet certain routine maintenance requirements, and must follow the manufacturer's emission-related operation and maintenance instructions or the permittee must develop and implement a maintenance plan, which must provide, to the extent practicable, for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions.

The proposed permit includes monitoring that is sufficient to ensure compliance with the emission limitations that apply to the source. Compliance would include requiring monitoring the usage of VOC-containing materials on a weekly basis and conducting performance testing for emergency engines that are not required to be certified by the manufacturer as meeting those standards and are not in fact so certified. (This requirement is needed since the EPA certification program for certain engines is voluntary.) The proposed permit includes recordkeeping and reporting sufficient to ensure compliance with the monitoring requirements.

3. Request for Comment on the Proposed General Air Quality Permit for New or Modified True Minor Source Graphics Arts and Printing Operations

We request comment on all aspects of the proposed general permit for graphic arts and printing operations. We specifically request comment in the following two areas:

(a) Use of Tons Per Year Numbers as Emission Limitations

In addition to proposing limits on the VOC content of specified materials, the EPA is also proposing to include annual allowable VOC emission limitations for the graphic arts and printing operations source category. The proposed general permit includes an upper emission limitation of 25 tpy of VOC from an individual printing press (printing line). The proposed permit also provides overall total tpy emissions limitations for all printing lines at the facility, which become more stringent as the classification of the relevant ozone nonattainment area increases.[40] Sources will need to monitor their material usage and perform material balance calculations using the calculator we are providing to ensure they are staying within these tpy limitations.

We opted to not propose surrogate throughput limits for graphic arts and printing operations, as we have for one other source category, because of the diversity of printing lines and materials that a facility may employ. It would be very difficult to set a material usage throughput limit that would have broad applicability. In addition, providing actual emissions limitations directly in the permit ensures the protection of air quality, while at the same time providing the source with flexibility regarding the types of printing lines and materials they use. We request comment both on the appropriateness of establishing annual VOC emissions limitations in the permit (versus throughput limits) and on whether the proposed limitations are set at the correct levels.

(b) Should we establish requirements that differ from those for attainment, unclassifiable and attainment/unclassifiable areas for marginal, moderate, serious, severe and extreme ozone nonattainment areas?

The proposed permits contain additional requirements for sources that locate in ozone nonattainment areas. First, the annual tpy emissions limitations for VOC decline as the classification of ozone nonattainment increases from marginal to extreme. The numbers are set at levels intended to ensure that the sources are not major for HAPs or for NSR purposes. Second, the proposed permit requires lower VOC content levels for materials used at graphic arts and printing operations located in severe or extreme ozone nonattainment areas. Both of these features are meant to ensure that there is extra air quality protection in ozone nonattainment areas with higher classifications. We request comment on whether these additional limitations are needed and, if so, whether they are set at the correct levels.

E. Sawmills

1. What is a sawmill facility?

A sawmill facility is an operation that processes raw timber into dimensional lumber for shipping and eventual sale. A modern sawmill's basic operation is much like those of hundreds of years ago; a log enters at one end and dimensional lumber exits at the other end. Sawmill activities include sawing, planing, sanding, chipping and drying wood. Sawmill facilities are common in areas with ample supplies of timber, including the southeast and northwest.

A sawmill's basic operation involves several steps to turn logs into dimensional lumber:

- Logs are brought in by logging truck, rail or a log drive to the sawmill;
- Logs are scaled either on the way to the mill or upon arrival at the mill;
- Debarking removes bark from the logs;
- Decking is the process for sorting the logs by species, size and end use (lumber, plywood, chips);
- The head saw, head rig or primary saw, breaks the log into cants (unfinished logs to be further processed) and flitches (unfinished planks) with a smooth edge;
- Depending upon the species and quality of the log, the cants will be further broken down by either a resaw or a gang edger into multiple flitches and/or boards;
- Edging trims all irregular edges off of the flitch, leaving four-sided lumber;
- Trimming squares the ends at typical lumber lengths;
- Drying removes naturally occurring moisture from the lumber (this can be done with kilns or the lumber can be air-dried);
- Planing smoothes the surface of the lumber leaving a uniform width and thickness; and
- Shipping transports the finished lumber to market.

