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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

8 CFR PART 100

[CBP Dec. 15–17]

Technical Amendment to List of Field Offices: Expansion of San Ysidro, California Port of Entry To Include the Cross Border Xpress User Fee Facility

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule; technical amendment.

SUMMARY: This document amends the Department of Homeland Security (DHS) regulations by revising the list of field offices to expand the limits of the San Ysidro, California Class A port of entry to include the Cross Border Xpress (CBX) user fee facility. Class A ports of entry are designated ports that process all aliens applying for admission into the United States. The CBX facility includes a pedestrian walkway connecting the Tijuana A.L. Rodriguez International Airport (Tijuana Airport) in Mexico to San Diego, California and a passenger terminal located in San Diego that will be used exclusively to process Tijuana Airport passengers traveling to and from the United States via the pedestrian walkway.

DATES: This rule is effective on December 9, 2015, the date the CBX facility will open.

FOR FURTHER INFORMATION CONTACT: Tara Ross, Office of Field Operations, *tara.ross@cbp.dhs.gov,* 202–344–1031.

SUPPLEMENTARY INFORMATION:

I. Background

Ports of entry are places (seaports, airports, or land border ports) designated by the Secretary of the Department of Homeland Security where CBP officers or employees are assigned to accept entries of merchandise, clear passengers, collect duties, and enforce the various provisions of the customs and immigration laws, as well as other laws applicable at the border. The term ''port of entry'' is used in the Code of Federal Regulations (CFR) in title 19 for customs purposes and in title 8 for immigration purposes. Subject to certain exceptions, all individuals entering the United States must present themselves to an immigration officer for inspection at a U.S. port of entry when the port is open for inspection. *See* 8 CFR 235.1. Customs and immigration services may also be provided by CBP officers at facilities that are designated as user fee facilities pursuant to 19 U.S.C. 58b. User fee facilities are approved by the Commissioner of CBP to receive, for a fee, the services of CBP officers, including the processing of travelers entering the United States.

The ports of entry for immigration purposes for aliens arriving by vessel and land transportation are listed in 8 CFR 100.4(a). These ports are listed according to location by districts and are designated as Class A, B, or C, which designates which aliens may use the port. Class A ports are those designated for all aliens. Class B and C ports are restricted to certain aliens. If the facility processes aliens for immigration purposes, the facility may be considered a port of entry for purposes of title 8 CFR. In such case, an amendment to 8 CFR 100.4(a) is necessary.[1]

The Cross Border Express (CBX) User Fee Facility

On March 21, 2014, the Commissioner of CBP approved a request from Otay-Tijuana Venture, LLC for CBP to provide reimbursable inspection services, pursuant to 19 U.S.C. 58b, at a new cross-border user fee facility named ''Cross Border Xpress'' or CBX.[2] At this facility, CBP will provide a variety of inspection services, including immigration services.

The CBX facility was designed in accordance with U.S. and international security standards. It includes an enclosed pedestrian walkway connecting the Tijuana Airport in Mexico to San Diego, California and a passenger terminal located in San Diego that will be used exclusively to process ticketed Tijuana Airport passengers traveling to and from the United States via the walkway. The pedestrian walkway will be accessible only for ticketed Tijuana Airport passengers.

Travelers with departing flights from the Tijuana Airport will use the CBX facility's north entrance in the United States to cross the international border into Mexico. To use the facility, these travelers must present a valid airline ticket for a flight departing from the Tijuana Airport in the next twenty-four hours and purchase a CBX bridge pass. Airline tickets and CBX passes may be purchased the same day at ticket windows at the north entrance. CBX passes may also be purchased online in advance. After being subject to inspection by CBP officers, travelers will use the pedestrian walkway to cross the international border. At the Tijuana Airport, travelers will be processed by Mexican immigration and customs authorities. After processing, the travelers will enter the Tijuana Airport for their departing flight.

Travelers landing at the Tijuana Airport may use the CBX facility to apply for admission or entry to the United States. These travelers must purchase a CBX pass and use the CBX facility within four hours of their flight's arrival at the airport to apply for admission or entry to the United States. Passes may be purchased online in advance or at ticket counters at the Tijuana Airport. Travelers will be processed by Mexican immigration and customs authorities at the Tijuana Airport before entering the CBX facility. Travelers will use the CBX pedestrian walkway to cross the international border into the United States and then apply for admission or entry into the United States at the processing terminal where they will be subject to immigration, customs and agriculture inspection by CBP officers. CBP will

[1] For customs purposes, CBP regulations list designated CBP ports of entry and the limits of each port in section 101.3(b)(1) of title 19 (19 CFR 101.3(b)(1)). User fee facilities are not considered ports of entry for purposes of 19 CFR 101.3(b)(1). Therefore, the designation of a user fee facility does not require an amendment to this provision.

[2] On July 22, 2015, CBP issued a press release announcing the establishment of CBX as a user fee facility pursuant to 19 U.S.C. 58b. It also indicated that CBX would operate as a Class A port of entry. *See: http://www.cbp.gov/newsroom/national-media-release/2015-07-22-000000/cbp-partners-new-cross-border-terminal-cross.*

process only pedestrians at the CBX facility. CBP will not process cargo, commercial entries, or vehicles.

Expansion of San Ysidro, California Class A Port of Entry To Include the CBX User Fee Facility

The port of San Ysidro, California is included within the San Diego district and is listed in 8 CFR 100.4(a) as a Class A port of entry. This rule amends 8 CFR. 100.4(a) to expand the San Ysidro Class A port of entry to include the CBX facility.

II. Statutory and Regulatory Requirements

A. Inapplicability of Public Notice and Delayed Effective Date Requirements

Under section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), rulemaking generally requires prior notice and comment, and a 30-day delayed effective date, subject to specified exceptions. Pursuant to 5 U.S.C. 553(a)(2), matters relating to agency management or personnel are excepted from the requirements of section 553.

This rule expands the San Ysidro Class A port of entry to include the CBX facility. CBP has already designated the CBX facility as a user fee facility pursuant to 19 U.S.C. 58b and has approved the request for CBP officers to provide reimbursable inspection services at the CBX facility to Tijuana airport travelers entering and departing the United States at the CBX facility. Otay-Tijuana Venture, LLC, the operator of the facility, will reimburse CBP for the expenses CBP incurs, including the salary and expenses of CBP officers that will provide the CBP services, in accordance with the approved request. The approved request to provide such services, and the update to the list of the Class A ports of entry to reflect this approved request directly relates to CBP's operations and agency management and personnel. As such, CBP finds that this rule pertains to a matter relating to agency management or personnel within 5 U.S.C 553(a)(2) which is excepted from the prior notice and comment and delayed effective date requirements of section 553.

Additionally, as provided in 5 U.S.C. 553(b)(3)(A), the prior notice and comment requirements do not apply when agencies promulgate rules concerning agency organization, procedure, or practice. This rule falls within that category.

As discussed above, on March 21, 2014, the CBP Commissioner approved the request from Otay-Tijuana Venture, LLC for CBP to provide inspection services at the new CBX facility pursuant to 19 U.S.C. 58b. The designation of the CBX as a user fee facility means that CBP will be providing agency personnel at the facility, pursuant to the approved request, to process travelers for application for admission or entry into and departure from the United States. This rule, which updates the list of Class A ports of entry in 8 CFR 100.4(a) to include the CBX facility within the San Ysidro port of entry, simply makes the necessary amendments to section 100.4(a) to implement the CBP Commissioner's decision to designate the CBX facility as a user fee facility. It is a procedural or organizational rule that does not have a substantial impact on the user fee facility or on the public. For this reason, CBP finds that this is a rule of agency organization, procedure, or practice, which is not subject to notice and comment rulemaking pursuant to § 553(b)(3)(A).

B. The Regulatory Flexibility Act and Executive Orders 12866 and 13563

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This amendment does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866, as supplemented by Executive Order 13563.

C. The National Environmental Policy Act of 1969

In 2009, the Otay-Tijuana Venture, LLC applied to the Department of State (DOS) for a Presidential Permit pursuant to Executive Order 11423, as amended, which authorizes the Secretary of State to issue Presidential permits for the construction, connection, operation, and maintenance of facilities at the borders of the United States if he or she finds them to be in the national interest. In support of its application for a Presidential permit, Otay-Tijuana Venture, LLC submitted a draft environmental assessment (EA) prepared under the guidance and supervision of DOS, consistent with the National Environmental Policy Act (NEPA). This EA examined the effects on the natural and human environment associated with the construction and establishment of the facility. On December 29, 2009, DOS provided public notice of the draft EA in the **Federal Register** (74 FR 68906) and invited public comment for 45 days.

On July 23, 2010, DOS published a notice in the **Federal Register** (75 FR 43225) announcing that it adopted the EA and issued a ''Finding of No Significant Impact'' concluding that the CBX facility would not result in a significant impact on the human and natural environment. On August 10, 2010, DOS published a notice in the **Federal Register** (75 FR 48408) announcing the issuance of a Presidential permit, effective August 3, 2010, to Otay-Tijuana Venture, LLC for the construction, operation, and maintenance of the CBX facility.

D. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the establishment of this title 8 Class A Port of Entry is not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, this rule may be signed by the Secretary of Homeland Security (or his delegate).

List Of Subjects in 8 CFR Part 100

Organization and functions (Government agencies).

Amendments to Regulations

For the reasons set forth above, part 100 of title 8 of the Code of Federal Regulations (8 CFR part 100) is amended as set forth below.

PART 100—STATEMENT OF ORGANIZATION

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458); 8 CFR part 2.

§ 100.4 [Amended]

■ 2. Amend § 100.4 in paragraph (a), under the heading ''District No. 39-San Diego, California'', subheading, ''Class A'', add ''(including the Cross Border Xpress (CBX) facility)'' after ''San Ysidro, CA''.

Dated: November 30, 2015.

Jeh Charles Johnson,

Secretary.

[FR Doc. 2015–30616 Filed 12–2–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 738, 740, 743, 772 and 774

[Docket No. 150304217–5727–02]

RIN 0694–AG44

Wassenaar Arrangement 2014 Plenary Agreements Implementation and Country Policy Amendments; Correction

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Correcting amendments.

SUMMARY: The Bureau of Industry and Security (BIS) maintains, as part of its Export Administration Regulations (EAR), the Commerce Control List (CCL), which identifies certain of the items subject to Department of Commerce jurisdiction. This correction rule revises the Commerce Country Chart by implementing revisions that BIS inadvertently omitted from the ''Wassenaar Arrangement 2014 Plenary Agreements Implementation and Country Policy Amendments'' rule published on May 21, 2015 (80 FR 29442) (''May 21 rule''), for Argentina and South Africa. This rule also implements the Wassenaar Arrangement (WA) agreement to make a clarification to the control text for rebreathing equipment that BIS inadvertently did not make in the May 21 rule. A license requirement note indicating jurisdiction is corrected and a related control note is clarified in an entry on the CCL controlling space launch vehicles and ''spacecraft,'' ''space buses,'' ''spacecraft payloads,'' etc., as the range of the reference was incorrectly stated in the May 21 rule. The reference concerning jurisdiction for ''specially designed'' parts, components, systems and structures, for launch vehicles, launch vehicle propulsion systems or ''spacecraft'' is corrected in the CCL entry controlling such items in this rule.

In addition, this rule makes one minor correction to remove Fiji from Column D:5 ''U.S. Arms Embargoed Countries,'' as well as from Country Group D, because Fiji is not listed under any other column within Country Group D and because the Department of State published a final rule that revised the International Traffic in Arms Regulations (ITAR) to rescind the previous policy of denying the export of defense articles and defense services to Fiji.

Lastly, this rule removes an outdated reference in the Definitions part of the EAR.

DATES: This rule is effective December 3, 2015.

FOR FURTHER INFORMATION CONTACT: For general questions contact Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at 202–482 2440 or by email: *Sharron.Cook@bis.doc.gov.*

For technical questions contact:

Categories 7 & 9: Daniel Squire 202–482–3710 or Reynaldo Garcia 202–482–3462

Category 8: Michael Tu 202–482–6462

SUPPLEMENTARY INFORMATION:

Background

Supplement No. 1 to Part 738—Commerce Country Chart

In the May 21 rule, Argentina and South Africa were added to Country Group A:1. The intent of that rule was also to harmonize Country Group A:1 with national security column 2 and regional stability column 2 of the Commerce Country Chart. However, BIS inadvertently did not remove the corresponding Xs for South Africa and Argentina. Therefore, the Commerce Country Chart is corrected by revising the second columns for national security (NS:2), and regional stability (RS:2) in order to harmonize these columns with the newly revised Country Group A:1, making the license requirement consistent with the risk of diversion to unauthorized end users, end uses and destinations. Specifically, this rule would remove the X, *i.e.,* license requirement, in the NS:2 Column for South Africa, as well as remove the X in the RS:2 Column for Argentina and South Africa, because the risk of diversion to unauthorized destinations, parties or uses is low for these countries. Both Argentina and South Africa are WA Participating States, but are not NATO member countries.

Part 740—Country Groups

This rule removes Fiji from Country Group D:5 ''U.S. Arms Embargoed Countries,'' and from Country Group D in Supplement No. 1 to part 740 of the EAR. This minor correction is not the result of a Wassenaar Arrangement agreement, but rather of a final rule published by the Department of State on May 29, 2015, 80 FR 30614 titled ''Amendment to the International Traffic in Arms Regulations: Policy on Exports to the Republic of Fiji.'' The State Department's rule revised ITAR § 126.1 to remove Fiji from paragraph (p), establishing that it is the policy of the United States to no longer deny licenses or other approval for exports or imports of defense articles and defense services destined for or originating in Fiji. The reasoning behind the change stated in the State Department rule was, ''On September 17, 2014, Fiji's acting government followed through on its longstanding commitment to hold democratic elections.'' There are specific license exception restrictions that pertain to Country Group D:5 that will no longer apply to Fiji. See Part 740 of the EAR. This revision also affects the national security (§ 742.4) and regional stability (§ 742.6) license review policy for 9x515 or ''600 series'' ECCNs when destined to Fiji, as well as the application of the *de minimis* rules (§ 734.4) for foreign products incorporating controlled U.S. content destined to Fiji.

Section 743.3 Thermal Imaging Camera Reporting

BIS inadvertently removed a thermal imaging camera reporting requirement exemption for Canada in the May 21 rule. The reporting requirements for thermal imaging cameras are corrected by exempting Canada from the reporting requirements, as was the policy prior to the publication of the May 21, 2015, Wassenaar rule. The exception is added to paragraph (b) of § 743.3 of the EAR.

Part 772—Definitions

This rule removes a reference for ''signal analyzer (dynamic) . . .'' that was inadvertently not removed when the definition for ''dynamic signal analyzer'' was removed from this part.

Supplement No. 1 to Part 774—Commerce Control List

ECCN 8A620—Submersible Vessels, Oceanographic and Associated Commodities

The May 21 rule inadvertently did not make a regulatory amendment that should have been made to implement a 2014 Wassenaar Arrangement agreement pertaining to diving and underwater swimming apparatus specially designed and modified for military use. The EAR amendment, which this rule makes, replaces paragraph .f with a new paragraph containing two subparagraphs: Subparagraph f.1 for self-contained diving rebreathers, closed or semi-closed circuit; and subparagraph f.2 for underwater swimming apparatus ''specially designed'' for use with equipment specified in paragraph f.1. Paragraph f.1 narrows the scope by adding the ''self-contained'' parameter, while f.2 is an expansion of controls.

ECCN 9A004 Space Launch Vehicles and ''Spacecraft''

The May 21 rule added paragraphs a. through f. to ECCN 9A004 in order to harmonize that ECCN with the Wassenaar dual-use list entry 9.A.4., even though the controls for these goods would be under ECCN 9A515. Because the EAR is used globally for export compliance, BIS decided that it would be easier for people to find these goods on the list where they would expect to find them on the European Union List or on the CCL prior to Export Control Reform (ECR) (in ECCN 9A004) and then follow the references in ECCN 9A004 to USML Category IV or ECCN 9A515. However, the range of reference for the paragraphs impacted by ECCN 9A515 in the License Requirement Note for 9A004.a was incorrect. The range of reference in the License Requirement Note is corrected to read ''9A004.b through .f.'' Also, Note 3 in the Related Controls is revised for clarity.

9A010 ''Specially Designed'' ''Parts,'' ''Components,'' Systems and Structures, for Launch Vehicles, Launch Vehicle Propulsion Systems or ''Spacecraft''

The Heading to ECCN 9A010 is corrected by removing the reference to the ITAR for jurisdiction over these items and instead referring to the newly added Related Controls paragraph. The added Related Controls paragraph refers to USML Category IV of the ITAR and ECCN 9A604 for paragraphs 9A010.a, .b and .d, as well as USML Category XV of the ITAR and ECCN 9A515 for paragraph 9A010.c. The Related Controls paragraph also refers to Supplement No. 4 to part 774, Order of Review, because one is supposed to review the referenced ITAR category first and if the item is not found there, then the referenced CCL ECCN should be reviewed to determine classification of items specified in ECCN 9A010.

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2015, 80 FR 48233 (August 11, 2015) has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Saving Clause

Shipments of items removed from license exception eligibility or eligibility for export, reexport, or transfer (in-country) without a license as a result of this regulatory action that were on dock for loading, on lighter, laden aboard a carrier, or en route aboard a carrier to a port, on December 3, 2015, pursuant to actual orders to a destination, may proceed to that destination under the previous license exception eligibility or without a license so long as they have been exported, reexported, or transferred (in-country) before February 1, 2016. Any such items not actually exported, reexported, or transferred (in-country) before midnight, on February 1, 2016, require a license in accordance with this regulation.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves two collections of information subject to the PRA. One of the collections has been approved by OMB under control number 0694–0088, ''Multi-Purpose Application,'' and carries a burden hour estimate of 58 minutes for a manual or electronic submission. The other of the collections has been approved by OMB under control number 0694–0106, ''Reporting and Recordkeeping Requirements under the Wassenaar Arrangement,'' and carries a burden hour estimate of 21 minutes for a manual or electronic submission. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to Jasmeet Seehra, OMB Desk Officer, by email at *Jasmeet_K._Seehra@omb.eop.gov* or by fax to (202) 395–7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 1401 Constitution Ave. NW., Room 6622, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a 30-day delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Immediate implementation of these amendments fulfills the United States' international obligation to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. The Wassenaar Arrangement contributes to international security and regional stability by promoting greater responsibility in transfers of conventional arms and dual use goods and technologies, thus preventing destabilizing accumulations of such items. The Wassenaar Arrangement consists of 41 member countries that act on a consensus basis. The corrections set forth in this rule ensure the correct implementation of agreements reached at the December 2014 plenary session of the WA. Because the United States is a significant exporter of the items covered by this rule, implementation of this rule is necessary for the WA to achieve its purpose. Any delay in implementation will create a disruption in the movement of affected items globally because of disharmony between export control measures implemented by WA members. Export controls work best when all countries implement the same export controls in a timely manner. If this rulemaking were delayed to allow for notice and comment and a 30-day delay in effectiveness, it would prevent the United States from fulfilling its commitment to the WA in a timely manner and would injure the credibility of the United States in this and other multilateral regimes.