[40] Information on these limitations is available at: Background Document: General Air Quality Permit for True Minor Source Graphics Arts and Printing Operations, Docket ID No. EPA–HQ–OAR–2011–0151, *http://www.epa.gov/air/tribal/tribalnsr.html.*

Sawmills typically derive their power from the electric grid. Dryers may be either direct-fired or indirect-heated. Boilers are typically used to provide the heat for dryers. In direct-fired dryers, hot combustion gases from an onsite boiler are blended with recirculated exhaust from the dryer to lower the gas temperature to a level that will not scorch the lumber. In indirect-heated dryers, air is warmed over steam coils and then circulated over the lumber. Dryers typically have one to three heated zones followed by a cooling zone or section. Each heated zone has a hot air source, fans to move the warm air, and an exhaust vent or stack. The cooling section circulates ambient air over the wood to reduce the temperature just before it exits the dryer. The lumber must be cooled before proceeding to the next step in the process.

Criteria pollutant emissions of concern are primarily PM from sawing and planing, but also include PM from re-entrained road dust or sawdust particles; VOCs from drying; and NO_X from boilers and emergency diesel generators. PM control methods include water sprays and dry control methods (baghouses, fabric filters and cyclones).

2. What is in the proposed General Air Quality Permit for New or Modified True Minor Source Sawmill Facilities?

This proposed general permit would apply to the construction of new true minor source sawmills or the modification of existing true minor source sawmills, located in Indian country. The proposed permit requires that the permittee maintain and operate each affected emission unit and any associated air pollution control equipment, considering the manufacturer's recommended operating procedures, so as to minimize emissions of NSR regulated pollutants. The reviewing authority will determine whether the permittee is using acceptable operating and maintenance procedures based on monitoring results, review of operating and maintenance procedures, and inspection of the permitted source. (Failure to meet these requirements would constitute a violation of the permit.)

In creating the proposed sawmill general permit, the EPA considered VOC emissions from kiln drying, surface coating operations, boilers, and emergency engines. We are requesting comment on whether there are other sources of VOC emissions at sawmills that should be included in our analysis.

The proposed permit is designed to be as comprehensive as possible and, thus, contains emission limitations requirements for the following affected emission units or activities:

- Planar mill operations (baghouse/fabric filter);
- Sawmill operations (baghouse/fabric filter or cyclone);
- Open burning (restrictions on);
- Boilers;
- Emergency engine use;
- Fugitive dust control; and
- Setbacks.

The proposed permit prohibits open burning and restricts the burning and combustion of wood or lumber products to wood-fired boilers. Each identified emissions unit must not result in the discharge of any gases that exhibit 20 percent opacity or greater averaged over any six-consecutive-minute period. Any liquid fuels used at the facility shall contain no more than 0.0015 percent sulfur by weight. The production of finished lumber is limited to 25 million board feet per year based on a 12-month rolling total. The 12-month rolling total is determined by the sum of the current monthly production and the total of the previous 11 months' production. The purpose of the board feet restriction is to further limit PM emissions from sawmill operations. The limit is in addition to the requirement that sawmills covered by the proposed general permit install cyclones and/or baghouses/fabric filters. The requirement is consistent with the general permits for sawmills in the states of Texas and Oregon.[41]

In addition to requiring the installation and operation of air pollution controls as described below, the proposed permit limits tpy VOC emissions from all lumber drying kilns and surface coating operations regardless of where the sawmill is planning to locate or modify. The limitations for facilities planning to locate or modify in ozone nonattainment areas are progressively more restrictive as the classification of the ozone nonattainment area increases from marginal to extreme. Planar mill operations must be conducted within enclosed structures and a baghouse or fabric filter must be used to control emissions to the atmosphere. Sawmill operations conducted outdoors (i.e., operations other than planar mill operations) must, at a minimum, be covered and all material handling operations must be controlled using a cyclone or baghouse/fabric filter during all times that the affected emission units operate. Emissions to the atmosphere from sawmill operations conducted indoors must be controlled using a baghouse or fabric filter. The permittee must develop and implement a fugitive dust control plan. All VOC-containing material (e.g., coatings, thinners, and clean-up solvents) must be stored in closed containers. All waste materials containing VOC (e.g., soiled rags) must be stored in sealed containers until properly disposed.

The proposed permit also contains requirements for emergency engines, in the event such engines are present at the new or proposed sawmill facility. Each emergency engine must be equipped with a non-resettable hour meter and, if using fuel oil, then it must use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur by weight. Newer emergency engines—model year 2006 or later for compression ignition engines and 2009 or later for spark ignition engines—must meet certain certification or emission requirements that are contained in the EPA's emissions standards at 40 CFR part 89, 40 CFR part 90 and 40 CFR part 1048 or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. Other, older emergency engines are required to meet certain routine maintenance requirements, and must follow the manufacturer's emission-related operation and maintenance instructions or the owner/operator must develop and implement their own maintenance plan which must provide to the extent practicable for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions.

The proposed general permit includes monitoring that is sufficient to ensure compliance with the emission limitations that apply to the source, including ensuring that the baghouses/fabric filters and cyclones are operating properly, conducting weekly opacity observations and fugitive emissions surveys and meeting certain other requirements. The permit also requires performance testing for emergency engines that must meet certain emissions standards, but are neither required to be certified by the manufacturer as meeting those standards, nor are in fact so certified. This requirement is needed since the EPA certification program for certain engines is voluntary. The proposed general permit includes recordkeeping and reporting requirements sufficient to ensure compliance with the monitoring requirements.

[41] Information on board feet limitations is available at: Background Document: General Air Quality Permit for New or Modified True Minor Source Sawmill Facilities, Docket ID No. EPA–HQ–OAR–2011–0151, *http://www.epa.gov/air/tribal/tribalnsr.html.*

3. Request for Comment on the Proposed General Air Quality Permit for New or Modified True Minor Source Sawmill Facilities

We request comment on all aspects of the general permit for sawmill facilities. We specifically request comment in the following two areas:

(a) Use of Tons Per Year Numbers as Emission Limitations

The EPA is proposing to include annual allowable emission limitations for the sawmills source category. The proposed general permit includes both a limitation of 25 million board feet on a 12-month rolling total and total tpy VOC emissions limitations for the facility regardless of its location. The tpy limitations become more stringent in ozone nonattainment areas as the classification increases from marginal to extreme.[42] We set the proposed VOC emissions limitations at levels that we believe are sufficiently below the NSR major source levels to accommodate any additional VOC emissions from any boilers or emergency engines also present at the facility beyond VOC emissions from lumber drying kilns. Sources will need to monitor their board-foot production and perform emission factor calculations using the calculator and emissions factors that we are providing to ensure they are staying within the permitted tpy limitations.

Aside from the maximum 25 million board-feet limit, we opted to not propose surrogate throughput limits for VOC emissions for sawmills, as we did for one other source category, because of the diversity of wood species (and associated emissions) that a sawmill facility may use. It would be very difficult to set a board foot throughput limit that could have broad applicability. Instead, by putting emissions limitations directly in the permit, it provides the source with flexibility on what wood species it uses, while ensuring that air quality is protected. We request comment on the appropriateness of establishing emissions limitations in the permit (versus a limit on throughput) and whether the specified limitations are established at the correct levels.

b. Setback Requirement

The proposed general permit requires sawmill facilities to locate at least 150 feet from the nearest property boundary and 1,000 feet from the nearest residence. This is consistent with the setback requirement in the state of Texas'[43] general permit that includes a setback requirement for this source category. We believe that this requirement will minimize the impact of emissions from these sources on localized air quality. We request comment on whether we should include this setback requirement in the final permit to provide additional protection against adverse impacts to local air quality. In addition, we request comment on whether there are other neighboring types of buildings from which the setback should apply (e.g., schools, nursing homes) and whether to require owners/operators of the sawmills subject to the permit to use physical markers on their property to show compliance with the setback requirements.

VII. Description of the EPA's Proposed Permit by Rule Program in Indian Country

A. What is a permit by rule?

For purposes of this proposal, a permit by rule is a standard set of requirements (i.e., emissions limitations, monitoring, recordkeeping and reporting requirements) that can apply to multiple sources with similar emissions and other characteristics. This is similar to a general permit; however, unlike a general permit, we codify the permit by rule requirements into regulation using a formal rulemaking process. (While a proposed general permit is subject to notice and comment in accordance with 40 CFR 49.156 and 40 CFR 49.157, neither the final general permit itself, nor the requirements therein, are added to the Code of Federal Regulations.)