The removal of Fiji from Country Group D:5 also involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Country Group D:5 identifies countries that are

subject to a United States arms embargo for purposes of some license requirements and license exception availability. Designating a country as subject to a United States arms embargo is a function of the Department of State. The Department of State has determined that is in the best interests of U.S. foreign policy, national security, and human rights concerns to rescind the previous policy of denying the export of defense articles and defense services to Fiji. In this rule, BIS is merely recording the removal of the arms embargo in Fiji in its regulations to be consistent with the overall U.S. government policy regarding sales of military items that is set by the State Department. Even if BIS received public comments recommending that the arms embargo on Fiji be restored, BIS has no authority to take that action. Incurring the expense and delay of the notice and comment process in a situation where BIS has no authority to take action in response to those comments would be contrary to the public interest.

Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Ave. NW., Room 2099, Washington, DC 20230.

List of Subjects

15 CFR Parts 738 and 772

Exports.

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 738, 740, 743, 772 and 774 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 738 [AMENDED]

■ 1. The authority citation for part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

Supplement No. 1 to Part 738 [AMENDED]

■ 2. Supplement No. 1 is amended by:

■ a. Removing the X from the RS:2 column for Argentina; and

■ b. Removing the X from the NS:2 column and the RS:2 column for South Africa.

PART 740 [AMENDED]

■ 3. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

■ 4. Supplement No. 1 to part 740, Country Group D is amended by removing the entry for Fiji from the table.

PART 743 [AMENDED]

■ 5. The authority citation for part 743 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); 78 FR 16129; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

■ 6. Section 743.3 is amended by revising paragraph (b) to read as follows:

§ 743.3 Thermal imaging camera reporting.

* * * * *

(b) *Transactions to be reported.* Exports that are not authorized by an individually validated license of thermal imaging cameras controlled by ECCN 6A003.b.4.b to a destination in Country Group A:1 (see Supplement No. 1 to part 740 of the EAR), except Canada, must be reported to BIS.

* * * * *

PART 772 [AMENDED]

■ 7. The authority citation for part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

§ 772.1 [Amended]

■ 8. In § 772.1, remove the entry ''Signal analyzers. (dynamic) (Cat 3)—(See ''Dynamic signal analyzers''.)''

PART 774 [AMENDED]

■ 9. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

■ 10. In Supplement No. 1 to part 774, Category 8, ECCN 8A620 is amended by revising Items paragraph f., to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

8A620 Submersible vessels, oceanographic and associated commodities (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

f. Diving and underwater swimming apparatus specially designed or modified for military use, as follows:

f.1. Self-contained diving rebreathers, closed or semi-closed circuit;

f.2. Underwater swimming apparatus specially designed for use with the diving apparatus specified in subparagraph f.1;

N.B.: See also 8A002.q.

* * * * *

■ 11. In Supplement No. 1 to part 774, Category 9, ECCN 9A004 is amended by:

■ a. Revising the License Requirement Note in the License Requirements section; and

■ b. Revising Note 3 in the Related Controls paragraph of the List of Items Controlled section, to read as follows:

9A004 Space Launch Vehicles and ''Spacecraft,'' ''Spacecraft Buses,'' ''Spacecraft Payloads,'' ''Spacecraft'' On-board Systems or Equipment, and Terrestrial Equipment, as Follows (see List of Items Controlled).

License Requirements

* * * * *

License Requirements Note: *9A004.b through .f are controlled under ECCN 9A515.*

* * * * *

List of Items Controlled

Related Controls*** (3) See USML Categories IV for the space launch vehicles and XV for other spacecraft that are ''subject to the ITAR'' (see 22 CFR parts 120 through 130).

* * * * *

■ 12. In Supplement No. 1 to part 774, Category 9, ECCN 9A010 is amended by:
■ a. Revising the Heading; and
■ b. Adding a Related Controls Note to the List of Items Controlled Section, to read as follows:

9A010 ''Specially Designed'' ''Parts,'' ''Components,'' Systems and Structures, for Launch Vehicles, Launch Vehicle Propulsion Systems or ''Spacecraft''. (See Related Controls paragraph.)

List of Items Controlled

Related Controls: (1) See USML Category IV of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130) and ECCN 9A604 for paragraphs 9A010.a, .b and .d. (2) See USML Category XV of the ITAR and ECCN 9A515 for paragraph 9A010.c. (3) See Supplement No. 4 to part 774, Order of Review for guidance on the process for determining classification of items.

* * * * *

Dated: November 23, 2015.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2015–30253 Filed 12–2–15; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–1019]

Drawbridge Operation Regulation; English Kills, New York City, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Metropolitan Avenue Bridge across the English Kills, mile 3.4, at New York City, New York. This deviation is necessary to perform operating machinery installation. This deviation allows the bridge to remain in the closed position for approximately 3 days.

DATES: This deviation is effective from 6 a.m. on December 7, 2015 to 5 p.m. on December 10, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–1019] is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Ms. Judy K. Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 514–4330, email *judy.k.leung-yee@uscg.mil.*

SUPPLEMENTARY INFORMATION: New York City DOT requested this temporary deviation from the normal operating schedule to perform operating machinery installation.

The Metropolitan Avenue Bridge, mile 3.4, across the English Kills has a vertical clearance in the closed position of 10 feet at mean high water and 15 feet at mean low water. The existing bridge operating regulations are found at 33 CFR 117.801(e).

The waterway has one commercial facility located upstream of the bridge.

Under this temporary deviation, the Metropolitan Avenue Bridge may remain in the closed position from 6 a.m. on December 7, 2015 through 5 p.m. on December 10, 2015.

Vessels able to pass through the bridge in the closed positions may do so at any time. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessel to pass.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge 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: November 18, 2015.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2015–30587 Filed 12–2–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2012–0400; FRL–9939–47–Region 6]

Approval and Promulgation of Implementation Plans; New Mexico; Albuquerque-Bernalillo County; Infrastructure and Interstate Transport State Implementation Plan for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) submission from the Governor of New Mexico for the City of Albuquerque-Bernalillo County for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS). The submittal addresses how the existing SIP provides for implementation, maintenance, and enforcement of the 2008 Pb NAAQS (infrastructure SIP or i-SIP). This i-SIP ensures that the State's SIP for Albuquerque-Bernalillo County is adequate to meet the state's responsibilities under the Federal Clean Air Act (CAA or Act), including the four CAA requirements for interstate transport of Pb emissions.

DATES: This final rule is effective on January 4, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2012–0400. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Tracie Donaldson, 214–665–6633, *donaldson.tracie@epa.gov.*

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

I. Background

The background for this action is discussed in detail in our September 11,

2015, proposal (80 FR 54739). In that document, we proposed that the Albuquerque-Bernalillo County New Mexico i-SIP submittal for the 2008 Pb NAAQS met the requirements for an i-SIP, including the requirements for interstate transport of Pb emissions. This action is being taken under section 110 of the Act. We did not receive any comments regarding our proposed approval.

II. Final Action

We are approving the May 2, 2012, i-SIP submission from Albuquerque-Bernalillo County New Mexico, which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2008 Pb NAAQS. Specifically, we are approving the following infrastructure elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L) and (M). We are also approving the Albuquerque-Bernalillo County's demonstration that it meets the four statutory requirements for interstate transport of Pb emissions.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. 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 February 1, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: November 17, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart GG—New Mexico

■ 2. In § 52.1620(e), the second table entitled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP'' is amended by adding an entry at the end of the table to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
*	*	*	*	*
Infrastructure and Interstate Transport for the 2008 Pb NAAQS.	Albuquerque-Bernalillo County.	5/2/2012	12/3/2015, [insert **Federal Register** citation].	

[FR Doc. 2015–30541 Filed 12–2–15; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 80, No. 232
Thursday, December 3, 2015

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

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1408

[Docket No. CPSC–2015–0033]

Petition for Labeling Requirements Regarding Slip Resistance of Floor Coverings; Request for Comments

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of petition for rulemaking.

SUMMARY: The United States Consumer Product Safety Commission (''CPSC'' or ''Commission'') received a petition requesting that the Commission initiate rulemaking under the Consumer Product Safety Act (''CPSA'') to require that manufacturers of floor coverings, floor coverings with coatings, and treated floor coverings label their products' slip resistance in accordance with the applicable American National Standards Institute (''ANSI'') standard. The Commission invites written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by February 1, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2015–0033, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov*. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov*. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number, CPSC–2015–0033, into the ''Search'' box, and follow the prompts. A copy of the petition is available at *http://www.regulations.gov* under Docket No. CPSC–2015–0033, Supporting and Related Materials.

FOR FURTHER INFORMATION CONTACT: Todd Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–6833.

SUPPLEMENTARY INFORMATION: The Commission received a petition requesting that manufacturers of floor coverings, floor coverings with coatings, and treated floor coverings (herein abbreviated as ''floor coverings'') be required to label their products to provide point-of-sale information regarding such products' degree of slip resistance, in accordance with the labeling requirements of ANSI B101.5–2014.[1] Specifically, petitioner requests a rule that would require a label indicating the slip resistance (also known as ''coefficient of friction'' or ''COF'') for floor coverings based on tests described in ANSI B101.1 and B101.3. The required label would provide a graphic of a traction scale and indicate the COF value for the product.

The petition was filed by the National Floor Safety Institute. Petitioner notes that manufacturers of floor coverings currently are not required to provide consumers with information relating to slip resistance of their products. Petitioner asserts that because different types of floor coverings have pronounced differences in slip resistance, many flooring materials will be inappropriate for specific uses. Petitioner states that the primary focus of the petition is to protect the elderly, a population petitioner believes to be most vulnerable to the risk of slip and fall events. As an example, petitioner cites that in 2014, more than 23,000 elderly Americans died as a result of accidental falls. Furthermore, petitioner notes that the CDC stated that in 2013, the direct medical costs of older adult falls was approximately $34 billion.

Petitioner states that slip resistance labeling would be analogous to the requirements for labeling nutritional content in food, noting that labeling regarding flooring slip resistance would allow consumers to make more informed decisions when selecting a flooring product, enabling elderly consumers to select flooring that offers higher slip resistance, potentially reducing the risk of accidental slip and fall events.

By this notice, the Commission seeks comments concerning this petition. Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923. A copy of the petition is also available for viewing under ''Supporting and Related Materials'' in *www.regulations.gov,* under Docket No. CPSC–2015–0033.

Dated: November 25, 2015.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2015–30440 Filed 12–2–15; 8:45 am]

BILLING CODE 6355–01–P

[1] The petition does not apply to floor coatings, such as waxes, that are sold separately or to coverings such as carpets, rugs, mats, runners or artificial turf.

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 672

[Docket No. FTA–2015–0014]

RIN 2132–AB25

Public Transportation Safety Certification Training Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Federal Transit Administration (FTA) seeks public comment on a notice of proposed rulemaking (NPRM) for safety certification training. FTA proposes to adopt the current interim safety certification training provisions as the initial regulatory training requirements for public transportation industry personnel responsible for safety oversight of public transportation systems. The NPRM defines to whom the training requirements apply, describes recordkeeping requirements, provides administrative provisions, and compliance requirements.

DATES: Comments must be received by February 1, 2016. FTA will accept late-filed comments to the extent practicable.

ADDRESSES: Please submit your comments by only one of the following methods:

- *Online:* Use the Federal eRulemaking portal at *http://www.regulations.gov* and follow the instructions for submitting comments.
- *U.S. Mail:* Send your comments to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Go to Room W12–140 on the ground floor of the West Building, U.S. Department of Transportation headquarters, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern time, Monday through Friday except Federal holidays.
- *Telefax:* Send your comments to 202–493–2251.

Instructions: All comments must include the docket number for this rulemaking: FTA–2015–0014. Submit two copies of your comments if you submit them by mail. For confirmation that FTA received your comments, include a self-addressed, stamped postcard. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading under ''Supplementary Information,'' below, for Privacy Act information pertinent to any submitted comments or materials, and you may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477.

Docket Access: For access to background documents and comments received in the rulemaking docket, go to *http://www.regulations.gov* or to the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590 between 9:00 a.m. and 5:00 p.m., Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For program issues, contact Ruth Lyons, FTA, Office of Safety and Oversight, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 202–366–2233 or email: *Ruth.Lyons@dot.gov*). For legal issues, contact Bruce Walker, FTA, Office of Chief Counsel, same address, (telephone: 202–366–9109 or email: *Bruce.Walker@dot.gov*). Office hours are Monday through Friday from 8 a.m. to 6 p.m. (EST), except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

In the Moving Ahead for Progress in the 21st Century Act (MAP–21; Pub. L. 112–141, July 6, 2012), Congress directed FTA to establish a comprehensive Public Transportation Safety Program (codified at 49 U.S.C. 5329), one element of which is the Public Transportation Safety Certification Training Program (PTSCTP). The purpose of today's NPRM is to carry out the statutory mandate to provide a framework to enhance the technical proficiency of those directly responsible for safety oversight of public transportation systems.

This proposed rulemaking would incorporate the curriculum promulgated recently for the interim provisions for safety certification training (interim program) as the training requirements for the PTSCTP. The interim program curriculum and training requirements may be found in Section V of the **Federal Register** notice promulgating the interim program at: *https://www.federalregister.gov/articles/2015/02/27/2015-03842/interim-safety-certification-training-program-provisions.*

The NPRM provides a regulatory framework for safety certification training for personnel who are directly responsible for safety oversight of public transportation systems and the State personnel who conduct safety audits and examinations of rail transportation systems. Besides incorporating the interim program curriculum and training requirements, this proposal would: (1) Permit participants to request evaluation of non-FTA sponsored safety training for credit towards applicable PTSCTP requirements; (2) require designated personnel to complete a minimum of one hour of refresher safety training every two years as determined by his or her employer; (3) require recipients to maintain administrative records and ensure a participant's curriculum completion status is updated periodically; and (4) require SSOAs and recipients that operate rail fixed guideway systems not regulated by the Federal Railroad Administration (FRA) to annually certify compliance with the rule as a condition of receiving Chapter 53 funding.

Legal Authority

This rulemaking is issued under the authority of 49 U.S.C. 5329(c)(1) which requires the Secretary of Transportation to prescribe a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems, as well as employees of public transportation agencies directly responsible for safety oversight. The Secretary is authorized to issue regulations to carry out the general provisions of this statutory requirement pursuant to 49 U.S.C. 5329(f)(7).

Summary of Key Provisions

Similar to the interim program, the focus of the proposed rule would be on enhancing the technical proficiency of safety oversight professionals in the rail transit industry. To that end, this proposed rule would incorporate the curriculum set forth in Section V of the **Federal Register** notice promulgating the interim program. FTA may periodically update the curriculum following a period for public notice and comment. This approach is similar to that of the National Transit Database (NTD) rule at 49 CFR part 630 in which the Reporting Manuals set forth reporting requirements. FTA periodically updates the manuals with public notice and an opportunity for stakeholders to comment. FTA believes this proposal would provide for a consistent and stable curriculum as the public transportation industry acclimates to the requirement for safety oversight training.

The proposed rule would reflect the interim program in that mandatory participants would continue to be State Safety Oversight Agency (SSOA) personnel and contractors, and designated personnel of rail transit agencies not otherwise regulated by another Federal agency. Employees or contractors of entities providing safety

oversight of bus operations would be permitted to participate on a voluntary basis. Participants would continue to have three years to complete the initial requirements for the PTSCTP. Participation in the interim program would be credited towards meeting the initial three-year PTSCTP completion requirements. The three-year timeframe for new participants would commence upon their enrollment in the PTSCTP.

Another key proposal is the requirement for SSOAs and recipients that operate rail fixed guideway systems not regulated by the Federal Railroad Administration (FRA) to ensure its designated personnel are enrolled in the PTSCTP electronic database maintained by FTA and to monitor their participation towards completing applicable training requirements. In addition, SSOAs would be required to maintain administrative records of the participation of its designated personnel in applicable technical training as outlined in the SSOA's FTA-approved technical training plan.

Unlike the interim program, FTA is proposing a process for participants to request review of documented training obtained from sources other than FTA for credit towards the equivalent PTSCTP training. In addition, FTA is proposing that mandatory participants be required to undertake at least one hour of refresher training every two years on a safety subject determined by his or her employer. The timeframe for determining the two-year refresher training period would commence following completion of the initial PTSCTP.

Lastly, each SSOA and recipient that operates a rail fixed guideway system not regulated by the FRA would be required to certify compliance with the PTSCTP requirements as part of FTA's procedures for annual grant certification and assurances. Should FTA determine an SSOA or recipient is not in compliance with the PTSCTP, the Administrator would have discretion to withhold Chapter 53 funds following notice and an opportunity for the recipient to respond.

With this NPRM, FTA is seeking comment on its proposal to incorporate the interim program curriculum and technical training requirements as the initial training requirements for the PTSCTP. Additionally, FTA seeks comments of its proposed regulatory framework for the PTSCTP.

Costs and Benefits

As discussed in greater detail below, FTA reviewed data from the Transportation Safety Institute (TSI), the entity that provides substantial safety training to the transit industry, albeit on a voluntary basis. Using this data and our familiarity with how SSOAs are organized, we developed a maximum and minimum number of personnel, to include employees and contractors that would be affected by the PTSCTP. Next, using the same data from TSI, we determined the number of rail transit personnel that would be affected by the PTSCTP. We also reviewed the number of FTA personnel who participate in safety audits and examinations and determined the number of FTA personnel that would be required to undergo some level of training and certification. In developing annual costs for personnel that would attend the PTSCTP, we assumed a minimum and maximum case scenario.

For the minimum case, we assumed that all designated personnel under this program already had completed the Transit Safety and Security Program (TSSP) Certificate and would require only the safety management system (SMS) portion of the coursework described in Section IV of this notice. For the maximum case, we assumed that no one subject to the NPRM has a TSSP Certificate. In this case, all designated personnel would have to take and complete both the TSSP and SMS coursework over the allotted 3-year period. Using these assumptions, we estimate an approximate maximum cost of $2.6 million per year, of which up to 80 percent may be funded with FTA funds.

To assess the benefits for the PTSCTP, we considered how other transportation modes that are in the process of implementing SMS or similar systematic approaches to safety have estimated the benefits of their programs in reducing incidents, adverse outcomes, and improving the industry's safety culture. It is difficult to quantify the effects of a positive safety culture as a safety culture will develop over time. Characteristics of a positive safety culture include: Actively seeking out information on hazards; employee training; information exchanges; and understanding that responsibility for safety is shared. While the returns on investment in training should be fairly quick, establishing, promoting, and increasing safety, even in an industry that is very safe, is difficult to predict with any certainty. Consistent with other recent rulemakings issued by the Department on SMS, we conducted a breakeven analysis. As explained further in Section VI, for the State Safety Oversight (SSO) NPRM published in the **Federal Register** on February 27, 2015 at 80 FR 11002, FTA estimated that the SSO program revisions realistically would garner a 2 percent reduction in costs associated with fatalities and ''serious'' injuries. Based on the analysis for the, SSO NPRM, for the benefits to break even with the costs to both SSOs and rail transit agencies, the rule only would require a 1.23 percent reduction of the accident costs per year, which did not include potentially significant unquantified costs related to property damage and disruption. The SSO program is reliant on the PTSCTP for part of its safety improvements. While the SSO NPRM proposed to improve SSO and rail transit agency processes, the PTSCTP improves the requisite human capital within the SSO program by improving the training and by making mandatory training for those designated personnel charged with safety oversight at SSO and rail transit agencies.