For purposes of this proposal, the permit by rule mechanism is a permit streamlining approach that reduces the time permitting authorities must devote to reviewing permit applications and issuing permits for source categories or emissions generating activities that pose a lower environmental concern. We believe that permits by rule offer another cost-effective means of issuing permits, and provide a quicker and simpler alternative mechanism for permitting true minor sources than the site-specific permit or standard general permit process.

State and local reviewing authorities use the permit by rule mechanism to authorize construction of less complex sources, and sources that emit at specified levels below the major stationary source thresholds. The EPA has approved several state or local permits by rule programs into State Implementation Plans (SIPs).[44] By this proposal, we would provide similar opportunities for permitting efficiency in Indian country for a specified source category, while also providing a level of protection of air quality comparable to that provided by a general permit.

[42] Information on these limitations is available at: Background Document: General Air Quality Permit for New or Modified True Minor Source Sawmill Facilities, Docket ID No. EPA–HQ–OAR–2011–0151, *http://www.epa.gov/air/tribal/tribolnsr.html.*

[43] The setback requirement in Texas's general permit is described at: Background Document: General Air Quality Permit for New or Modified True Minor Source Sawmill Facilities, Docket ID No. EPA–HQ–OAR–2011–0151, *http://www.epo.gov/oir/tribol/tribolnsr.html.*

[44] The EPA has approved the following permits by rule: (1) Connecticut for automotive refinishing ("Approval and Promulgation of Air Quality Implementation Plans; Connecticut; VOC Regulations and One-Hour Ozone Attainment Demonstration Shortfall;" U.S. Environmental Protection Agency; August 31, 2006 (71 FR 51761); *http://www.gpo.gov/fdsys/granule/FR-2006-08-31/06-7314/content-detoil.html*); (2) Iowa for spray booths ("Approval and Promulgation of Implementation Plans; State of Iowa;" U.S. Environmental Protection Agency; March 5, 2010 (75 FR 10182); *https://www.federalregister.gov/articles/2013/08/27/2013-20750/approvol-and-promulgotion-of-implementotion-plons-stote-of-iowo*); (3) Operating PBR for small sources ("Approval and Promulgation of State Implementation Plans and Operating Permits Program; State of Iowa;" U.S. Environmental Protection Agency; March 5, 2010 (72 FR 58535); (4) Kansas Class II operating permits for reciprocating engines, evaporative sources, and hot mix asphalt facilities ("Approval and Promulgation of Implementation Plans and Section 112(l) Program for the Issuance of Federally Enforceable State Operating Permits; State of Kansas;" U.S. Environmental Protection Agency; July 17, 1995 (60 FR 36361); *http://www.gpo.gov/fdsys/pkg/FR-1995-07-17/html/95-17214.htm*); (5) Massachusetts for paint spray booths ("Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Volatile Organic Compound Regulations;" U.S. Environmental Protection Agency; September 3, 1999 (64 FR 48297); (6) Missouri for construction ("Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri;" U.S. Environmental Protection Agency; July 11, 2006 (71 FR 38997); *http://www.gpo.gov/fdsys/pkg/FR-2006-07-11/html/06-6092.htm*); (7) Nebraska for hot mix asphalt facilities and small animal incinerators ("Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska;" U.S. Environmental Protection Agency; July 10, 2006 (71 FR 38776); *http://www.gpo.gov/fdsys/gronule/FR-2006-07-10/E6-10730/content-detail.html*); (8) Auto body refinishing facilities; GDFs; boilers and heaters; small printing facilities; and mid-size printing facilities ("Approval and Promulgation of Air Quality Implementation Plans; Ohio; PBR and PTIO;" U.S. Environmental Protection Agency; February 20, 2013 (78 FR 11748); *http://www.gpo.gov/fdsys/pkg/FR-2013-02-20/html/2013-03761.htm*); and (9) multiple source categories, such as: Batch mixers; comfort heating; rock crushers; saw mills; vacuum cleaning systems (August 13, 1982 (47 FR 35194) and ("Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Permits by Rule, Control of Air Pollution by Permits for New Construction or Modification, and Federal Operating Permits;" U.S. Environmental Protection Agency; November 14, 2003 (68 FR 64543); *http://www.gpo.gov/fdsys/pkg/FR-2003-11-14/pdf/03-28416.pdf*).

B. How would a permit by rule program operate in Indian Country?

As discussed in a prior proposed rule (79 FR 2546, January 14, 2014), once the EPA identifies a source category or emissions generating activity for which the permit by rule mechanism would offer permit streamlining benefits, while at the same time protecting air quality, we will codify a nationally applicable permit by rule for those similar sources into a new section of the Indian Country Minor NSR FIP following notice and comment rulemaking procedures. If the permit by rule will apply only at a regional level, then the EPA regional reviewing authority will conduct the rulemaking process, and appropriately limit the applicability of the permit by rule to a specified geographic area.

As proposed, permits by rule would be used to address source categories of true minor sources, where the reviewing authority does not need to conduct an in-depth review to evaluate whether an individual source qualifies for the permit (i.e., meets the applicability requirements) and can meet the requirements in the permit. A source category would be covered by a permit by rule if the reviewing authority needs to do nothing more than receive confirmation from an individual source that it meets all appropriate criteria to be eligible for coverage under the permit by rule and that it intends to comply with the operational, monitoring and recordkeeping requirements specified in this rule. (By contrast, under a general permit the source would need to submit a request for coverage to the reviewing authority and receive an approval from that authority before starting source construction.)

In our January 14, 2014 proposed rule, we proposed to amend the Indian Country Minor NSR rule general permit provisions at 40 CFR 49.156 to set forth the unique elements of the permits by rule process.[45] We intend to take final action on the proposed approach as part of taking final action on the overall January 14, 2014 proposal and are not re-proposing those elements here. In today's action, in the alternative, we are proposing a permit by rule for the graphic arts and printing source category, as described above. If we finalize the procedure for establishing permits by rule set forth in our January 14, 2014, proposed rule, we will follow the procedure as finalized in promulgating a final permit by rule for the graphic arts and printing source category. We will only promulgate a permit by rule for the graphic arts and printing source category if, after considering any comments we receive in response to today's proposal, we conclude that establishing such a permit is appropriate. We seek comment on whether graphic arts and printing operations is an appropriate source category for a permit by rule.

C. Requirements of the ESA and NHPA

Similar to general permits, prior to seeking coverage under a permit by rule, a source must satisfactorily address the permit requirements related to the ESA and the NHPA. Attached to the request for coverage,[46] the EPA provides guidance to assist sources in complying with these requirements. Section V.F. above describes the process for complying with the ESA and NHPA in more detail. We seek comment on the use of this process for the proposed graphic arts and printing operations permit by rule.

VIII. Proposed Permits by Rule

As an alternative to a general permit, we are proposing to establish a permit by rule, for one source category: Graphic arts and printing operations. We are proposing this source category for a permit by rule based on our determination that this source category emits primarily one pollutant (i.e., VOCs), that there is little variation in the equipment used, and that the compliance requirements are straightforward and readily verifiable. By contrast, the other five source categories in today's proposal, to varying degrees, involve more complex operations, more than one pollutant and more complex compliance requirements. The source categories are:

- Concrete batch plants;
- Boilers;
- Stationary compression ignition engines;
- Stationary spark ignition engines; and
- Sawmills.

In Section VI. we describe these source categories and the requirements in the proposed permits that warrant a general permit proposal for them, including the multiple emissions units covered.

We are not providing specific regulatory language for the proposed permit by rule but rather are proposing to codify the requirements of the proposed general permit for this source category described in Section VI.D. If, after considering relevant comments received in response to today's proposed action, we decide to finalize a permit by rule for the source category, we will codify the requirements as contained in the proposed general permit for the source category, including any changes that we deem appropriate based on our review of public comments on the proposed general permit and other relevant information. In other words, whether we use the permit by rule or the standard general permit mechanism, we propose to apply identical requirements to regulate construction and modification activities of affected emission units in the graphic arts and printing operations source category. We believe that the proposed general permit provides the public with a sufficient understanding of the contents of any final rule, and, therefore, satisfies our obligations under section 301(a) of the CAA and the Administrative Procedures Act.