II. Advance Notice of Proposed Rulemaking

On October 3, 2013, FTA issued an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on all aspects of FTA's safety authority, including the training program. (*See* 78 FR 61251, *http://www.gpo.gov/fdsys/pkg/FR-2013-10-03/pdf/2013-23921.pdf*).

In the ANPRM, FTA noted that there are discrete and different skill-sets required for those who perform safety audit and examination functions compared to those who are directly responsible for safety oversight. For example, at the Federal level, FTA's responsibilities include ensuring that SSOA personnel are properly trained and adequately resourced to regulate rail transit systems within their respective jurisdictions. At the State level, SSOA personnel are responsible for direct safety oversight of those rail transit systems under their jurisdiction. And on the local level, public transportation agency personnel are directly responsible for developing and implementing safety oversight within their respective agencies. Recognizing this distinction, FTA outlined its vision for the PTSCTP which included a wholly new FTA-sponsored training curriculum to enhance the technical proficiency of safety oversight professionals in the public transportation industry.

In the ANPRM, FTA noted that pursuant to 49 U.S.C. 5329(c)(2), it would promulgate an interim program for safety certification training prior to developing a proposed rule for the PTSCTP. On April 30, 2014, FTA published a **Federal Register** notice requesting comment on its proposed requirements for the interim program. A

number of the proposed requirements for the interim program were based in part, on recommendations provided by commenters on the ANPRM (*see* 79 FR 24363).

FTA evaluated comments received in response to the proposed interim program notice and promulgated the final interim program requirements in a **Federal Register** notice dated February 27, 2015, with an effective date of May 28, 2015 (*see* 80 FR 10619). Since the interim program was implemented only recently, FTA has not had sufficient opportunity to evaluate the effectiveness of the program, nor assess lessons learned. However, to implement the requirement of 49 U.S.C. 5329(c)(1) via a regulatory framework, FTA is proposing with this rule that the curriculum for the PTSCTP remain the same as that of the interim program.

Some comments on the ANPRM were outside the scope of the questions posed and, therefore, are not addressed in this notice. However, many of the comments and recommendations were instructive for developing both the interim program and this NPRM. What follows is a discussion of relevant ANPRM comments, development of the interim program requirements, and the regulatory framework proposed for the PTSCTP.

Question 48. In the ANPRM, FTA proposed organizing the training around a series of competencies and basic skills that Federal, State, and public transit agency safety oversight personnel need to perform their respective responsibilities. To that end, FTA proposed a wholly new FTA-sponsored safety training curriculum, provided a list of competencies and technical capabilities supported by the curriculum, and sought comment regarding what other safety-related competency areas or training outcomes should be identified for the PTSCTP.

Thirty commenters responded directly to the question or provided comments relative to the issue. A few commenters indicated that the FTA list sufficiently covered all safety-related competency areas. Several commenters identified safety-related competency areas for inclusion in the PTSCTP, such as: Incident investigation, emergency response, fundamental safety management concepts and processes, methods for the identification, assessment and evaluation of hazards, safety assurance methods, measurement and evaluation of safety management processes and mitigation strategies, National Incident Management System (NIMS) training, and Occupational Safety & Health Administration (OSHA) standards.

Some commenters suggested that FTA focus on developing a safety program that recognizes the six key functions of bus safety identified in the 2003 Memorandum of Understanding (MOU) signed by FTA and the Federal Motor Carrier Safety Administration (FMSCA). Those functions include management, operations and maintenance, human resources, safety activities, security activities, and emergency/all hazards management. A few commenters stated that FTA should develop clear and workable guidelines for safety certification training and accommodate the differing needs of small, medium and large agencies in those requirements.

Three commenters indicated that the PTSCTP called for in MAP–21 only applies to the SSO program and does not require specific training requirements for State Department of Transportation (State DOT) staff involved in managing federal funds. Two commenters stated that defining training outcomes and competency areas is not an appropriate role for FTA and should be left up to the determination of a transit agency and based on the scope, scale and complexity of fixed facilities, systems and operating environment. Commenters also suggested the following:

- Since a culture of safety already exists in rural transit, FTA should consider flexible, scalable approaches that use training programs that have a proven track record for driver training, vehicle maintenance, and drug and alcohol compliance;
- there needs to be a concerted effort to drill down on safety concerns that cause the greatest risk in cost and life and focus on improving those areas;
- the FTA Safety Certification Program requirement should allow FRA-regulated properties the flexibility to comply with FRA safety training regulations without requiring additional, redundant training and certification requirements.

FTA response: As discussed further in Section IV of this notice, FTA is undertaking this proposed rulemaking in accordance with the authority granted under 49 U.S.C. 5329(c)(1). FTA recognizes that one size will not fit all; therefore, the curriculum proposed for the PTSCTP is designed to be scalable and flexible, especially for State DOTs and the bus transit industry.

In response to the commenters who provided a list of safety-related competency areas for consideration, FTA notes that many of those competency areas are included in the current curriculum for the TSSP, which is a requirement for the interim program and a proposed requirement for the PTSCTP. However, FTA does not believe the initial requirements for the PTSCTP should include NIMS or OSHA training standards because a primary objective of the initial requirements is to promote a common framework for developing SMS principles across the industry.

The curriculum proposed for the PTSCTP would include a risk-based approach for analyzing and mitigating safety risks. It also would leverage existing FTA-sponsored training for all recipients including State DOTs, and both rural and urban bus transit providers. Accordingly, FTA concurs with the commenters who indicated that bus safety training should include the six key functions of bus safety as identified in the FTA/FMCSA MOU signed in 2003. FTA proposes to continue offering the Bus Safety program and other bus safety-related course offerings as a *voluntary* component of the PTSCTP.

FTA also concurs with the commenters who indicated that personnel who may be subject to both FRA and FTA training requirements should not be subject to redundant training. Accordingly, the PTSCTP would not apply to personnel of rail transit agencies subject to the jurisdiction of the Federal Railroad Administration (*e.g.,* commuter railroads).

FTA agrees that State DOT personnel involved in managing federal funds that are passed on to subrecipients are not likely to be charged with safety oversight responsibilities. But the State DOT is responsible for ensuring that subrecipients adhere to all applicable Federal requirements. We emphasize that this rule does not propose mandatory training requirements for State DOT personnel who perform safety oversight roles for non-rail public transportation systems.

Question 49. FTA next asked whether all of the competencies listed in the ANPRM are necessary for personnel with safety oversight responsibilities.

Twenty-nine commenters responded directly to the question or provided comments related to the issue. Several commenters agreed that the competencies identified in the ANPRM are necessary to craft a comprehensive safety training program that addresses the various hazards and threats faced by public transportation systems. A couple of these commenters added that the current FTA-sponsored training is not sufficient and transit agencies will need more than the current training programs

in order to successfully comply with new safety requirements.

Two commenters indicated that the competencies identified were unnecessary. One of the commenters stated the current program is overly broad and beyond the capacity of many small operators. The other commenter recommended that FTA utilize safety training offered through the American Public Transportation Association (APTA). Another commenter indicated that training should cover the four SMS principles and strategies for controlling risk. Several commenters indicated that the competencies required for a small, rural, bus-only agency are far different than those required in a large, urban, multi-modal agency. They noted that agencies with fewer risk factors should be allowed to work within standards appropriate to their risk profile. A few commenters stated they do not see a need for the rules to prescribe specific training requirements for State DOT staff involved in managing federal funds that are passed on to subrecipients. Other commenters suggested the following:

- Advanced SMS Principles for Rail Transit can probably be combined with Level 100 SMS Principles for Rail Transit, and Level 300 SMS Risk Control Strategies can probably be combined with Level 201 Advanced SMS Risk Management;
- public transportation agencies should determine which competencies are necessary for the scope, scale and complexity of their fixed facilities, systems and operating environments;
- many transit safety professionals already have the majority of the specific competencies listed. Emphasis may be placed on specific SMS areas where gaps exist based on the transit agency's safety risk analysis.

FTA response. A similar question was posed in the **Federal Register** notice for the interim program dated April 30, 2014. Commenters to both notices indicated that the existing FTA-sponsored training already includes many of the competencies FTA identified as necessary to implement a safety certification training program. Consequently, FTA reviewed the TSI curriculum and concurs that the courses for the TSSP Certificate sufficiently cover many of the competency areas that FTA identified; therefore, FTA will leverage the curriculum for the TSSP program instead of developing a wholly new curriculum for the PTSCTP.

As suggested by commenters however, FTA agrees that the existing TSSP curriculum should be revised to better reflect SMS principles. Accordingly, as noted in Section IV, the TSSP curriculum is being updated and FTA is proposing additional courses for the PTSCTP that focus on SMS principles. This approach aligns with FTA's adoption of the SMS framework to enhance safety while effectively leveraging a curriculum and training model familiar to the industry. FTA believes its approach to the interim program and the proposed implementation of the PTSCTP adequately addresses commenter's concerns regarding costs, scalability and flexibility for the transit industry.

Question 50. In the ANPRM, FTA did not propose a timeframe for safety oversight personnel to complete the safety certification training requirements. However, the following question was posed to obtain the industry's perspective on the issue: Should personnel be required to obtain certification prior to starting a position, or should they be given a specific timeframe to obtain safety certification after starting a position?

Forty-seven commenters responded directly to the question or provided comments relative to the question. Forty commenters indicated they do not believe personnel should be required to obtain certification prior to starting a position, and a new hire should be given a period of time to obtain necessary certifications. Many of the commenters noted that it would be more effective to attend required safety certification training concurrently with on-the-job training. Otherwise, it would limit the pool of qualified candidates for safety positions if personnel were required to obtain certification prior to starting a position. Commenters also noted that agencies should have the flexibility to customize training to address their unique safety concerns, size, and management structure. Further, commenters noted that currently it is difficult to recruit and hire safety professionals; therefore, requiring certification prior to starting a position would only increase the difficulty.

A few commenters stated that personnel should be required to obtain all safety certification prior to starting a position because lack of appropriate training could potentially put the public at risk. One commenter stated that both options should be available depending on the position occupied. For instance, at the director level and higher, an individual should have experience with the principles of SMS and program development. At lower levels, a certain amount of on-the-job training could be incorporated in an individual's development plan.

One commenter indicated that it would be costly to require a person to complete the training before a recipient could hire that person. Another commenter stated that both approaches have problems. The commenter noted that if an agency hires inexperienced people with no training and provides the training once aboard, the agency will have trained but inexperienced people. On the other hand, an employee needs to learn the details of the transit business which cannot be taught entirely in the classroom. The commenter noted that if a state agency hires only those that have the requisite training, the agency will have people with the minimum qualifications to do the job but may still require considerable on-the-job training in order to prepare them to actually perform the requirements of a regulator.

Lastly, a commenter stated that since there are no current certification requirements for bus transit, time to obtain the certification would be appropriate. The commenter also stated that personnel performing any specific function or task in a rail system should be certified before being allowed to independently perform in that capacity.

FTA response. The objective of safety certification training is to enhance the technical proficiency of those responsible for safety oversight of public transportation systems. FTA recognizes that in order for any proposed regulatory requirements to be implemented practically, issues of resource allocation and availability must be considered. To that end, FTA concurs with those commenters who indicated that it could be overly burdensome to limit the pool of available applicants to only those that have completed the proposed training requirements. For this reason, the interim program provides designated personnel three years from the date of the recipient's initial designation to complete the interim program requirements. FTA is proposing the same three-year timeframe to complete the initial PTSCTP requirements. FTA believes this approach adequately balances concerns with personnel training requirements and the recipient's resource management requirements.

Question 51. In the ANPRM, FTA did not propose a specific timeframe for how often safety oversight personnel should be required to undergo refresher training requirements. However, we did ask the following question to obtain the public's perspective on the needed frequency: How often should personnel be required to receive refresher training?

Forty-seven commenters responded directly to the question or provided comments relative to the issue. Several commenters indicated that personnel should be required to receive refresher training either every two or three years. Some commenters recommended refresher training every three to five years. A few commenters thought refresher training should be conducted annually. Two commenters stated that depending on the number of courses required and the length of the training curriculum, refresher training should occur somewhere between every one to five years.

A few commenters indicated that personnel should receive refresher training on an as-needed basis to keep them up-to-date on new safety standards and changes to existing safety standards. Some commenters suggested that the primary concern should be the quality, not the quantity or frequency of refresher training. In addition, commenters suggested the following:

- Frequency of training should be left to the discretion of the recipient;
- FTA should regularly convene those responsible for public transportation safety oversight at the Federal, State, and agency level to discuss safety critical risks. These discussions should focus on trends in public transportation safety risks, safety risk management practices and risk control strategies;
- the frequency of refresher training should be based on several factors, including, but not limited to the scope of job functions, frequency of application of the functions, and experience with the specific function for which the individual is responsible;
- frequency of refresher training is dependent on the employee's position and safety responsibilities;
- the question is premature and cannot be addressed until the final requirements are adopted and the number of professionals requiring training can be assessed;
- training standards and timing should evolve as the requirements are adopted and implemented. Overlaying refresher training requirements on an already strained training system would further slow training of new safety professionals.

FTA response. FTA is taking a comprehensive approach as it considers the safety training requirements proposed here, as well as those that will be proposed in other rules to implement the Public Transportation Safety Program authorized by 49 U.S.C. 5329. FTA recognizes that proposed training and refresher requirements should align and support the objectives of the SMS framework adopted by FTA. To that end, proposed training requirements will be driven by safety data in conjunction with safety trend analysis. FTA will periodically review safety data and trends which may indicate a need for FTA to revise refresher training requirements. However, any revisions will be subject to notice and comment prior to becoming effective.

FTA agrees with the commenters who indicated that refresher training should occur every two years following the initial three-year timeframe for completing safety certification training requirements. Since any refresher training should be relevant to a recipient's specific circumstances, the recipient will be in the best position to determine the subject matter and timeframe that should be allotted for refresher training. However, FTA believes that at minimum, one hour of refresher training every two years should be required. The minimum requirement of one hour of biannual refresher training strikes an appropriate balance that reinforces safety oversight training while recognizing that each recipient can best determine refresher training that is appropriate for its safety oversight personnel.

Questions 52 and 53. In the ANPRM, FTA posed a series of questions to assist with identifying the universe of potential personnel that may be subject to the PTSCPT requirements. Question 52 sought to identify which *transit agency positions* are directly responsible for safety oversight. Question 53 sought to identify specific *operations personnel* who are directly responsible for safety, their duties, and the training they receive. The questions, as phrased in the ANPRM, did not clearly reflect this functional distinction; however, responses from many of the commenters indicated an awareness of the distinction. The point is noted here because both the interim program and this NPRM would apply only to transit personnel with direct safety *oversight* responsibilities (emphasis added) as distinguished from operations personnel who are responsible for safety (oversight omitted). FTA's proposed approach to the training requirements for operations personnel who are responsible for safety will be included in the NPRM for the Public Transportation Agency Safety Plan to be issued pursuant to 49 U.S.C. 5329(d).

Twenty-eight commenters responded to the question of which transit agency positions are directly responsible for safety oversight. Several commenters listed various transit agency positions as being directly responsible for safety oversight including: The entire System Safety Department and the divisions under it; agency leadership, operations managers, supervisors, and safety staff; the Director of Safety, the Risk Management Department and various safety departments and trainers that are contractor specific; Safety Managers; Bus and Rail Managers; the responsible Executive; Safety Operations Manager; and Safety Administrators (Bus, Rail).

Some commenters noted that in their organizations every employee has a responsibility for safety. A number of the commenters also noted that overall authority and responsibility was vested in a number of individuals, including the General Manager/Transit Director, Chief Operating Officer/Operations Manager, Facilities Managers, Maintenance Manager, and the Chief Safety Officer and staff. A few commenters stated that FTA already has a process for identifying safety-sensitive personnel subject to its Drug and Alcohol Testing program requirements and recommended that FTA adopt a similar process to identify those subject to the safety rules. Two commenters noted that this decision should be at the discretion of the transit agency as some agencies, because of size, may have a person serving as the safety person in addition to other duties. Two other commenters stated that it varies depending on the size of the agency and the position should be identified by the transit agency General Manager.

With regard to the series of questions about operations personnel, thirty-one commenters responded. Many of the comments were similar to responses to the question above; however, a number of commenters specifically addressed operations personnel. These commenters identified widely varied and diverse operations positions that are directly responsible for safety oversight to include: Operations Supervisors, Department Managers/Supervisors, Safety Department personnel/Safety Managers/Director of Safety, Safety/Training Officer, all supervisory and management personnel, Chief Operating Officer, Operations Managers, Maintenance Directors, and Transportation Safety Specialist.

Comments regarding the duties of operations positions were just as varied and diverse. Duty descriptions included, but were not limited to, contract management, research, development, implementation and maintenance of programs and procedures, policy development, observations, inspections, audits, investigations and liaison. One commenter stated that Bus and Rail Transit Operations Supervisors are

directly responsible for overseeing the operational safety of the agency by conducting efficiency tests, rules compliance line rides, post-accident line rides, accident investigations, verifying compliance with Roadway Worker Protection (RWP) requirements, and investigating reported hazards. Commenters noted that the Operations Supervisors are trained in all of the above either by internal staff or by attending courses offered by TSI.

One commenter stated that all operations managers and supervisors are directly responsible for safety oversight and their duties vary, but include development, implementation, training and enforcement of policies/procedures; inspection and observation; hazard management; tool box safety meetings; and assuring compliance with all local, state and federal regulations governing the safe operation of vehicles.

Responses to the question of training received by operations personnel also varied but TSI and OSHA training were mentioned most frequently. A number of commenters indicated that they have received training such as university level safety training courses, fundamentals of bus collision investigation, fatigue and sleep apnea awareness for transit employees, transit industrial safety management, and transit rail incident investigation.

FTA response. The responses to both questions clearly indicate the universe of transit agency personnel responsible for safety oversight, and operations personnel responsible for safety vary among transit agencies. As discussed further in Section V of this notice, FTA believes that each recipient, with guidance from FTA, is better situated to determine which of its personnel are directly responsible for safety oversight. As noted earlier, training requirements for operations personnel will be addressed in the rulemaking for the Public Transportation Agency Safety Plan.

Question 54. FTA asked whether members of a transit agency board of directors or other equivalent entity currently receive any type of safety or risk management training; if so, what does the training cover?

Thirty commenters responded, with twenty-three stating that their Boards or the equivalent do not receive safety/risk management training. In general, several commenters noted that Boards should not be required to receive this type of training. A few commenters indicated that Boards receive some type of training, ranging from informal or familiarization training to training provided by insurance companies or executive staff.

One commenter stated that the Board's involvement with safety/risk issues is at a policy level while two other commenters indicated that the General Manager is responsible for ensuring that board members, or their equivalents, understand the safety culture of the agency. Two commenters stated that the Board receives informal safety training. One of these commenters noted that this training is a part of their service on a Subcommittee for Safety and another responded that the Board is instructed on the definitions related to safety reporting and how to interpret safety data to improve their understanding of the monthly safety data presented to them.

One commenter responded that when members first come onto the Board they are provided familiarization training on FTA safety requirements under 49 CFR part 659. Another commenter noted that board members might receive this training through an agency's insurance company. Another noted that their agency is currently writing a new safety plan that incorporates SMS principles; since the Board of Directors will be required to review and approve the plan they will receive a presentation that will explain SMS principles and processes, including risk management.

FTA response. The information provided by the commenters to this question will be reviewed as FTA considers appropriate methods to increase SMS awareness for the Board of Directors or those with equivalent executive oversight functions.

Question 55. FTA asked questions about the availability of industry training specifically for personnel with transit safety oversight responsibility; the effectiveness and accessibility of such training; and what other types of training oversight personnel need but that may not be readily available to them.

Twenty-nine commenters responded to this question. Several commenters listed the various training that safety oversight personnel currently receive, with the common thread being federally-sponsored training programs offered by the National Transit Institute (NTI), the National Transportation Safety Board, the National Safety Council, TSI, and OSHA. Some commenters responded that most of their training was developed and/or provided in-house or through on-the-job training. A few commenters noted the availability of the following training for bus small urban and rural operators: Community Transportation Association of America's Certified Safety and Security Officer Training Program and FTA's Bus Safety Program Orientation Seminar. One commenter noted that Colorado has a robust program offering two full-day safety-related training sessions at their spring and fall transit conferences. Two commenters mentioned classes conducted by local safety personnel such as police, fire, sheriffs, emergency management organizations, and the risk manager.

Commenters noted that the effectiveness of the training is evaluated using the following methods: Internal safety audits; facility safety inspections; on the job evaluations by departmental managers, the General Manager, insurance pool staff, or State DOT staff; ride checks; efficiency tests; and SSO triennial audits. In addition, one commenter noted that regulatory audits and written tests are used to measure training effectiveness.

Comments on the types of training that oversight personnel need but is not readily available included SMS training, risk assessment training, reactive training programs that address changes to strategic safety philosophy, and tactical issue-specific initiatives. A few commenters recommended that FTA develop this training specifically for the public transportation industry.

FTA response. The comments indicate the availability of an array of relevant safety training for safety oversight professionals. As noted in Section V of this notice, the comments support FTA's proposal to develop a process to evaluate safety training obtained from other competent organizations for credit towards PTSCTP requirements.

III. Overview of the Proposed Rule

FTA considered the recommendations submitted by commenters on the ANPRM while developing both the interim program and this proposed rule. Many of those recommendations are reflected in the requirements proposed for this rule.

To implement this rule, FTA proposes to leverage the interim program training requirements as the foundation for the PTSCTP. FTA recognizes that the interim program was implemented only recently; therefore, a reasonable period of time should pass to allow FTA to assess its effectiveness before proposing new or additional requirements. The interim program curriculum and technical training requirements are republished in Section IV of this notice for clarity. FTA invites public comment on its proposed implementation of the PTSCTP as noted herein.

As with the interim program, FTA proposes the initial focus of the PTSCTP will be on enhancing the technical proficiency of safety oversight professionals in the rail transit industry.

In addition, public transportation safety is a priority for all public transit providers; therefore, safety oversight professionals of other modes of public transportation are encouraged to participate voluntarily. The initial *mandatory* PTSCTP requirements would provide SMS training for Federal and SSOA personnel and their contractor support, as well as rail transit agency personnel who are directly responsible for safety oversight of rail transit systems. Safety oversight personnel of recipients such as State DOTs and bus transit providers would continue as *voluntary* participants. FTA believes this initial approach of mandatory training for SSOAs and rail transit agencies, and voluntary training for bus only systems, allows for optimum utilization of Federal and local resources while providing flexibility to revise the training requirements as appropriate. However, FTA notes that pursuant to 49 U.S.C. 5329(c)(1), it has discretion to promulgate mandatory training requirements for all public transportation systems—not just rail.

In response to commenters who recommended that the PTSCTP program requirements be flexible and scalable and take into consideration the varying needs and sizes of different public transit agencies, FTA notes that the PTSCTP's mandatory training would apply only to SSOAs and rail transit agencies with minimum training requirements necessary to enhance technical proficiency. State DOT and bus transit personnel would be voluntary participants. Further, FTA recognizes the value of leveraging its published safety toolkits, best practices guides, and providing technical assistance as the PTSCTP is implemented. Therefore, before FTA would propose new training requirements, existing FTA-sponsored training would be reviewed for applicability and scalability relative to the diverse universe of public transit providers.

FTA also proposes flexibility with regard to how personnel would be identified as participants for the PTSCTP. FTA agrees with commenters who indicated the recipient should have discretion to identify which of its personnel perform safety oversight functions. Comments to the ANPRM indicated that position titles and functions in the public transportation industry are not universal. In general, it would be impractical for FTA to identify the specific positions or titles of those directly responsible for safety oversight or those who conduct audits and examinations. Therefore, the proposed rule includes definitions for the terms ''*directly responsible for safety oversight,*'' ''*safety audits,*'' and ''*safety examinations*'' in order to assist public transit agencies with identifying personnel who will need to complete the training.

FTA is proposing flexibility with developing the curriculum for the PTSCTP. Specifically, FTA would use a process similar to that used to identify National Transit Database (NTD) reporting requirements under 49 CFR part 630. To illustrate, FTA periodically publishes revisions to the NTD Reporting Manuals (defined in part 630 as *reference documents*) following notice and comment. For the PTSCTP, FTA would issue and update the training requirements for the PTSCTP in a similar manner. After FTA issues a final PTSCTP rule, FTA would periodically review the training requirements to determine if any modifications should be made to improve the effectiveness of the program. If warranted, revised requirements would be published in the **Federal Register** for notice and comment before taking effect. The requirements then would be made available via the FTA Web site as the *reference document* noted in sections 672.5, 672.11 and 672.13 of the proposed regulatory text. The flexibility of this process would align with FTA's periodic review of safety data and trends to determine if the *reference document* warrants revisions. FTA believes this proposed approach provides the public transportation industry with predictable training requirements yet allows flexibility to respond to emerging safety trends within a reasonable timeframe.

The proposed PTSCTP is also flexible with regard to its application. FTA is not proposing that a recipient only can hire personnel that have completed the initial training requirements. As suggested by a number of commenters, FTA proposes that personnel would have three years from the date the recipient identifies him or her as designated personnel to complete the initial requirements. FTA believes this measured approach promotes the legislative intent of enhancing the technical proficiency of safety oversight personnel while recognizing the recipient's need to prudently manage its human capital and resources.

Additionally, FTA agrees with commenters who indicated that refresher training should occur every two years following the initial three-year timeframe for completing safety certification training requirements. Topics for refresher training would be at the discretion of the SSOA or rail transit agency, but would likely align with the training requirements to be proposed for the Public Transportation Agency Safety Plan. Refresher training would likely place greater emphasis on advanced areas or topics that often lead to accidents, injuries, or non-compliance. This process would allow both FTA and the public transportation industry to analyze safety data and identify risks before recommending risk mitigation strategies. FTA believes a two-year refresher cycle following the initial three-year training period reasonably permits designated personnel to train on relevant safety issues while not significantly impacting operations.

Although each SSOA and rail transit agency would have discretion with regard to the subject matter for refresher training, the proposed rule would require designated personnel to participate in at least one hour of refresher training. FTA emphasizes that this proposal would provide the SSOAs and rail transit agencies with discretion to require more than one hour of refresher training based on the specific safety oversight training needs of the SSOA or rail transit agency.

FTA also agrees with those ANPRM commenters who indicated that FTA should recognize relevant safety training and certification that designated personnel already have obtained. To that end, FTA is proposing to allow designated personnel to have their previous training evaluated by FTA to determine if the training competencies are equivalent to the competencies of the curriculum proposed for the PTSCTP. FTA would have the discretion to determine whether specific PTSCTP training requirements should be waived for the designated personnel.

FTA believes the regulatory construct described above balances flexibility and scalability for recipients while achieving the objective of enhancing the technical proficiency of public transportation personnel. FTA invites public comment on the flexible and scalable approach proposed to implement the PTSCTP.

IV. Interim Program Curriculum and Technical Training Requirements

FTA is providing the following requirements of the interim program here to assist stakeholders with understanding the curriculum and requirements proposed for this rule. As stated previously, FTA adopted these requirements through a notice and comment process and is not seeking comments on the requirements themselves. FTA believes the curriculum and technical training requirements developed for the interim

program provide a sufficient baseline for enhancing the technical competency of those directly responsible for safety oversight. However, since these requirements only became effective in May of this year, FTA is interested in receiving comments on the effectiveness of the curriculum and technical training requirements noted herein.

For purposes of consistency, FTA has changed ''covered personnel'' to ''designated personnel'' as that is the term proposed for use in the rule. All other text is the same as that published in the February 27, 2015, **Federal Register** notice (80 FR 10619), available at *http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-03842.pdf.*

A. Required Curriculum Over a Three-Year Period

- *FTA/SSOA personnel and contractor support, and rail transit agency personnel with direct responsibility for safety oversight of rail transit systems not subject to FRA regulation:*
  - One (1) hour course on SMS Awareness—e-learning delivery (all required participants)
  - Two (2) hour course on Safety Assurance—e-learning delivery (all required participants)
  - Two (2) hour SMS Gap course (e-learning for existing TSSP Certificate holders)
  - SMS Principles for Rail Transit (2 days—all required participants)
  - SMS Principles for SSO Programs (2 days—FTA/SSOA/contractor support personnel only)
  - Revised TSSP with SMS Principles Integration (not required of current TSSP Certificate holders—17.5 days for all other designated personnel)
  - Rail System Safety
  - Effectively Managing Transit Emergencies
  - Transit System Security
  - Rail Incident Investigation
- *FTA/SSOA/contractor support personnel* (*technical training component*):

Each SSOA shall develop a technical training plan for designated personnel and contractor support personnel who perform safety audits and examinations. The SSOA will submit its proposed technical training plan to FTA for review and evaluation as part of the SSOA certification program in accordance with 49 U.S.C. 5329(e)(7). This review and approval process will support the consultation required between FTA and SSOAs regarding the staffing and qualification of the SSOAs' employees and other designated personnel in accordance with 49 U.S.C. 5329(e)(3)(D).

Recognizing that each rail fixed guideway public transportation system has unique characteristics, each SSOA will identify the tasks related to inspections, examinations, and audits, and all activities requiring sign-off, which must be performed by the SSOA to carry out its safety oversight requirements, and identify the skills and knowledge necessary to perform each task at that system. At a minimum, the technical training plan will describe the process for receiving technical training from the rail transit agencies in the following competency areas appropriate to the specific rail fixed guideway system(s) for which safety audits and examinations are conducted:

- Agency organizational structure
- System Safety Program Plan and Security Program Plan
- Knowledge of agency:
  - Territory and revenue service schedules
  - Current bulletins, general orders, and other associated directives that ensure safe operations
  - Operations and maintenance rule books
  - Safety rules
  - Standard Operating Procedures
  - Roadway Worker Protection
  - Employee Hours of Service and Fatigue Management program
  - Employee Observation and Testing Program (Efficiency Testing)
  - Employee training and certification requirements
  - Vehicle inspection and maintenance programs, schedules and records
  - Track inspection and maintenance programs, schedules and records
  - Tunnels, bridges, and other structures inspection and maintenance programs, schedules and records
  - Traction power (substation, overhead catenary system, and third rail), load dispatching, inspection and maintenance programs, schedules and records
  - Signal and train control inspection and maintenance programs, schedules and records

The SSOA will determine the length of time for the technical training based on the skill level of the designated personnel relative to the applicable rail transit agency(s). FTA will provide a template on its Web site to assist the SSOA with preparing and monitoring its technical training plan and will provide technical assistance as requested. Each SSOA technical training plan that is submitted to FTA for review will:

- Require designated personnel to successfully:
  - Complete training that covers the skills and knowledge the designated personnel will need to effectively perform his or her tasks.
  - Pass a written and/or oral examination covering the skills and knowledge required for the designated personnel to effectively perform his or her tasks.
  - Demonstrate hands-on capability to perform his or her tasks to the satisfaction of the appropriate SSOA supervisor or designated instructor.
- Establish equivalencies or written and oral examinations to allow designated personnel to demonstrate that they possess the skill and qualification required to perform their tasks.
- Require biennial refresher training to maintain technical skills and abilities which includes classroom and hands-on training, as well as testing. Observation and evaluation of actual performance of duties may be used to meet the hands-on portion of this requirement, provided that such testing is documented.
- Require that training records be maintained to demonstrate the current qualification status of designated personnel assigned to carry out the oversight program. Records may be maintained either electronically or in writing and must be provided to FTA upon request.
- Records must include the following information concerning each designated personnel:
  - Name;
  - The title and date each training course was completed and the proficiency test score(s) where applicable;
  - The content of each training course successfully completed;
  - A description of the designated personnel's hands-on performance applying the skills and knowledge required to perform the tasks that the employee will be responsible for performing and the factual basis supporting the determination;
  - The tasks the designated personnel is deemed qualified to perform; and
  - Provide the date that the designated personnel's status as qualified to perform the tasks expires, and the date in which biennial refresher training is due.
- Ensure the qualification of contractors performing oversight activities. SSOAs may use demonstrations, previous training and education, and written and oral examinations to determine if contractors possess the skill and qualification required to perform their tasks.
- Periodically assess the effectiveness of the technical training. One method of

validation and assessment could be through the use of efficiency tests or periodic review of employee performance.

B. Voluntary Curriculum

- *Bus transit system personnel with direct safety oversight responsibility and State DOTs overseeing safety programs for subrecipients*
  - FTA-sponsored Bus Safety Programs
  - One (1) hour course on SMS Awareness—e-learning delivery
  - SMS for Bus Operations
  - TSSP Certificate (Bus)

V. Section-by-Section Analysis

This section explains the requirements proposed to implement the Public Transportation Safety Certification Training Program in accordance with 49 U.S.C. 5329(c)(1).

Section 672.1 Purpose

This part proposes to implement 49 U.S.C. 5329(c)(1) by establishing a uniform curriculum of safety certification training to enhance the technical proficiency of individuals who are directly responsible for safety oversight of public transportation systems not subject to the safety oversight requirements of another Federal agency. This part would not preempt a State from implementing its own safety certification training requirements for public transportation systems subject to its jurisdiction.

Section 672.3 Scope and Applicability

In general, the proposed rule would apply to all recipients of Federal public transportation funding under Chapter 53 of Title 49 of the United States Code. However, the mandatory requirements would apply specifically to SSOA personnel and their contractor support who conduct safety audits and examinations. In addition, the mandatory requirements would apply to rail transit agency personnel who are directly responsible for safety oversight of rail transit systems that are not subject to the requirements of FRA. All other recipients of Chapter 53 funding would have discretion to participate voluntarily in the training requirements proposed for the PTSCTP.

Section 672.5 Definitions

This section would set forth the definitions of some key terms for the proposed rule. Although this would be a new rule, many of the terms used for this section will carry the same or similar meaning as the terms are used in other documents issued by FTA. Specifically, they are ''Administrator,'' ''Contractor,'' ''FTA,'' ''Recipient,'' ''Public Transportation Agency,'' ''Rail Fixed Guideway System,'' ''State,'' and ''State Safety Oversight Agency.''

In addition, there are some new terms proposed for this rulemaking with definitions that are consistent with the common sense use as they appear in the proposed rule text. They are: ''Designated Personnel,'' ''Directly Responsible for Safety Oversight,'' ''Reference Documents,'' ''Safety Audits,'' and ''Safety Examinations.''

Section 672.11 Designated Personnel Who Conduct Safety Audits and Examinations

With paragraph (a) of this section, FTA is proposing that the State entity authorized by the Governor to perform public transportation safety oversight functions should identify its personnel who conduct safety audits and examinations of the public transportation systems for mandatory participation in training requirements of this part. In general, those identified would be SSOA personnel and the contractor support whose functions include on-site safety audits and examinations of rail public transportation systems. This section also would apply to the managers and supervisors who have direct authority over such personnel. FTA is proposing this approach because each SSOA is better situated to determine which of its personnel and contractors perform safety audit and examination functions as those terms are proposed in the Definitions section for this rule.

Paragraph (b) proposes that personnel designated by the SSOA would have three years to complete the applicable training noted in the Reference Document as the term is defined in proposed section 672.5. To implement this rule, the interim program training requirements listed in Section IV of this notice would be listed in the Reference Document. Paragraph (b) also would require the SSOA to ensure that designated personnel complete at least one-hour of refresher training every two years after the initial three-year period above. The SSOA would have discretion to determine the subject area and time for such training. Paragraph (c) would identify the FTA web address for locating the current version of the safety certification training requirements.

Section 672.13 Designated Personnel of Public Transportation Agencies

This section would require a recipient to identify its employees whose job function is ''directly responsible for safety oversight'' of the public transportation system. FTA understands that the unique organizational framework of public transit systems does not reasonably allow for uniform designation of the same position or function as being ''directly responsible for safety oversight.'' FTA believes each transit agency is better situated to determine which of its personnel should be designated for participation in the PTSCTP, whether mandatory or voluntary.

Paragraph (a) would require each recipient that operates a rail transit system not subject to FRA requirements to identify its designated personnel for mandatory participation in the PTSCTP. Paragraph (b) would allow recipients of other modes of public transportation with personnel who are directly responsible for safety oversight to participate voluntarily. In general, these recipients would be State DOTs, transit agencies with both bus and rail transit systems, as well as bus only systems. These recipients would have discretion to scale their training requirements based on their safety risks, as well as guidance issued by FTA. FTA would continue to provide technical assistance for training through its Safety Training and Resource Web site which can be located at: *https://safety.fta.dot.gov/*.

Paragraph (c) would provide mandatory participants up to three years from the time of his or her initial designation to complete the initial training requirements. The recipient would then ensure that each mandatory participant completes at least one-hour of refresher training every two years thereafter. However, the recipient may require additional time for such training. As noted in paragraph (d), the FTA web address for locating the current version of the safety certification training requirements is identified.

627.15 Evaluation of Prior Certification and Training

FTA recognizes the existence of other competent organizations that provide relevant safety training and certification for public transportation safety professionals. Therefore, paragraph (a) of this section would allow a participant to request that FTA review other non-FTA sponsored safety training the participant has completed for the purpose of receiving credit toward equivalent elements of PTSCTP training requirements.

Paragraph (b) would require the participant to provide official documentation from the organization that conducted the training for which credit is being requested. The documentation should indicate the date(s) and subject matter of the completed training. In addition, the

participant would be required to provide a narrative summary of the training objectives and the competencies obtained through that training.

In accordance with paragraph (c), FTA would evaluate the submission to determine if the previously completed safety training conforms to the training objectives and competencies of the FTA curriculum. If approved, FTA would provide the participant credit for the previous training and waive completion of the equivalent element of the PTSCTP requirement. However, the waiver would not exempt a participant from having to comply with any applicable refresher training or technical training requirements.