The EPA welcomes comments on all aspects of the proposed general permit and proposed permit by rule for the graphic arts and printing operations source category discussed in this notice. In particular, we request comments on whether the permit by rule terms and conditions for graphic arts and printing operations should be identical to the general permit terms and conditions, or whether they should differ.

IX. Implementation Documents and Tools

We are providing several tools and documents to assist sources with obtaining coverage under the general permits and permit by rule for the six source categories that are the subject of today's proposal. The tools are drafted based on our preferred approach of general permits. If we decide to issue a permit by rule for the graphic arts and printing operations source category as we are proposing in the alternative today, then we will need to adjust the wording in the documents to reflect that tools being made available are for a permit by rule and not a general permit. The background document for graphic arts and printing operations supports both our general permit proposal and permit by rule proposal, in the alternative; therefore, the document cites both general permits and permits by rule as the permit types it supports.

The tools consist of the following six types of documents:

[45] "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country," U.S. Environmental Protection Agency, January 14, 2014 (79 FR 2546), pp. 2566–2567, *http://www.gpo.gov/fdsys/pkg/FR-2014-01-14/pdf/2013-30345.pdf.*

[46] For general permits, we refer to applications submitted to reviewing authorities for approval as requests for coverage. For permits by rule, we are proposing to not require that these requests for coverage be submitted for approval. Instead, sources would be required to notify the EPA by letter that the request for coverage has been completed and that the source qualifies for the permit and will comply with all of its terms and conditions.

Request for Coverage: This form is for sources seeking to use general permits and is essentially an application to request coverage under a general permit. The application asks for contact and location information, as well as more in-depth operational and source-specific information. The application will also guide sources through processes to comply with permit requirements related to the ESA and the NHPA.

The general permit application for graphic arts and printing operations is more streamlined because sources in the category represent more straightforward operations, largely involve one air pollutant (i.e., VOCs) and, therefore, necessitate less intensive review for approval. The general permit application form for the category asks for basic solvent usage information and whether the source has complied or will comply with relevant requirements. By contrast, the general permit applications for concrete batch plants, engines, boilers and sawmills request more detailed technical information about the proposed facility in question because these facilities are more complex and can involve multiple operations and pollutants.

For graphic arts and printing operations, this form also serves as an application for sources seeking coverage under a permit by rule should the EPA decide to issue one for this category. In such circumstances, the source would need to complete the shortened application and keep a record on file. Successfully completing the application will enable the source to determine if it can certify to the reviewing authority that it meets the permit's eligibility terms and conditions, which the source would need to do via a letter in order to begin its construction or modification.

Questionnaire: This tool is tailored to each source category and guides sources through a series of questions to determine whether it is eligible for coverage under a general permit. It is not required to be completed or submitted. First, the source needs to determine whether it is a true minor source and, therefore, subject to the requirements of the minor NSR rule for Indian country. To do this, a source needs to perform a PTE analysis of all of its new, modified and existing emissions units (see PTE calculator below). If the source determines that it is a true minor, the questionnaire asks the source to consider a series of questions to determine if it qualifies for the specific general permit or permit by rule. If the source does not qualify for coverage, then it must seek a site-specific permit under the minor source program (or a major source permit, if appropriate).

Instructions: The document assists sources with information that may be useful in completing the request for coverage application.

Permit Terms and Conditions: The permit is a specific document for each source category that lays out the general and specific terms and conditions of the permit, including the specific emission limitations and standards and monitoring, recordkeeping, reporting and notification requirements.

PTE Calculator: This spreadsheet-based tool helps sources in specific source categories calculate the PTE of their affected emissions units, using data the source is expected to have on hand, such as equipment specifications.

Background Documents: These documents are provided as a reference and contain important information:

- Source category definition and characterization;
- State minor source permit programs for that category used for comparison;
- Requirements for general permits and permits by rule for that category; and
- Threshold (emission limitations) development and rationale for that category.

All of these documents are available online at *http://www.epa.gov/air/tribal/tribalnsr.html* and Docket ID No. EPA–HQ–OAR–2011–0151.

X. Additional Area Where Comment is Being Sought

A. Should general permits and permits by rule be made available for sources in the same source category?

In our January 14, 2014 proposed rule, the EPA requested comments on whether, for certain source categories, the EPA should structure the permits so that eligible true minor sources can receive coverage under permits by rule and synthetic minor sources receive coverage under general permits. In addition, just as we proposed that general permits are more appropriate for more complex source categories, we requested comment on whether general permits (and not permits by rule) are more appropriate for major sources that seek to become "synthetic" minor sources. And, as we proposed that permits by rule are more appropriate for less complex source categories, we requested comments on whether permits by rule (and not general permits) are more appropriate for true minor sources. In this action, we request comment only on whether this concept should be applied to the graphic arts and printing operations source category. In the docket, a background document is provided for this source category, which includes a summary of National Emissions Inventory data for the category.

XI. Proposed Rule Change to the Indian Country Minor NSR Rule

We are proposing one change to one provision in the existing Indian country minor NSR rule addressing the time period within which the reviewing authority must make a determination on whether a request for coverage under a general permit is complete and to complete its review of the request for coverage. We are proposing this change only for the general permit for the graphic arts and printing operations source category. The Indian County Minor NSR rule currently requires the reviewing authority to determine whether a request for coverage under a general permit is complete within 45 days of receiving the request (40 CFR 49.156(e)(4)) and to take final action on the request within 90 days of receiving a complete request (40 CFR 49.156(e)(3)). For the proposed general permit for the graphic arts and printing operations source category, we are proposing to shorten the time for determining whether a request for coverage is complete to 15 days (by that date the reviewing authority must either determine that the request for coverage is complete or request any additional information) and to shorten the time within which the reviewing authority must take final action on the request to 45 days. We explained our general rationale for taking this approach for some, but not all, general permits in our January 14, 2014, proposed rule.

We are proposing the shortened time frames for the graphic arts and printing operations source category only. We also propose to provide the reviewing authority the option of automatically denying a source's request for coverage if the source fails to submit any additional requested information within 15 days of receiving the request from the reviewing authority to remain consistent with our intent to provide a streamlined notification and review process. If a reviewing authority denies a request for coverage because a source fails to submit requested information by the deadline, the source may re-apply at a later date to re-initiate the request for coverage.

We believe that a shortened application review process for the graphic arts and printing operations general permit is justified because the streamlined nature of the general permit for the graphic arts and printing operations source category is

inconsistent with lengthy and potentially open-ended ongoing exchanges with applicants to obtain necessary information and is not the best use of limited resources. The applications are lengthier for the other four source categories in today's proposal and, therefore, a lengthier 90 day review process is appropriate for those categories. In Section IX., we explain our reasoning for why the application is shorter for graphic arts and printing operations and longer for the other four categories. Allowing this streamlining (combined with a shorter application for this same category) will allow for reduced processing time for a general permit coverage request for this category and a reduction in information required to be included in requests for coverage.

XII. Statutory and Executive Order Reviews

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

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

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This action merely proposes to establish general permits and/or permits by rule to satisfy the requirements of the Indian Country Minor NSR rule. Any burden associated with information required to be collected pursuant to the proposed general permits and/or permit by rule has already been accounted for in the approved information collection request for the Indian Country Minor NSR rule. Further, any use of the general permits and/or permit by rule is strictly voluntary. Therefore, this action does not impose an information collection burden.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The EPA analyzed the impact of streamlined permitting on small entities in the Review of New Sources and Modifications in Indian Country (76 FR 38748, July 1, 2011). Today's action will not impose any requirements on small entities, as it merely implements a particular aspect of the Review of New Sources and Modifications in Indian Country.

D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. This action imposes no enforceable duty on any state, local or tribal government or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule has no requirements applicable to small governments and, as such, does not impose obligations upon them.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in EO 13132. This action merely proposes to provide sources in Indian country with streamlined permitting opportunities that are generally available in states outside of Indian country. It does not impose any new obligations or enforceable duties on any state, local or tribal government or the private sector. Thus, EO 13132 does not apply to this rule.

In the spirit of EO 13132, and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comment on this proposed action from state and local officials.

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

Pursuant to the EO 13175 (65 FR 67249, November 9, 2000), the 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 the EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

The EPA has concluded that this action will not impose duties or responsibilities on tribes, although it will have tribal implications. The EPA has conducted outreach via on-going monthly meetings with tribal environmental professionals in the development of this proposed action. This proposal reflects priorities for developing permits, comments on the general permits and suggestions for developing permits by rules developed as a result of that outreach. The EPA will offer consultation to elected tribal officials immediately after proposal to provide an opportunity for meaningful and timely input into the development of this regulation.