Section 672.21 Records

An essential requirement of any training program is the maintenance of adequate records to document that the training was completed. To that end, as noted in paragraph (a), FTA proposes to maintain an electronic record of each PTSCTP participant. The electronic record would be created when the participant registers online for the program at: *https://safety.fta.dot.gov/.*

FTA would maintain and administer the online database; however, paragraph (b) would require that each recipient be responsible for ensuring that its designated personnel are properly registered and completing the curriculum for their position (*e.g.,* safety oversight function, or conducting safety audits and examinations). The database would allow participants to update his or her status as training requirements are completed.

Paragraph (c) would require each SSOA develop a technical training plan based on applicable requirements identified in the technical training component of Section IV of this notice. Each SSOA would maintain training records that document the technical training undertaken by its designated personnel and contractors who conduct audits and examinations of rail transit systems under its jurisdiction. This documentation would be retained by the SSOA for at least five years from the date the record is created. This documentation process would assist the SSOA in complying with the requirements of 49 U.S.C. 5329(e)(3)(E), as it would provide supporting documents that show designated SSOA personnel and contractor support are have received training to perform requisite safety oversight functions. As with the interim program, FTA would provide templates and guidance to assist the SSOA with this process.

With regard to contractors that provide audit and examination services to SSOAs, the SSOA would be responsible for ensuring that any contractor it engages to perform a safety oversight function is qualified to perform the service as contracted. Therefore, it is reasonable for the SSOA, working with its contractor, to maintain training records of those providing contract services.

Section 672.23 Availability of Records

With this section, FTA is proposing requirements for the safekeeping and limited release of information maintained in accordance with the proposed requirements of this part. Paragraph (a) would require that information maintained in applicable training records not be released without the consent of the participant for whom the record is maintained, except in those limited instances as prescribed by law or as indicated in paragraphs (b), (c) and (d).

Paragraph (b) would allow a participant to receive a copy of his or her training records without cost to the participant. To assist with safety oversight activities, paragraph (c) would require a recipient to provide appropriate Federal and SSOA personnel access to all of the recipient's facilities where required training is conducted. In addition, the recipient would be required to grant access to all training records required to be maintained by this part to appropriate Department of Transportation personnel and appropriate State officials who are responsible for safety oversight of public transportation systems. Paragraph (d) would require a recipient to provide information regarding a participant's training when requested by the National Transportation Safety Board when such request is made as part of an accident investigation.

Section 672.31 Requirement To Certify Compliance

Recipients are required to annually certify their compliance with Federal grant requirements as a condition for receiving funding. Paragraph (a) would require recipients for whom the training requirements are mandatory to self-certify compliance with this part through the annual FTA certification and assurances. Paragraph (b) would require the recipient to identify the person(s) within its organization authorized to certify the status of the recipient's compliance.

Section 672.33 Compliance as a Condition of Financial Assistance

This section would define actions available to the Administrator if a recipient for whom the training requirements are mandatory does not comply with the requirements of this part. Paragraph (a) would indicate that the Administrator has discretion to withhold Federal public transportation funds should the Administrator find that a recipient is not complying with the requirements of this part. Paragraph (b) would provide the recipient with written notice of the Administrator's decision and the factual basis for the Administrator's finding of noncompliance. Paragraph (c) would provide the recipient an opportunity to respond to the Administrator within 30 days of receiving written notice of the finding of noncompliance. Paragraph (d) provides actions the Administrator may undertake at his or her discretion.

VI. Cost-Benefit Analysis

Section 5329(h) of title 49, United States Code requires FTA to ''take into consideration the costs and benefits of each action the Secretary proposes to take'' under section 5329. To assess the costs for the PTSCTP, we first reviewed data from the Transportation Safety Institute (TSI). Using this data and our familiarity with how SSOAs are organized, we developed a maximum and minimum number of personnel, to include employees and contractors that would be affected by the PTSCTP. Next, using the same data from TSI, we determined the number of rail transit personnel that would be affected by the PTSCTP. We also reviewed the number of FTA personnel who participate in safety audits and examinations and determined the number of FTA personnel that would be required to undergo the some level of training and certification. In developing annual costs for personnel that would attend the PTSCTP, we assumed a minimum and maximum case scenario.

For the minimum case, we assumed that all designated personnel under this program had already completed the TSSP Certificate Program and would require only the SMS portion of the coursework described in Section IV of this notice. This assumption is supported given the popularity of the TSSP Certificate Program within the industry. This assumption is supported further by the level of voluntary participation by transit industry personnel obtained from current graduation/attendance data at TSI. For the maximum case, we assume that no one subject to the NPRM has a TSSP

Certificate. In this case, all designated personnel would have to take and complete both the TSSP and SMS coursework over the allotted 3-year period. The table below shows the estimated counts used in our analysis.

To simplify the analysis, we assumed that the total designated personnel under this NPRM would undertake one-third of the total coursework each year. While affected employees will have three years to complete the coursework—it would be unreasonable to expect an employee to be away from a duty station for training purposes for over four consecutive weeks. As noted in the comments received on the ANPRM, many commenters suggested that we harness the existing voluntary training offered by TSI and build upon that base.

ESTIMATED UNIVERSE OF POTENTIAL SSOA, RAIL TRANSIT AGENCY, AND FTA PERSONNEL

	Minimum	Maximum
SSOA Personnel	70	120
Rail Transit Agency Personnel	200	340
FTA Personnel	40	40
Total	310	500

Next, we determined the training, by course, that would be required of each person within the scope of the PTSCTP. The TSSP Certificate Program consists of four courses.[1] The Table below lists the courses and duration.

TSSP COURSEWORK REQUIRED

[Completed within a 3-year period]

TSSP courses	Days
Rail Safety	4.5
Rail Incident Investigation	4.5
Rail Security	4.5
Managing Emergencies	4
Total	17.5

The SMS Coursework consists of two courses and three online training sessions. While SSO personnel will be required to take 5.125 days of total training, rail transit agency personnel will not be required to take the two-day SMS Principles Course. However, we assume here that all rail transit agency personnel will take all 5.125 days. This approach is conservative and potentially over counts the total costs by about $65–110,000.00 per year but does not complicate this analysis. The Table below lists the courses and duration.

SMS COURSEWORK—IN-CLASS AND ONLINE REQUIRED

[Completed within a 3-year period]

SMS courses	Days
SMS Awareness	0.125
Safety Assurance	0.25
SMS Gap	0.25
SMS Principles Rail Transit	2.5
SMS Principles SSO Programs	2
Total	5.125

Using the 2013 Bureau of Labor Statistics (BLS) average wage rate of $40.84 for those taking training under this program, we developed the following Lower Bound and Upper Bound costs for attendance as depicted in the table below.

COSTS FOR ATTENDANCE OF SSOA, RAIL TRANSIT AGENCY, AND FTA PERSONNEL WITHIN A 3-YEAR PERIOD

	Number of personnel	Hourly rate	Training time (days)	Attendance costs
Lower Bound Mandatory Costs/Yr	310	$40.84	5.125	$172,467.32
Upper Bound Mandatory Costs/Yr	500	40.84	22.625	1,234,470.68

Next, we developed costs associated with developing, managing, and administering the coursework for the PTSCTP. First, we reviewed the course catalog for TSI and determined the percentage of courses required by the PTSCTP of the total courses offered—a little more than one-fourth (six courses plus three online courses out of 21 total courses or about 28 percent) of the total course offerings would be required of the combined TSSP/SMS training under this NPRM. Furthermore, of the total days of coursework offered by TSI, 30 percent were attributable to the TSSP/SMS coursework. To be conservative, we used 30 percent for weighting for unattributable costs and allocated full costs where we were able to identify cost resulting from the TSSP and/or SMS training components. Using data from FTA's budget for TSI, the cost for the administration of courses, contract costs, and costs for the development of new coursework we developed the program costs. We factored no facility costs as regional transit agencies or FTA Regional Offices host courses. Hence, we also do not account for travel costs because courses are hosted locally—travel for those attending would be included within normal commuting parameters. Lastly, there is no cost associated with taking the coursework for public agency employees. Using this information, we developed the costs presented in the following table.

TSI PROGRAM COSTS ASSOCIATED WITH TSSP AND SMS COURSEWORK

Federal Salaries and Benefits *	$210,212
Contract Services	368,000
Equipment, Supplies, Space, Other *	58,260
Travel (Other than Course Delivery) *	13,800
Course Delivery	462,866

[1] The TSSP Certificate Program has two tracks, one for rail and one for bus-based transport. Since the PTSCTP is optional for bus-based transit we do not address those costs or benefits in the instant analysis.

TSI PROGRAM COSTS ASSOCIATED WITH TSSP AND SMS COURSEWORK—Continued

Indirect at 19%	211,496
Est. Materials Fee Recovery *	97,570
Total Program	1,422,204

* Weighted Cost Allocation.

Using the costs presented above, the table below presents the total annual costs for the PTSCTP. We note here again that we have been very conservative in aggregating costs, so in fact the aggregate cost estimates are greater than we expect to be the case. We have not removed costs for rail transit agency personnel that do not have to take the SMS SSO Principles course. We have assumed in the Maximum scenario, in an overabundance of caution, that everyone has not taken the TSSP Certificate coursework, which is a weak assumption given the level of voluntary participation and popularity of the program. Moreover, we have used a weighting that over estimates unattributable costs given the level of presence in the TSI course load. While we present data for both a Maximum Cost and Minimum Cost scenarios, the actual experience for costs should be closer to the Minimum scenario than to the Maximum scenario.

TOTAL COSTS FOR THE PTSCTP OVER A 3-YEAR CERTIFICATION PERIOD

	Attendance costs	TSI costs	Total costs
Aggregate Costs MIN	$172,467	$1,422,204	$1,594,671
Aggregate Costs MAX	1,234,471	1,422,204	2,656,674

As the interim provisions only have been in effect for a short time, we were unable to generate any estimate of their benefits. Thus, to assess the benefits for the PTSCTP, we considered how other transportation modes that are in the process of implementing SMS or similar systematic approaches to safety have estimated the benefits of their programs in reducing incidents, adverse outcomes, and improving training programs. For example, although no two programs are identical, the Federal Railroad Administration (FRA) in its final rule implementing its Training Standards issued November 7, 2014 at 79 FR 66460, *http://www.gpo.gov/fdsys/pkg/FR-2012-02-07/html/2012-2148.htm,* provided evidence that training programs for the railroad industry would yield a breakeven point with a 7 percent reduction in human factor-caused accidents. Moreover, FRA in its proposed rules to implement its System Safety Program (SSP) (*see* 80 FR 10950) and its Risk Reduction Program (RRP) (*see* 77 FR 55372) provided anecdotal evidence that both programs could lead to meaningful reductions in serious crashes, and conducted breakeven analyses that found that a less than 1 percent reduction in the incidents and accidents under consideration would lead to a cost-neutral SSP rule and an approximately 2 percent reduction for the RRP rule. Additionally, the Federal Aviation Administration estimated that its SMS program could yield a 20 percent reduction in crashes.

Enhancements brought about by SMS have also supported transportation and oversight agencies in mitigating the impacts of those events that do occur. For the SSO program NPRM issued February 27, 2015, at 80 FR 11002–30, FTA considered what percentage of potential safety benefits that rule would need to achieve in order to achieve a ''break even'' point with the costs based on two different estimates of the potential benefit pool. (FTA noted, therein, that the analysis was not intended to be a full analysis of the potential benefits of SMS for transit safety—rather it was intended to provide some quantified estimate of the potential benefits of the changes to the SSO program proposed in that rule). FTA also noted that the analysis may understate the potential benefits because of the lack of data on some non-injury related costs associated with many incidents, particularly regarding property damage and travel delays. For the SSO NPRM, FTA estimated that the SSO program revisions would realistically garner a 2 percent reduction in costs associated with fatalities and ''serious'' injuries. FTA performed analyzed the potential safety benefits of the SSO NPRM by reviewing the rail transit incidents specifically identified by the NTSB as related to inadequate safety oversight programs. Of the 19 major rail transit accidents the NTSB has investigated (or preliminarily investigated) since 2004, five had probable causes that included inadequate safety oversight on the part of the rail transit agency or FTA. Based on the analysis for the SSO NPRM, for the benefits to breakeven with the costs to both SSOs and rail transit agencies, the rule would only require a 1.23 percent reduction of the accidents costs per year, which did not include potentially significant unquantified costs related to property damage and disruption.

At base, the SSO NPRM increases the frequency and/or comprehensiveness of activities that are already performed, such as reviews, inspections, field observations, investigations, safety studies, data analysis activities, and hazard management. The SSO NPRM focuses its efforts on process improvements to achieve its benefits.

The SSO program is reliant on the PTSCTP for part of its safety improvements. While the SSO NPRM proposed to improve SSO and rail transit agencies processes, the PTSCTP improves the requisite human capital within the SSO program by improving the training and by making mandatory training for those designated personnel charged with safety oversight at SSO and rail transit agencies.

We were very confident that a 2 percent reduction, which is in line with FRA estimates, could be achieved with the SSO NPRM—in fact, our calculations showed the breakeven point to be a reduction of 1.23 percent. This leaves about .77 percent or nearly $14.3 million in benefits that have been unallocated. FTA believes that training for those charged with safety oversight at SSO and rail transit agencies is an imperative to achieve estimated reductions in incidents and accidents. To this end, we calculated the breakeven point for the PTSCTP. The breakeven point for the maximum case of $2.6 million in annual costs is 0.14 percent and .09 percent for the minimum case of $1.6 million in annual costs. This level of reduction in fatalities and serious injuries is likely to be extremely conservative and we are highly confident that it is easily attainable when complemented with the changes proposed in the SSO NPRM.

As an alternative and to cross-check the benefits of training, we reviewed literature on returns derived from investments in training and training programs. Bartel conducts a panel study that analyzed large firms, studies that

focused on one or two firms, and company sponsored studies.[2] Bartel finds that employer's return on investments in training may well be greater than was previously believed. We partially reproduce the table below from Bartel.

ECONOMETRIC ANALYSIS OF LARGE SAMPLES OF FIRMS

Author	Response rate	Sample size	Performance measure	Findings
Bishop	75%	2594	Productivity	ROI on 100 hours of new hire training ranged from 11% to 38%.
Bartel	6.5%	155	Value-Added	Implementation of formal training raised productivity by 6% per year.
Holzer et al.	32%	157	Scrap Rate	Doubling of worker training reduced scrap rate by 7%, using fixed-effects model.
Black and Lynch	72%	617	Net Sales	Percentage of formal training that occurs off the job has significant effect in cross section but no effect on the establishment-specific residual.
Tan and Batra	Random Sample	300–56000	Value-Added	Predicted training has positive effect on value-added; effects range from 2.8% to 71% per year.
Huselid	28%	968	Tobin's q and Rate of Return on Capital.	High-performance practices had significant effect in cross section that disappeared in fixed-effects model.

Source: Bartel PP. 506.

While these results from Bartel's study are not transportation or even transit related, it still gives a clear picture of the benefits that firms across industries have experienced when they have invested in training. We also reviewed a study by Almedia and Carneiro on firm-provided training, in which they estimate the rate of return for firms that invest in human capital (training).[3] Conducting a panel study of firms with detailed data on training, they estimate that firms that do not provide training yield a *negative* 7 percent return while those that provide training accomplish a 24 percent return. They conclude that training is ''a good investment for many firms and the economy, possibly yielding higher returns than either investments in physical capital or investments in schooling.''[4]

The literature generally shows that returns on investment for training are positive and usually greater than is typically thought. This comports with the conservative assumptions that we have made and use to assess the PTSCTP program.

Qualitative Factors

While the TSSP Certificate Program has been available for some time, it had been an optional certification that some SSOA, rail, and bus safety oversight personnel sought out of self-initiative. With the delineation of a mandatory pool of safety oversight employees, FTA hopes to unify and harmonize the provision of safety-related activities across SSOAs and rail transit agencies. In this way, this pool of employees will gain knowledge to identify and control hazards with the ultimate goal of decreasing incidents. Additionally, FTA expects that the codification of the PTSCTP will help promote a safety culture within the transit industry. This safety culture should help instill a transit agency-wide appreciation for shared goals, shared beliefs, best practices, and positive and vigilant attitudes towards safety.

We are unsure how to quantify the effects of a positive safety culture as a safety culture will develop over time. Characteristics of a positive safety culture include: Actively seeking out information on hazards; employee training; information exchanges; and understanding that responsibility for safety is shared. While the returns on investment in training should be fairly quick, establishing, promoting, and increasing safety in an industry that is already very safe, is difficult to predict with any certainty.

VII. Regulatory Analyses and Notices

All comments received on or before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition, FTA may continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

Executive Orders 12866 and 13563 direct Federal 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

FTA has determined this rulemaking is not a significant regulatory action within the meaning of Executive Order 12866, Executive Order 13563, and the U.S. Department of Transportation's regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980, 44 FR 11034, Feb. 26, 1979). FTA has determined that this rulemaking is not

[2] Bartel, Ann P. ''Measuring the Employer's Return on Investments in Training: Evidence from the Literature'' Online: *https://www0.gsb.columbia.edu/faculty/abartel/papers/measuring_employer.pdf.*

[3] Almeida, Rita and Pedro Carneiro. ''Costs, Benefits and the Intenal Rate of Return to Firm Provided Training'' Online: *http://siteresources.worldbank.org/DEC/Resources/AlmeidaCarneiroUpdatedWP3851.pdf.*

[4] Ibid.

economically significant. The proposals set forth in this NPRM will not result in an effect on the economy of $100 million or more. The proposals set forth in the NPRM will not adversely affect the economy, interfere with actions taken or planned by other agencies, or generally alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Regulatory Flexibility Act and Executive Order 13272

This proposed rule was developed in accordance with Executive Order 13272 (Proper Consideration of Small Entities in Agency rulemaking) and DOT's policies and procedures to promote compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) which requires an agency to review regulations to assess the impact on small entities. In compliance with the Regulatory Flexibility Act, FTA has evaluated the likely effects of the proposals set forth in this NPRM on small entities.

As noted in the cost benefit analysis for this rule, FTA developed a maximum and minimum number of employees of recipients that would be affected by the PTSCTP. FTA believes that approximately 70 to 120 SSOA personnel and contractors would be subject to the mandatory PTSCTP training requirements while approximately 340 personnel of rail transit agencies would be mandatory participants. Further, FTA believes that approximately 2,000 personnel may be voluntary participants. Section 5329(e)(6) permits recipients of rural and urbanized area formula funds to use Federal funds to cover up to 80 percent of the PTSCTP costs. Additionally, FTA believes many of the PTSCPT participants will be eligible to receive credit for prior safety training which will further reduce the cost and impact associated with this proposed rulemaking. For these reasons, FTA certifies that this action will not have a significant economic effect on a substantial number of small entities.

Unfunded Mandates

This proposed rulemaking would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). The cost of training to comply with this NPRM would be an eligible expenditure of Federal financial assistance provided to recipients under 49 U.S.C. Chapter 53. This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $143.1 million or more in any one year (2 U.S.C. 1532).