The EPA specifically solicits additional comment on this proposed action from tribal officials.

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

The EPA interprets EO 13045 (62 FR 19885, April 23, 1997) 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 does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not subject to EO 13211 (66 FR 28355 (May 22, 2001)) because

it is not a significant regulatory action under EO 12866.

I. National Technology Transfer and Advancement Act

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

The proposed rulemaking involves technical standards. In the proposed permits the EPA proposes the use of EPA Methods 5, 7, 9, 10, 18, 22 and 25A of 40 CFR part 60, Appendix A.[47] Three voluntary consensus standards were identified as applicable for purposes of this proposal:

1. ANSI/ASME PTC 19.10–1981 part 10 "Flue and Exhaust Gas Analyses" (alternative to EPA Method 7);
2. ASTM D7520–09 "Standard Test Method for Determining Opacity of a Plume in the Outdoor Ambient Atmosphere" (alternative to EPA Method 9); and
3. ASTM D6420–99 (2010) "Test method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry" (alternative to EPA Method 18).

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

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

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

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This proposed rule merely implements certain aspects of the Review of New Sources and Modifications in Indian Country. As such, this proposed action will not have a disproportionately high and adverse human health or environmental effects on minorities and low-income populations in the United States.

Our primary goal in developing the general permits and permits by rule is to ensure that air resources in Indian country will be protected in the manner intended by the CAA. In particular, this rule will help minimize air quality impacts from new or modified true minor sources in Indian country. In addition, we seek to establish a flexible preconstruction permitting program for minor sources in Indian country that is comparable to similar programs in neighboring states to create a more level regulatory playing field for owners and operators within and outside of Indian country. This rule will reduce an existing disparity by filling the regulatory gap.

List of Subjects in 40 CFR Part 49

Environmental protection, Administrative practices and procedures, Air pollution control, Indians, Indians-law, Indians-tribal government, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 11, 2014.

Gina McCarthy,

Administrator.

[FR Doc. 2014–16814 Filed 7–16–14; 8:45 am]

BILLING CODE 6560–50–P

[47] Information on any available voluntary consensus standards that can used as alternatives to the emissions measurement standards in the General Air Quality Permit for New or Modified True Minor Source Spark Ignition Engines can be found in: "Voluntary Consensus Standard Results for General Permits and Permits by Rule for the Indian Country Minor New Source Review Program; 40 CFR part 49, subparts 156(c) and 162," from Robin Segall, Acting Group Leader, Measurement Technology Group, to Laura McKelvey, Community and Tribal Programs Group, February 7, 2014, Docket ID No. EPA–HQ–OAR–2011–0151, *http://www.epa.gov/air/tribal/tribalnsr.html.*

FEDERAL REGISTER

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Part VI

The President

Notice of July 15, 2014—Continuation of the National Emergency With Respect to the Former Liberian Regime of Charles Taylor

Federal Register
Vol. 79, No. 137
Thursday, July 17, 2014

Presidential Documents

Title 3—

The President

Notice of July 15, 2014

Continuation of the National Emergency With Respect to the Former Liberian Regime of Charles Taylor

On July 22, 2004, by Executive Order 13348, the President declared a national emergency with respect to the former Liberian regime of Charles Taylor pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of former Liberian President Charles Taylor and other persons, in particular their unlawful depletion of Liberian resources and their removal from Liberia and secreting of Liberian funds and property, which have undermined Liberia's transition to democracy and the orderly development of its political, administrative, and economic institutions and resources.

Although Liberia has made significant advances to promote democracy, and the Special Court for Sierra Leone convicted Charles Taylor for war crimes and crimes against humanity, the actions and policies of Charles Taylor and others have left a legacy of destruction that still challenge Liberia's transformation and recovery. The actions and policies of these persons continue to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, the national emergency declared on July 22, 2004, and the measures adopted on that date to deal with that emergency, must continue in effect beyond July 22, 2014. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13348.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
July 15, 2014.

[FR Doc. 2014–17021
Filed 7–16–14; 11:15 am]
Billing code 3295–F4

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