Executive Order 13132 (Federalism)

This proposed rulemaking has been analyzed in accordance with the principles and criteria established by Executive Order 13132, and FTA has determined that the proposed action would not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. FTA has also concluded that this proposed action would not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed rulemaking.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.;* ''PRA'') and the OMB regulation at 5 CFR 1320.8(d), FTA is seeking approval from OMB for the Information Collection Request abstracted below. In order to comply with the requirements proposed to implement the PTSCTP in accordance with 49 U.S.C. 5329(c)(1), this NPRM would require recipients to provide information to FTA regarding the participation of their respective designated personnel as abstracted below. Designated personnel would provide enrollment information, periodically update compliance with PTSCTP training requirements, and where applicable, submit supporting documentation of prior training for credit towards PTSCTP training requirements. All recipients of mandatory PTSCTP requirements would annually certify compliance with the PTSCTP requirements. Additionally, SSOAs would be required to develop annual technical training plans for FTA approval. The plans would support the SSOA requirement to demonstrate that applicable SSOA personnel are qualified to perform safety audits and examinations.

The information collection would be different for each type of recipient (Federal government personnel, Federal contractors, SSOAs and their contractors, and rail transit agencies). Therefore, the paperwork burden would vary. For example, the burden on SSOAs would be proportionate to the number of rail transit agencies within that State, and the size and complexity of those rail transit systems. This would affect the number of personnel designated for participation. FTA proposes to bear the cost associated with the development and maintenance of the Web site. FTA is seeking comment on whether the information collected will have practical utility; whether its estimation of the burden of the proposed information collection is accurate; whether the burden can be minimized through the use of automated collection techniques or other forms of information technology; and for ways in which the quality, utility, and clarity of the information can be enhanced.

Type of Review: OMB Clearance. New information collection request.

Respondents: Currently there are 30 States with 60 rail fixed guideway public transportation systems in engineering, construction, and operations. The PRA estimate is based on participation in the PTSCTP by a total of 30 States and 60 rail transit agencies. In addition, we estimate participation by 35–45 SSOA contractors and approximately 30 Federal personnel and contractors.

Frequency: Information will be collected through the Web site on an ongoing basis throughout the year. Participants must complete training requirements within 3 years and refresher training every 2 years. Certification of compliance will be required annually.

Estimated Total Annual Burden Hours: In the first year of the program, we estimate a total burden of between 5,209 (minimum) and 5,909 (maximum) hours, depending on how many individuals are required to participate. Annually, each SSOA would devote between 88–91 hours to information collection activities including the development and submission of training plans to FTA. SSOA contractors would devote approximately 140–180 hours to information collection activities. These activities would have a combined total of 2,780–2,920 hours, depending on how many individuals are required to participate. The mandatory participants affected by 49 U.S.C. 5329(c)(1) and today's rulemaking include 60 rail fixed guideway public transportation systems which would spend an estimated annual total of between 2,060 (minimum) and 2,620 (maximum) hours on information collection activities in the first year, or approximately 34–44 hours each. Finally, FTA is expected to expend approximately 249 hours in furtherance of the PTSCTP in the first year, and Federal contractors will spend an estimated four (4) hours each, for a combined total of approximately 369 hours in the first year.

Additional documentation detailing FTA's Paperwork Reduction Act Information Collection Request, including FTA's Justification Statement, will be posted in the docket for this rulemaking. OMB is required to make a decision concerning the collection of information requirements contained in this proposed rule within 60 days after receiving the information collection request submission from FTA. FTA will summarize and respond to any comments on the proposed information collection request from OMB and the public in the preamble to the final rule.

National Environmental Policy Act

The National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) requires Federal agencies to analyze the potential environmental effects of their proposed actions in the form of a categorical exclusion, environmental assessment, or environmental impact statement. This proposed rulemaking is categorically excluded under FTA's environmental impact procedure at 23 CFR 771.118(c)(4), pertaining to planning and administrative activities that do not involve or lead directly to construction, such as the promulgation of rules, regulations, and directives. FTA has determined that no unusual circumstances exist in this instance, and that a categorical exclusion is appropriate for this rulemaking.

Executive Order 12630 (Taking of Private Property)

This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)

Executive Order 12898 directs every Federal agency to make environmental justice part of its mission by identifying and addressing the effects of all programs, policies, and activities on minority populations and low-income populations. The USDOT environmental justice initiatives accomplish this goal by involving the potentially affected public in developing transportation projects that fit harmoniously within their communities without compromising safety or mobility. Additionally, FTA has issued a program circular addressing environmental justice in public transportation, C 4703.1, *Environmental Justice Policy Guidance for Federal Transit Administration Recipients.* This circular provides a framework for FTA grantees as they integrate principles of environmental justice into their transit decision-making processes. The Circular includes recommendations for State Departments of Transportation, Metropolitan Planning Organizations, and public transportation systems on (1) How to fully engage environmental justice populations in the transportation decision-making process; (2) How to determine whether environmental justice populations would be subjected to disproportionately high and adverse human health or environmental effects of a public transportation project, policy, or activity; and (3) How to avoid, minimize, or mitigate these effects.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

FTA has analyzed this proposed rulemaking under Executive Order 13045. FTA certifies that this proposed rule will not cause an environmental risk to health or safety that may disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

FTA has analyzed this proposed rulemaking under Executive Order 13175 and finds that the action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; will not preempt tribal laws; and will not impose any new consultation requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

FTA has analyzed this proposed rulemaking under Executive Order 13211 and has determined that this action is not a significant energy action under the Executive Order, given that the action is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of FTA's dockets by the name of the individual submitting the comment or signing the comment if submitted on behalf of an association, business, labor union, or any other entity. You may review USDOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477–8.

Statutory/Legal Authority for This Rulemaking

This rulemaking is issued under the authority of the Moving Ahead for Progress in the 21st Century Act (MAP–21; Pub. L. 112–141), and the statutory provision codified at 49 U.S.C. 5329(c)(1), which requires the Secretary of Transportation to prescribe a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight. The Secretary is authorized to issue regulations to carry out the general provisions of this statutory requirement pursuant to 49 U.S.C. 5329(f)(7).

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN set forth in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 672

Transportation, Mass transportation, Safety, Reporting and recordkeeping requirements.

Issued in Washington, DC, under the authority delegated at 49 CFR 1.91.

Therese McMillan,

Acting Administrator.

For the reasons stated in the preamble, and under the authority of 49 U.S.C. 5329(c), 5329(f), and the delegation of authority at 49 CFR 1.91, the Federal Transit Administration proposes to amend chapter VI of Title 49, Code of Federal Regulations, by adding part 672 to read as follows:

PART 672—PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM

Subpart A—General Provisions

Sec.

Subpart B—Training Requirements

Authority: 49 U.S.C. 5329(c), 49 U.S.C. 5329(f), 49 CFR 1.91.

Subpart A—General Provisions

§ 672.1 Purpose.

(a) This part implements a uniform safety certification training curriculum and requirements that will enhance the technical proficiency of individuals who are directly responsible for safety oversight of public transportation agencies not subject to the safety oversight requirements of another Federal agency.

(b) This part does not preempt any safety certification training requirements required by a State for public transportation agencies within its jurisdiction.

§ 672.3 Scope and applicability.

(a) In general, this part applies to all recipients of Federal financial assistance under 49 U.S.C. Chapter 53.

(b) The mandatory requirements of this part will apply only to State Safety Oversight Agency personnel and contractor support, and designated personnel of recipients that operate rail fixed guideway systems that are not subject to the requirements of the Federal Railroad Administration.

(c) Other FTA recipients may participate voluntarily in accordance with this part.

§ 672.5 Definitions.

As used in this part:

Administrator means the Federal Transit Administrator or the Administrator's designee.

Contractor means an entity that performs tasks on behalf of FTA or a State Safety Oversight Agency through contract or other agreement.

Designated personnel means:

(1) Employees identified by a recipient whose job function requires them to be directly responsible for safety oversight of public transportation provided by the agency; or

(2) Employees and contractors of a State Safety Oversight Agency whose job function requires them to conduct safety audits and examinations of the public transportation systems subject to the jurisdiction of the agency.

Directly responsible for safety oversight means a public transportation agency designated personnel whose job function includes the development, implementation and review of the recipient's safety plan.

FTA means the Federal Transit Administration, an agency within the United States Department of Transportation.

Public transportation agency means an entity that provides public transportation as defined in 49 U.S.C. 5302 and that has one or more modes of service not subject to the safety oversight requirements of another Federal agency.

Rail fixed guideway public transportation system means any fixed guideway system that uses rail, is operated for public transportation, is within the jurisdiction of a State, and is not subject to the jurisdiction of the Federal Railroad Administration, or any such system in engineering or construction. Rail fixed guideway public transportation systems include but are not limited to rapid rail, heavy rail, light rail, monorail, trolley, inclined plane, funicular, and automated guideway.

Recipient means an entity, including a State or local governmental authority that receives Federal funds pursuant to 49 U.S.C. Chapter 53.

Reference Document means the current edition of the Public Transportation Safety Certification Training Program training requirements and curriculum. The curriculum and training requirements are subject to periodic revision through a notice-and-comment process. Recipients are responsible for using the current edition of the Reference Document.

Safety audit means an examination of a recipient's safety records and related materials.

Safety examination means a process for gathering facts or information, or an analysis of facts or information previously collected.

State means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

State Safety Oversight Agency (SSOA) means an agency established by a State that meets the requirements and performs the functions specified by 49 U.S.C. 5329(e) and the regulations set forth in 49 CFR part 659.

Subpart B—Training Requirements

§ 672.11 Designated personnel who conduct safety audits and examinations.

(a) Each State Safety Oversight Agency (SSOA) shall designate its personnel and contractors who conduct safety audits and examinations of public transportation systems, including the managers and supervisors of such personnel, and ensure such designated personnel comply with the applicable training requirements in the current Reference Document.

(b) Designated personnel and contractors shall complete applicable training requirements of this part within three (3) years of their initial designation. Thereafter, refresher training shall be completed every two (2) years. The SSOA will determine refresher training requirements which shall include at a minimum, one (1) hour of safety oversight training.

(c) *Copies.* Copies of the current Reference Document are available from the FTA Web site located at *https://safety.fta.dot.gov.*

§ 672.13 Designated personnel of public transportation agencies.

(a) Each recipient that operates a rail fixed guideway public transportation system not subject to the safety oversight of another Federal agency shall designate its personnel who are directly responsible for safety oversight and ensure that they comply with the applicable training requirements as set forth in the current Reference Document.

(b) Each recipient that operates a bus or other public transportation system not subject to the safety oversight of another Federal agency may designate its personnel who are directly responsible for safety oversight. Such personnel may participate in the applicable training requirements as set forth in the current Reference Document.

(c) Personnel designated under paragraph (a) of this section shall complete applicable training requirements of this part within three (3) years of their initial designation. Thereafter, refresher training shall be completed every two (2) years. The recipient will determine refresher training requirements which will include at a minimum, one (1) hour of safety oversight training.

(d) *Copies.* Copies of the current Reference Document are available from the FTA Web site located at *https://safety.fta.dot.gov.*

§ 672.15 Evaluation of prior certification and training.

(a) Designated personnel subject to this part may request that FTA evaluate safety training or certification previously obtained from another entity to determine if the training satisfies an applicable training requirement of this part.

(b) Designated personnel must provide FTA with an official transcript or certificate of the training, a description of the curriculum and competencies obtained, and a brief statement detailing how the training or certification satisfies the applicable requirement of this part.

(c) FTA will evaluate the submission and determine if any of the applicable training requirements of this part will be credited for waiver. If a waiver is granted, designated personnel are responsible for completing all other applicable requirements of this part.

Subpart C—Administrative Requirements

§ 672.21 Records.

(a) *General requirement.* FTA will maintain an electronic database for designated personnel to register and enroll in the Public Transportation Safety Certification Training Program at *https://safety.fta.dot.gov.*

(b) *General requirement.* Each recipient shall ensure that its designated personnel are enrolled in the PTSCTP via the electronic database. Designated personnel shall update their training profile as the applicable training requirements of this part are completed.

(c) *SSOA Requirement.* Each SSOA will maintain a record of the technical training completed by its designated personnel and contractors in accordance with the technical training requirements of this part. Such records shall be maintained by the SSOA for at least five (5) years from the date the record is created. Each record shall include the following information at minimum:

(1) The name of the designated personnel or contractor;

(2) The title of the training, the date the training was completed and the proficiency test score(s), where applicable;

(3) The content of each training course or curriculum successfully completed and an indication of whether the participant passed or failed any associated tests;

(4) The tasks the participant is deemed qualified to perform; and

(5) The date the designated personnel's status as qualified to perform the task(s) expires, and the date in which biennial refresher training is due.

§ 672.23 Availability of records.

(a) Except as required by law, or expressly authorized or required by this part, a recipient may not release information pertaining to designated personnel that is required to be maintained by this part without the written consent of the designated personnel.

(b) Designated personnel are entitled, upon written request, to obtain copies of any records pertaining to his or her training that is required to be maintained by this part. The recipient shall promptly provide the records requested by designated personnel and access shall not be contingent upon the recipient's receipt of payment for the production of such records.

(c) A recipient shall permit access to all facilities utilized and records compiled in accordance with the requirements of this part to the Secretary of Transportation, the Federal Transit Administration, or any State agency with jurisdiction for public transportation safety oversight authority over the recipient.

(d) When requested by the National Transportation Safety Board as part of an accident investigation, a recipient shall disclose information related to the training of designated personnel.

Subpart D—Compliance and Certification Requirements

§ 672.31 Requirement to certify compliance.

(a) A recipient of FTA financial assistance described in § 672.3(b) of this part shall annually certify compliance with this part in accordance with FTA's procedures for annual grant certification and assurances.

(b) A certification must be authorized by the recipient's governing board or other authorizing official, and must be signed by a party specifically authorized to do so.

§ 672.33 Compliance as a condition of financial assistance.

(a) *General requirement.* A recipient may not be eligible for Federal financial assistance under 49 U.S.C. Chapter 53, in whole or in part, if the Administrator determines the recipient has failed to comply with the requirements of this part.

(b) *Notice.* If the Administrator determines that Federal financial assistance should be withheld, the Administrator will issue a notice of violation and the amount proposed to be withheld at least ninety (90) days prior to the date from when the funds will be withheld. The notice must contain—

(1) A statement of the legal authority for issuance;

(2) A statement of the regulatory provision(s) the recipient is believed to have violated;

(3) A statement of the factual allegations upon which the notice of violation is based; and

(4) A statement of the remedial action sought to correct the violation.

(c) *Reply.* Within thirty (30) days of service of a notice of violation, a recipient may file a written reply with the Administrator. Upon written request, the Administrator may extend the time for filing for good cause shown. The reply must be in writing, and signed by the Accountable Executive or equivalent entity. A written response may include an explanation for the alleged violation, provide relevant information or materials in response to the alleged violation or in mitigation thereof, or recommend alternative means of compliance for consideration by the Administrator.

(d) *Decision.* Within thirty (30) days of receipt of a reply from a recipient, the Administrator will issue a written reply to the recipient. The Administrator may consider the recipient's response, pursuant to paragraph (c) of this section, in determining whether to dismiss the notice of violation in whole or in part. If the notice of violation is not dismissed, the Administrator may undertake any other enforcement action he or she deems appropriate, including withholding funds as stated in the notice of violation.

[FR Doc. 2015–30466 Filed 12–2–15; 8:45 am]

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Notices

Federal Register
Vol. 80, No. 232
Thursday, December 3, 2015

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

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with October anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: *Effective Date:* December 3, 2015.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with October anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''the Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (''Q&V'') Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than October 31, 2016.

	Period to be reviewed
Antidumping Duty Proceedings	
Mexico: Carbon and Certain Alloy Wire Rod, A–201–830	10/1/14–9/30/15
Deacero S.A.P. I. de C.V. (AKA Deacero S.A. de C.V.).	
ArcelorMittal Las Truchas, S.A. de C.V. (''AMLT'').	
The People's Republic of China: Steel Wire Garment Hangers, A–570–918	10/1/14–9/30/15
Da Sheng Hanger Ind. Co., Ltd.	
Feirongda Weaving Material Co. Ltd.	
Hangzhou Qingqing Mechanical Co. Ltd.	
Hangzhou Yingqing Material Co. Ltd.	
Hangzhou Yinte.	
Hong Kong Wells Ltd.	
Hongye (HK) Group Development Co. Ltd.	
Liaoning Metals & Mineral Imp/Exp Corp.	
Nantong Eason Foreign Trade Co., Ltd.	
Ningbo Bingcheng Import & Export Co. Ltd.	
Ningbo Dasheng Daily Products Co., Ltd.	
Ningbo Dasheng Hanger Ind. Co. Ltd.	
Ningbo Peacebird Import & Export Co. Ltd.	
Shang Zhou Leather Shoes Plant.	
Shanghai Bao Heng Relay Making Co., Ltd.	

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Shanghai Ding Ying Printing & Dyeing Co. Ltd. Shanghai Ganghun Beddiry Clothing Factory. Shanghai Guangwei Shoes Co., Ltd. Shanghai Guoxing Metal Products Co. Ltd. Shanghai Jianhai International Trade Co. Ltd. Shanghai Lian Development Co. Ltd. Shanghai Shuang Qiang Embroidery Factory Co. Ltd. Shanghai Tonghui. Shanghai Wells Hanger Co., Ltd. Shangyu Baoli Electro Chemical Aluminum Products Co., Ltd. Shangyu Baoxiang Metal Manufactured Co. Ltd. Shangyu Tongfang Labour Protective Articles Co., Ltd. Shaoxing Andrew Metal Manufactured Co. Ltd. Shaoxing Dingli Metal Clotheshorse Co. Ltd. Shaoxing Gangyuan Metal Manufactured Co. Ltd. Shaoxing Guochao Metallic Products Co., Ltd. Shaoxing Liangbao Metal Manufactured Co. Ltd. Shaoxing Meideli Hanger Co. Ltd. Shaoxing Shunji Metal Clotheshorse Co., Ltd. Shaoxing Shuren Tie Co. Ltd. Shaoxing Tongzhou Metal Manufactured Co. Ltd. Shaoxing Zhongbao Metal Manufactured Co. Ltd. Shaoxing Zhongdi Foreign Trade Co. Ltd. Tianjin Innovation International. Tianjin Tailai Import and Export Co. Ltd. Wahfay Industrial (Group) Co., Ltd. Wesken International (Kunshan) Co. Ltd. Xia Fang Hanger (Cambodia) Co., Ltd. Zhejiang Hongfei Plastic Industry Co. Ltd. Zhejiang Jaguar Import & Export Co. Ltd. Zhejiang Lucky Cloud Hanger Co. Ltd.	

Countervailing Duty Proceedings

None.

Suspension Agreements

None.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the

record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt*, prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[4] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[5] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm*, prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: November 25, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–30604 Filed 12–2–15; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See* section 782(b) of the Act.

[5] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–823]

Silicomanganese From India: Final Results of Antidumping Duty Administrative Review; 2013–2014

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

SUMMARY: On June 4, 2015, the Department of Commerce (Department) published its preliminary results of the administrative review of the antidumping duty order on silicomanganese from India covering the period of review (POR) May 1, 2013, through April 30, 2014.[1] This review covers one producer/exporter of subject merchandise, Nava Bharat Ventures Limited (Nava). For the final results, we continue to determine that Nava did not sell subject merchandise to the United States at below normal value (NV) during the POR. The final results are listed in the section entitled ''Final Results of Review'' below.

DATES: *Effective date:* December 3, 2015.

FOR FURTHER INFORMATION CONTACT: David Lindgren at (202) 482–3870; AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 2015, the Department published the *Preliminary Results* of this administrative review and, on August 24, 2015, we invited parties to comment on the *Preliminary Results*. The administrative review covers one producer and exporter of the subject merchandise to the United States, Nava. Petitioners timely filed their case brief on September 4, 2015, and Nava timely filed its rebuttal brief on September 8, 2015. The Department conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products subject to the order are all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines and slag. The silicomanganese subject to the order is currently classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheading is provided for convenience and customs purposes. The written description is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement

[1] *See Silicomanganese From India: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 31891 (June 4, 2015) (*Preliminary Results*).

[2] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for Final Results of the 2013–2014 Antidumping Duty Administrative Review of Silicomanganese from India,'' dated concurrently with this notice (Issues and Decision Memorandum).

and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access to ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Issues and Decision Memorandum. The issues that parties raised, and to which we responded in the Issues and Decision Memorandum, follow as an appendix to this notice.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made no adjustments to the margin calculations for Nava.

Final Results of Review

The final weighted-average dumping margin for the period May 1, 2013, through April 30, 2014, is as follows:

Manufacturer/Exporter	Weighted-Average margin (percent)
Nava Bharat Ventures Limited ...	0.00

Assessment Rates

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties in accordance with 19 CFR 351.212(b)(1). Nava's weighted-average dumping margin in these final results is zero percent. Therefore, we will instruct CBP to liquidate all appropriate entries without regard to antidumping duties. The Department intends to issue the appropriate assessment instructions for Nava to CBP 15 days after the date of publication of these final results.

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of silicomanganese from India entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Nava will be the weighted-average dumping margin listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be the all others rate for this proceeding, 17.74 percent, as established in the less-than-fair-value investigation.[3] These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers

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

Notification Regarding Administrative Protective Orders

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

Notification to Interested Parties

These final results of administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: November 24, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2015–30546 Filed 12–2–15; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See Silicomanganese from India: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination*, 67 FR 15531 (April 2, 2002), as corrected in *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Orders: Silicomanganese from India, Kazakhstan, and Venezuela*, 67 FR 36149 (May 23, 2002).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Gulf of Alaska Trawl Fishery, Rationalization Sociocultural Study

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 1, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 66165, 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 Stephen Kasperski, (206) 526–4727 or *Stephen.kasperski@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a revision to an existing information collection using a slightly modified survey instrument by removing questions that were unclear or not consistently interpreted by respondents, or are irrelevant after more information about the program design have been developed by the North Pacific Fishery Management Council, and clarifying the wording of remaining questions.

Historically, changes in fisheries management regulations have been shown to result in impacts to individuals within the fishery. An understanding of social impacts in fisheries—achieved through the collection of data on fishing communities, as well as on individuals who fish—is a requirement under several federal laws. Laws such as the National Environmental Policy Act and the Magnuson-Stevens Fishery Conservation and Management Act (as amended 2007) describe such requirements. The collection of this data not only helps to inform legal requirements for the existing management actions, but will inform future management actions requiring equivalent information.

Fisheries rationalization programs have an impact on those individuals participating in the affected fishery, as well as their communities and may also have indirect effects on other fishery participants. The North Pacific Fishery Management Council is considering the implementation of a new rationalization program for the Gulf of Alaska trawl fishery. This research aims to study the affected individuals both prior to and after the design and implementation of the rationalization program. One year of pre-program design data from this survey was collected in 2014. The current proposal is to collect a second round of baseline data collection post-program design using a slightly modified survey instrument (*e.g.,* dropping questions that were unclear, removing elements not under consideration by the North Pacific Fishery Management Council, and clarifying the wording of the remaining questions).

The data collected will be used in conjunction with the 2014 survey data to provide a description of the changes that have occurred in the industry as the program has been developed as well as allow for an analysis of the changes experienced by individuals and communities after the rationalization program has been implemented. The measurement of these changes will lead to a greater understanding of the social impacts the program may have on the individuals and communities affected by fisheries regulations. To achieve these goals, it is critical to collect the necessary data after program design and prior to the implementation of the rationalization program to understand what changes in the industry were made prior to implementation in expectation of future changes in management. This second baseline will also allow for the comparison of data collected after the management program has been implemented to understand how rationalization programs impact individuals and communities throughout the design and implementation of the program.

II. Method of Collection

Literature reviews, secondary sources including Internet sources, United States Census data, key informants, focus groups, paper surveys, electronic surveys, and in-person interviews will be utilized in combination to obtain the greatest breadth of information as possible.

III. Data

OMB Control Number: 0648–0685.

Form Number: None.

Type of Review: Revision of an existing information collection.

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions.

Estimated Number of Respondents: 2,500.

Estimated Time per Response: 1 hour and 30 minutes.

Estimated Total Annual Burden Hours: 3,750 hours.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

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

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

Dated: November 30, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–30622 Filed 12–2–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Economic Expenditure Survey of Golden Crab Fishermen in the U.S. South Atlantic Region.

OMB Control Number: 0648–0631.

Form Number(s): None.

Type of Request: Regular (reinstatement without change of a previously approved information collection).

Number of Respondents: 6.

Average Hours per Response:

Burden Hours: 3.

Needs and Uses: This request is for a reinstatement without change. The National Marine Fisheries Service (NMFS) proposes to collect economic information from golden-crab landing commercial fishermen in the United States (U.S.) South Atlantic region. The data gathered will be used to evaluate the likely economic impacts of management proposals. In addition, the information will be used to satisfy legal mandates under Executive Order 12898, the Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act, and other pertinent statues.

Affected Public: Business or other for-profit organizations.

Frequency: Every five years.

Respondent's Obligation: Mandatory.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this

notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: November 30, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–30583 Filed 12–2–15; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0061, Daily Trade and Supporting Data Reports

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the daily trade and supporting data reports that are submitted to CFTC pursuant to Commission Rule 16.02. This part imposes reporting requirements on Reporting Markets, including Designated Contract Markets.

DATES: Comments must be submitted on or before February 1, 2016.

ADDRESSES: You may submit comments, identified by ''Renewal of Collection Pertaining to Regulation 16.02 Daily Trade and Supporting Data Reports 3038–0061'', by any of the following methods:

- *Agency Web site: http://comments.cftc.gov/.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the CFTC to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the CFTC's regulations.[1]

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under applicable law, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Thomas Guerin, Division of Market Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581; (202) 734–4194, email: *tguerin@cftc.gov,* and refer to OMB Control No. 3038–0061.

SUPPLEMENTARY INFORMATION: Under the PRA, 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 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, the CFTC is publishing notice of the proposed collection of information listed below.

Title: Regulation 16.02 Daily Trade and Supporting Data Reports (OMB Control No. 3038–0061). This is a request for extension of a currently approved information collection.

Abstract: The collection of information is needed to ensure that the CFTC has access to transaction-level trade data and related order information for each transaction executed on a Reporting Market. The Commission analyzes the daily trade and supporting data reports that are submitted pursuant to 17 CFR 16.02 to conduct financial, market and trade practice surveillance. The Commission uses the collection of information to discharge its regulatory responsibilities, including the responsibilities to prevent market manipulations and commodity price distortions and ensure the financial integrity of its jurisdictional markets.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the CFTC, including whether the information will have a practical use;
- The accuracy of the CFTC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

Burden Statement: CFTC Regulation 16.02 results in information collection requirements within the meaning of the PRA. This regulation previously required Reporting Markets to incur one-time costs to establish systems and processes associated with providing the required reports to the CFTC on a daily basis. With respect to the ongoing reporting burden associated with submitting the required 16.02 reports, the CFTC believes that Reporting Markets incur an average burden of two hours to compile and submit each report made pursuant to 16.02. Reporting Markets submit an average of 250 reports annually. The estimated total annual time-burden for all Reporting Markets is 15,000 hours.

Respondents/Affected Entities: Reporting Markets.

Estimated number of respondents: 30.

Estimated total annual burden on respondents: 15,000 hours.

Frequency of collection: Ongoing.

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

[1] 17 CFR 145.9.

Dated: November 27, 2015.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2015–30561 Filed 12–2–15; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0054]

Agency Information Collection Activities; Proposed Collection; Comment Request; Safety Standard for Automatic Residential Garage Door Operators

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (''CPSC'' or ''Commission'') requests comments on a proposed extension of approval of a collection of information under the safety standard for automatic residential garage door operators, approved previously under OMB Control No. 3041–0125. The Commission will consider all comments received in response to this notice before requesting an extension of this collection of information from the Office of Management and Budget (''OMB'').

DATES: Submit written or electronic comments on the collection of information by February 1, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2012–0054, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov*, and insert the docket number CPSC–2012–0054, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Safety Standard for Automatic Residential Garage Door Operators.

OMB Number: 3041–0125.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of automatic residential garage door operators.

Estimated Number of Respondents: An estimated 19 firms that conduct performance tests and maintain records based on the test results to maintain UL certification and verify compliance with the rule.

Estimated Time per Response: Based on staff's review of industry sources, each respondent will spend an estimated 40 hours annually on the collection of information related to the rule.

Total Estimated Annual Burden: 760 hours (19 firms × 40 hours).

General Description of Collection: On December 22, 1992, the Commission issued rules prescribing requirements for a reasonable testing program to support certificates of compliance with the Safety Standard for Automatic Residential Garage Door Operators (57 FR 60449). These regulations also require manufacturers, importers, and private labelers of residential garage door operators to establish and maintain records to demonstrate compliance with the requirements for testing to support certification of compliance. 16 CFR part 1211, subparts B and C.

Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: November 30, 2015.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2015–30571 Filed 12–2–15; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, December 9, 2015, 10:00 a.m.–12:00 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public.

Matters To Be Considered

Hearing: Petition Requesting Rulemaking on Products Containing Organohalogen Flame Retardants.

All of the requirements and conditions set forth in **Federal Register**/Vol. 80, No. 206/Monday, October 26, 2015 (Page 65174) apply equally to participants who wish to make presentations remotely via teleconference. Call-in participants should be prepared to provide their first name, last name and affiliation. Conference call information below:

Conference Call Number: 866–623–8636
Participant Passcode: 4816474#

A live webcast of the Meeting can be viewed at *www.cpsc.gov/live.*

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: December 1, 2015.

Todd A. Stevenson,

Secretariat.

[FR Doc. 2015–30695 Filed 12–1–15; 4:15 pm]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Scientific Advisory Board; Notice of Meeting

AGENCY: Department of the Air Force, Air Force Scientific Advisory Board, DOD.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the United States Air Force (USAF) Scientific Advisory Board (SAB) Winter Board meeting will take place on 19 January 2016 at the Arnold & Mabel Beckman Center, located at 100 Academy Drive in Irvine, CA 92617. The meeting will occur from 8:00 a.m.–4:00 p.m. on Tuesday, 19 January 2016. The session open to the *general public* will be held from 8:00 a.m. to 8:30 a.m. on 19 January 2016. The purpose of this Air Force Scientific Advisory Board quarterly meeting is to officially commence FY16 SAB studies, which consist of: (1) Directed Energy Maturity for Airborne Self-Defense Applications, (2) Data Analytics to Support Operational Decision Making, (3) Responding to Uncertain or Adaptive Threats in Electronic Warfare, and (4) Airspace Surveillance to Support A2/AD Operations. In accordance with 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, a number of sessions of the USAF SAB Winter Board meeting will be closed to the public because they will discuss classified information and matters covered by Section 552b of Title 5, United States Code, subsection (c), subparagraph (1).

Any member of the public that wishes to attend this meeting or provide input to the USAF SAB must contact the USAF SAB meeting organizer at the phone number or email address listed below at least five working days prior to the meeting date. Please ensure that you submit your written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act. Statements being submitted in response to the agenda mentioned in this notice must be received by the USAF SAB meeting organizer at the address listed below at least five calendar days prior to the meeting commencement date. The USAF SAB meeting organizer will review all timely submissions and respond to them prior to the start of the meeting identified in this noice. Written statements received after this date may not be considered by the USAF SAB until the next scheduled meeting.

FOR FURTHER INFORMATION CONTACT: The USAF SAB meeting organizer, Major Mike Rigoni at, *michael.j.rigoni.mil@mail.mil* or 240–612–5504, United States Air Force Scientific Advisory Board, 1500 West Perimeter Road, Ste. #3300, Joint Base Andrews, MD 20762.

Henry Williams,

Acting Air Force Federal Register Liaison Officer, DAF.

[FR Doc. 2015–30590 Filed 12–2–15; 8:45 am]

BILLING CODE 5001–10–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCMENT: 80 FR 72052, (November 18, 2015).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 1:00 p.m.–3:00 p.m., December 1, 2015.

CHANGES IN MEETING: On page 72052, in the third column, on lines 5 and 6, change the **DATES** caption to read: ''1:00 p.m.–4:00 p.m., December 1, 2015.''

CONTACT PERSON FOR MORE INFORMATION: Mark Welch, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: November 30, 2015.

Joyce L. Connery,

Chairman.

[FR Doc. 2015–30624 Filed 12–1–15; 11:15 am]

BILLING CODE 3670–01–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 2015–1]

Emergency Preparedness and Response at the Pantex Plant

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice, recommendation.

SUMMARY: Pursuant to 42 U.S.C. 2286a(b)(5), the Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy concerning the need to address specific deficiencies with, and strengthen regulatory compliance of, the emergency preparedness and response capability at the National Nuclear Security Administration's Pantex Plant that require timely resolution.

DATES: Comments, data, views, or arguments concerning the recommendation are due on or before January 4, 2016.

ADDRESSES: Send comments concerning this notice to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2001.

FOR FURTHER INFORMATION CONTACT: Mark Welch at the address above or telephone number (202) 694–7000. To review the figures referred to in Recommendation 2015–1, please visit *www.dnfsb.gov.*

Dated: November 27, 2015.

Joyce L. Connery,

Chairman.

Recommendation 2015–1 to the Secretary of Energy

Emergency Preparedness and Response at the Pantex Plant, Pursuant to 42 U.S.C. 2286a(b)(5) Atomic Energy Act of 1954, as Amended

Dated: November 23, 2015

The Defense Nuclear Facilities Safety Board (Board) recommends that deficiencies identified with the implementation of existing requirements in Department of Energy (DOE) Order 151.1C, *Comprehensive Emergency Management System,* be corrected at the Pantex Plant to ensure adequate protection of workers and the public. During a series of interactions,[1] we identified three areas of concern regarding the site's emergency preparedness and response capability. Pantex Plant personnel took action in response to some of the concerns identified, but significant concerns still exist. We conclude that each area of concern by itself has the potential to threaten the adequate protection of the public health and safety in the event of an operational emergency. Those areas of concern are (1) inadequate drill and exercise programs, (2) no demonstrated capability to provide timely, accurate information to the public regarding off-site radiological consequences, and (3) inadequate technical planning bases and decision-making tools. We believe that DOE and the National Nuclear Security

[1] Interactions included the Board's March 2013 public meeting and hearing in Amarillo, TX, two Board technical staff reviews in October 2012 and December 2014, and exercise observations in January and August 2014 and February 2015.

Administration (NNSA) must address these concerns in order to ensure the adequate protection of the public and the workers at the Pantex Plant.

The Board communicated its concerns with emergency preparedness and response across the DOE complex in its Recommendation 2014–1, *Emergency Preparedness and Response.* The issues identified in this report are specific to the Pantex Plant and concern the NNSA Production Office (NPO) and contractor's [2] inadequate implementation of existing DOE requirements.

Background: Emergency Preparedness and Response Capability. Personnel at the Pantex Plant conduct work vital to our national defense. Due to the nature of the operations and the spectrum of materials in use at the site, the range of possible accidents varies widely. Working with high explosives, hazardous chemicals, and radioactive materials results in the potential for operational emergencies ranging from industrial process-related accidents to significant material releases due to energetic events. The site is also subject to a range of natural phenomena hazards; tornados, high winds, lightning strikes, rain-induced flooding, and earthquakes are all possible in the region. Of particular concern to us are those accident scenarios that may cause radioactive material to be dispersed and deposited off site. Given the short distance from some facilities to the site perimeter and the average wind speeds at the site, these materials may affect public lands in the emergency planning zone within a short period of time.

Board Finding: Drill and Exercise Programs. Based on our observations, we conclude that the Pantex Plant contractor has not demonstrated adequate capabilities through its drill and exercise programs. The Pantex Plant contractor's execution of emergency drills and exercises is insufficient to provide opportunities for all personnel to develop and demonstrate proficiency at emergency response. No site-wide exercises conducted since 2011 have simulated any significant radiological consequences. No site-wide exercise was conducted in 2013 (although a hurriedly executed, unchallenging small-scale scenario in January 2014 purportedly fulfilled the 2013 site-wide exercise requirement). The Board also observed that both NPO and contractor capabilities to assess site performance in drills and exercises are inadequate, and believes this limits the effectiveness of the existing programs. A robust drill and exercise program would be varied enough to address all response elements across the spectrum of hazards and facilities over time.

Board Finding: Timely, Accurate Information to the Public Regarding Off-Site Radiological Consequences. Our review found no demonstrated capability to provide timely, accurate information to the public regarding off-site radiological consequences. State radiological monitoring response teams are located in Austin, TX, and must travel nearly 500 miles before they are available to monitor affected areas.[3] The Pantex Plant emergency response organization develops and provides models of radioactive material releases to state and county officials, but no verification of these models with real-world measurements is performed until state radiological monitoring response teams arrive.[4] Pantex Plant contractor assets may be released at the plant's discretion in accordance with existing memoranda of understanding and agreement between the site and the counties/state. However, we found no instance in the last five years where the contractor exercised off-site monitoring. Finally, we note that while existing DOE requirements establish a thirty minute threshold for off-site notification, the proximity of some Pantex Plant facilities to the plant boundary is such that material could contaminate off-site locations in a shorter time period.

Board Finding: Technical Planning Basis and Decision-Making Tools. The Board reviewed the technical planning bases and decision-making tools for the Pantex Plant's emergency management program and found that they are inadequate to demonstrate protection from time-sensitive events and do not consider all hazards at the site. Decision-making tools [5] lack significant details and include built-in delays that hinder effective execution. While the existing decision-making tools, such as emergency action levels (EALs), may minimize the risk of false alarms, their design precludes providing timely, accurate, and conservative recommendations to the public.

Conclusion. The mission of the Pantex Plant is vital to our nation's defense, and the consequences of a significant accident would be difficult to overcome. A robust, comprehensive, tested, and sustainable emergency preparedness and response capability is vital to ensure the adequate protection of the public health and safety during operational emergencies. Specifically, deficiencies must be addressed in the drill and exercise programs, in demonstrating the capability to provide timely, accurate information to the public regarding off-site radiological consequences, and in the technical planning bases and decision-making tools.

Recommendations. To address the deficiencies summarized above, the Board recommends that DOE and NNSA take the following actions at the Pantex Plant:

1. Ensure the Pantex Plant drill and exercise programs comprehensively demonstrate proficiency in responding to emergencies for all hazards, all facilities, and all responders, consistent with the technical planning bases and any updates to them, over a five-year period in accordance with DOE Order 151.1C (or subsequent revisions). As part of this demonstration of proficiency:

a. Develop and institute a basis for conducting the drill program in support of emergency operations.

b. Strengthen the exercise program to provide an adequate number of challenging scenarios per year, including at least one full-scale, site-wide exercise, in order to maintain qualifications and ensure proficiency of the emergency response organization and first responders.

c. Conduct a comprehensive assessment of the drill and exercise programs bases, schedule, and execution against a risk-ranked set of:

i. All hazards;

ii. All facilities; and

iii. All response elements.

d. Evaluate and improve the effectiveness of the NPO and contractor processes used to critique drills and exercises.

2. Develop and implement processes and demonstrate the capabilities to:

[2] Consolidated Nuclear Security, LLC, became the management and operating contractor in July 2014. The previous contractor was Babcock & Wilcox Technical Services Pantex.

[3] The DOE Radiological Assistance Program (RAP) is a national emergency response asset that provides around-the-clock first-response capability to assess radiological emergencies, and has a team stationed in Amarillo, TX. This team may not be consistently available due to competing priorities and may not have sufficient local resources to support a response outside the Pantex Plant. DOE has not incorporated the RAP into the Pantex Plant's existing exercise program, leaving to question the capability of the RAP resources to provide off-site support. Additionally, there is potential that the RAP team could be deployed elsewhere at the time of an incident, precluding the use of that resource.

[4] The dispatch of state radiological monitoring response assets may also be delayed due to the issues identified with the Pantex Plan decision-making tools.

[5] Decision-making tools currently available exist to aide operators and first responders with a quick determination of the likely magnitude of accident consequences, communicate protective actions to workers, and ensure protective action recommendations are delivered to public decision-makers in a timely manner.

a. Ensure the timeliness and accuracy of notifications to state and local authorities is commensurate with the initiation of off-site release of radioactive material at the Pantex Plant.

b. Provide consistent radiological monitoring support if an accident releases radiological material off-site, until state resources arrive and can assume responsibility for off-site monitoring.

3. Evaluate, incorporate, and validate (correctness, completeness, and effectiveness), the following changes to the Pantex Plant decision-making tools and notification processes:

a. Evaluate the emergency action level (EAL) process for those accident scenarios identifiable solely via instrumented systems to reduce delays in determining and implementing protective actions.

b. For those accident scenarios that are not identifiable solely via instrumented systems, evaluate the range of emergency conditions and potential indicators, and identify where new monitoring systems can be added or existing administrative controls can be modified to improve timeliness of response.

c. For all scenarios, evaluate if some protective actions should be initiated based solely on initial indicators (*i.e.,* a precautionary evacuation) while confirmatory indicators are sought.

d. Upon completion of these evaluations, incorporate new guidance and training for any changes made to the EAL decision-making tools and notification processes into the drill and exercise program.

Joyce L. Connery,
Chairman.

Recommendation 2015–1 to the Secretary of Energy

Emergency Preparedness and Response at the Pantex Plant

Findings, Supporting Data, and Analysis

Introduction. During the past three years, members of the Defense Nuclear Facilities Safety Board's (Board) staff conducted several activities to gain and maintain awareness of the state of emergency preparedness and response at the Pantex Plant. In October 2012, the staff team conducted a wide-scope program review supporting preparations for the Board's March 2013 public meeting and hearing in Amarillo, TX. After the public meeting and hearing, members of the Board's staff interacted with the National Nuclear Security Administration (NNSA) Production Office (NPO) and the contractor [1] to address supplemental questions and clarify statements made during the hearing. In 2014, members of the Board's staff observed two site-wide emergency response exercises. In December 2014, the Board's staff team conducted another program review to examine specific aspects of the Pantex Plant emergency management program. The Board's staff team observed the execution of certain emergency management program elements during a site-wide emergency response exercise conducted in February 2015. In addition, the Board's Site Representative at Pantex, who is stationed there on a full-time basis, made observations regarding the emergency preparedness and response capability of the Pantex Plant as part of his routine oversight of the Pantex Plant facilities and operations.

During each of these activities, the Board's staff team provided on-site feedback to NPO and the contractor, and culminated this exchange with a formal teleconference close-out brief on March 17, 2015. Pantex Plant personnel took action in response to some of the concerns identified during the activities noted above, but significant concerns still exist. The following section expands on observations provided to the Pantex Plant during the March 2015 teleconference and provides the technical basis for further Board action.

Observations. The Board's staff team's observations are organized into three main sections: the drill and exercise programs, notification and support to off-site agencies, and technical planning bases and decision-making tools.[2]

Drill and Exercise Programs—Based on its observations, the Board's staff team concludes that the Pantex Plant contractor has not demonstrated adequate capabilities through its drill and exercise programs. The Board's staff team found that the Pantex Plant emergency drill and exercise programs do not provide sufficient opportunities for personnel to develop and demonstrate proficiency at emergency response with respect to all response elements across the spectrum of hazards and facilities. The drill program does not act as part of a comprehensive training and qualification program, but during the last few years has mainly supported preparation for the site's annual exercises.

Department of Energy (DOE) Order 151.1C *Comprehensive Emergency Management Program* [1] outlines several requirements for drill and exercise programs. Specifically, Section 4.b (Exercises) states:

- A formal exercise program must be established to validate all elements of the emergency management program over a five-year period.
- Each exercise must have specific objectives and must be fully documented (*e.g.,* by scenario packages that include objectives, scope, timelines, injects, controller instructions, and evaluation criteria).
- Exercises must be evaluated.
- A critique process, which includes gathering and documenting observations of the participants, must be established.
- Corrective action items identified as a result of the critique process must be incorporated into the emergency management program.

Additionally, specified facility-level requirements include:

- Each DOE/NNSA facility subject to this chapter must exercise its emergency response capability annually and include at least facility-level evaluation and critique.
- DOE evaluations of annual facility exercises (*e.g.,* by Cognizant Field Element, Program Secretarial Officer, or Headquarters Office of Security and Safety Performance Assurance) must be performed periodically so that each facility has an external DOE evaluation at least every three years.
- Site-level emergency response organization elements and resources must participate in a minimum of one exercise annually. This site exercise must be designed to test and demonstrate the site's integrated emergency response capability. For multiple facility sites, the basis for the exercise must be rotated among facilities.

Scope of Exercise Scenarios: Based on observing implementation across DOE's sites, the Board's staff team summarized these requirements as the need to exercise *all facilities, all hazards, and all response elements.* The following sections describe the Board's staff team's observations of the Pantex Plant's implementation of drill and exercise requirements.

For the five-year period (2011–2015) reviewed by the Board's staff team, the following scenarios represent the totality of Pantex Plant's site-wide exercises:

[1] Consolidated Nuclear Security, LLC, became the management and operating contractor in July 2014. The previous contractor was Babcock & Wilcox Technical Services Pantex.

[2] The focus of the Board's staff reviews was not comprehensive in all elements of the emergency management program. Additional problems may exist in other elements of the program, such as federal oversight and the quality of the site's agreements with off-site stakeholders.

• 2011: Explosion in a nuclear explosive facility with no contamination outside the facility.
• 2012: Seismic event leading to building damage (no radiological or hazardous material release).
• 2014a: Liquid nitrogen release from a truck accident (make-up for no exercise in 2013).
• 2014b: Severe event (tornado) table-top.
• 2015a: Severe event (seismic) with a transportation accident, wildfire, and mass casualty (no radiological or hazardous material release).
• 2015b: Security event with hazardous material release.

The Board's staff team reviewed documentation that showed some facilities at the Pantex Plant did not hold an evaluated activity to demonstrate response capability, regardless of whether the activity was a site-wide exercise, limited scope exercise, or other form of evaluation.[3] The plant's analysis of the hazards for emergency preparedness and response is organized into a single emergency planning hazards analysis (EPHA), effectively identifying the plant as one facility when in reality there are numerous facilities with diverse hazards. This organizational structure contributes to the limited number of evaluated exercises at the Pantex Plant. Pantex is currently undertaking an effort to reevaluate the organization of the EPHA (*i.e.,* dividing the single EPHA into multiple EPHAs). The Board's staff team received conceptual information about this effort and will continue to review any proposed changes to the organization of the Pantex EPHA, since such a change may provide a formal basis for additional facility exercises.

The Pantex Plant has a range of hazards that may challenge emergency responders and decision-makers. Natural phenomena such as tornados, fires, lightning strikes, and rain-induced flooding exist alongside operational activities involving hazardous and radiological materials. The Board's staff team observed, directly and by document review, the range of exercise scenarios being conducted and found them to be too limited compared to the range of hazards at the plant. Often these scenarios were simplistic and not sufficiently challenging to truly demonstrate response capability for the hazard being exercised. DOE Guide 151.1–3, *Programmatic Elements,* Section 3.0 ''Exercises'' [2] provides a method of scheduling exercises to ensure coverage of all hazards at a site over a five-year period. However, it is the opinion of the Board's staff team that hazards with a higher frequency of occurrence, significance of consequences, or complexity of emergency response may need to be exercised more frequently than other hazards. Exercise scenarios from the past three years included a nitrogen spill, a primarily table-top tornado event, and a simulated earthquake with no radiological material impact.

The potential for more significant consequences and complicated responses exists at the Pantex Plant's facilities. For example, a high explosive violent reaction has the potential to release radioactive material both on site, outside of the nuclear explosive facility (*i.e.,* a bay), as well as off site. Fires in areas containing radioactive material have the potential to drive more significant radiological response actions by plant personnel. It is the opinion of the Board's staff team that the Pantex Plant should more frequently exercise challenging radiological responses.

The Pantex Plant has not consistently exercised all response elements between 2011 and 2015, which is insufficient to meet DOE requirements. There does not appear to be a deliberate approach to demonstrating integrated emergency response capability. For example, the August 2014 exercise [3] relied on to meet the annually required site-wide demonstration of proficiency, postulated a tornado affecting the site. This was the plant's first significant effort at exercising a severe event, but was also credited as the annual site-wide exercise. The Board's staff team observed that few field participants demonstrated their response capabilities. While this was a valuable training and planning activity for a severe event, this exercise was the sole site-wide event for that time period. The Board's staff team believes that it is appropriate to exercise a more complete array of site response elements, not just fire and rescue responders, demonstrating their proficiency. The 2013 exercise (conducted in January 2014) and the February 2015 exercise also did not involve significant field participation other than fire and rescue services. Within the last five years, Pantex has not completed a full participation exercise (*i.e.,* all on-site employees participating through protective actions and response); site-wide exercises have only included participation from a small subset of the plant population.

Training and Qualification of Emergency Responders: The limited number and scope of exercises conducted each year also affects the training, qualification, and proficiency of emergency responders. The Pantex Plant's emergency response organization is made up of three shifts of responders on a rotating watch bill. It is unclear to the Board's staff team how the site can demonstrate proficiency and support training and qualification across all responders when an insufficient number of facility and site-wide exercises are being scheduled to support a three-shift emergency response organization. The Pantex Plant training, drill, and exercise program plan authorizes participation in a limited-scope evaluated activity (*e.g.,* functional exercises or limited scope performance demonstrations) to maintain qualification within the emergency response organization [4]. Pantex Plant exercise after action reports document repeated emergency response organization shortcomings during site-wide exercises,[4] and demonstrate that these limited-scope opportunities are not sufficiently rigorous to qualify and maintain proficiency of personnel at emergency operations.

Exercise Assessment: The Board's staff team believes that the Pantex Plant's development and assessment of exercise objectives contributes to the continuing limited effectiveness of the emergency exercise program. The staff team assessed the exercise objectives and does not consider them to be effective tools for identifying problems that can be analyzed and corrected.

First, the objectives reviewed by the staff team were not always adequate to evaluate the effectiveness of actions taken by responders. For example, objectives do not always differentiate between taking an action and taking the right action in a timely fashion. The February 2015 exercise evaluation guide for the Plant Shift Superintendents (PSS) [5] included four criteria to evaluate the PSS's objective of

[3] The Pantex Plant is a collection of buildings of various designs that house a variety of activities and operations that occur at the plant. There are bays and cells, which come in several variations and can be standalone or collocated, in which assembly and disassembly of nuclear explosive assemblies is conducted. There are buildings in which non-nuclear operations, such as explosive operations, are conducted. There is a variety of storage areas including storage of nuclear materials, nuclear explosive assemblies, explosives, and other hazardous materials. There are also various transportation activities within operational areas and across the site. For the purposes of exercises, various areas or types of operations could be grouped as representing different types of *facilities.* In the context of the layout of facilities at the Pantex Plant, the Board's staff team believes that it would be appropriate to conduct some type of exercise or other form of evaluation for each representative type of activity and operation.

[4] The Board's staff team observed the past three site-wide exercises and also noted poor performance by the emergency response organization.

implementing protective actions (see Figure 1); the criteria do not address whether protective actions are implemented in time to be effective and whether the corrective protective actions are correct for the event.

Another example of an objective from the February 2015 exercise that the staff team believes was not adequate involved processing information (see Figure 2). This objective evaluates the collection of information by the PSS, but does not evaluate communication of this information to responders. The PSS received information about trapped victims involved in an on-site transportation accident event involving a passenger vehicle and a material transporter, but did not verify that the Incident Commander took the correct response. In fact, the Incident Commander was not notified that the on-site transportation accident had occurred, and no action was taken for almost an hour, at which point the Fire Department responded. During the controller/evaluator after action critique, the objective was evaluated as ''Met'' based on the fact that the PSS received the information; although the controller/evaluator did note in the After Action Report that ''No communication with the Incident Commander was observed'' [6]. This objective did not require the controller/evaluator to adequately consider the quality of the action taken upon receipt of the information.

Second, if all objectives are weighted equally, the importance of certain actions over others cannot be distinguished. The Pantex Plant is undertaking an effort to change the grading scheme for emergency exercises to focus only on objective-by-objective performance and not incorporate any objective and criterion weighting or overall grade scheme. In the objective shown in Figure 1, selecting the correct protective action is a single criterion,[5] which could be missed. Yet if all other criteria are completed, the objective may still be met. The overall objective—to implement time-urgent protective actions—seems to be more valuable to an effective response than objectives that simply measure adherence to administrative procedures. It is the opinion of the Board's staff team that, without some indication of an objective's overall importance, the plant is likely to have difficulty interpreting the exercise results and will be challenged to prioritize and apply resources to those response elements that require additional attention and to address corrective actions.

Last, the Pantex Plant could meet all of its exercise objectives but still fundamentally fail to protect the workers and public. The February 2015 exercise is an example. During the participant hot wash and controller/evaluator after-action critique, most objectives were determined to be ''Met.'' Yet, on-site first responders were potentially exposed to an off-site chemical hazard. This was not considered an objective and, therefore, did not influence the positive perception of the exercise results by the participants, controllers, and evaluators. Developing meaningful objectives requires a balance between criteria that are reasonably observable versus the need to confirm a subjective quality (*e.g.,* effectiveness). The ability to measure the quality of action taken, sometimes by independent oversight, is a necessary part of objective evaluations.

The Board's staff team believes that deficiencies in assessing performance in exercises also contribute to the continuing limited effectiveness of the emergency management program. Exercise participants conduct hot washes at the end of each exercise. The hot washes are intended to be a vehicle for participants to self-critique their response performance, including both positive and negative aspects, and to identify potential areas for improvement. The hot washes that the Board's staff team observed at the Pantex Plant tended to focus on faults with the exercise scenario rather than issues with emergency response performance. The participants raised issues such as the perception that a scenario was unrealistic or that controllers did not have adequate simulations for what the participants would observe in real-life. Many participant observations focused on deficiencies in administrative equipment and tools, such as printer or fax machine problems. While the readiness of these resources is important to an adequate response, the purpose of the exercise program is to demonstrate proficiency. Many participant observations also focused on the positive results of their actions, but failed to identify whether the actions taken would have been effective during the given emergency scenario. As a best practice, mature organizations tend to have an experienced functional team leader (*e.g.,* the Emergency Operations Center (EOC) Emergency Director) lead the hot wash, rather than rely on the exercise controller/evaluator for this role. Most response elements at the Pantex Plant do not incorporate this practice.

For each exercise, controllers and evaluators conducted after action critiques to collect data and observations about the performance of exercise response participants, as well as concerns with exercise control. While these were preliminary data gathering activities, the Board's staff team noted the same lack of critical assessment among the exercise evaluators. Evaluators did not explicitly compare the actions taken by participants to the expected or most desirable responses as they related to the fundamental purpose of emergency response. For example, while data on when a particular communication was faxed may have been collected, the quality and usefulness of the communication to inform its addressee were not evaluated. Discussions focused on specific functional area performance, as assessed against binary objectives such as a checklist, but did not address the effectiveness of interfaces between functional areas.

For example, during the February 2015 exercise, the EOC received information concerning an off-site release of a hazardous chemical from a train accident. The consequence assessment team performed modeling to inform decision-makers of the effect on plant personnel, including first responders. Fire Department personnel who responded to the on-site transportation accident were within the projected plume while performing rescue operations. Neither the PSS nor the EOC informed the Fire Department personnel of the potential exposure (*e.g.,* type of material, quantity, timing, or recommended personal protective equipment). This information was eventually provided to the incident command late in the scenario. Exercise objectives were evaluated as ''Met'' for these individual functional areas during the evaluator after action critique. The effectiveness of organizational interfaces can be masked by such stove-piped evaluations.

Emergency Management Drill and Exercise Program Oversight: The Board's staff team considers it a significant deficiency that NPO and contractor oversight did not identify the issues discussed in this section. Other than the emergency management program manager, the Board's staff team observed limited evidence of interaction with NPO functional area subject matter experts in the evaluation of exercise reports. NPO review of exercise assessments appears weak in that

[5] Note that the criterion actually asks, ''What protective action(s) was implemented.'' This discussion addresses the intent of that criterion (*i.e.,* the Board's staff team believes that the intent of the criterion was to determine ''Was the correct protective action implemented?'').

exercises with observed deficiencies do not result in reports with commensurate findings. Where issues are identified, the contractor's causal analyses are often weak or superficial, leading to development of ineffective corrective actions and recurrence of the same issues in subsequent exercises. The concern with ineffective corrective actions is also evident when DOE's independent oversight organizations observe exercises and provide reports to the plant. DOE's Office of Emergency Management Oversight (formerly HS–63 and also OA–30) provided reports highlighting concerns with the Pantex Plant's emergency management program; these reports also identify recurring issues that the contractor has not effectively addressed [7, 8, 9, 10].

Timely, Accurate Information to the Public Regarding Off-site Radiological Consequences—The Board's staff team found no demonstrated capability to provide timely, accurate information to the public regarding off-site radiological consequences. Accident scenarios postulated at the Pantex Plant may result in the release of radioactive material or other hazardous materials from facilities. The released material may then be carried across the site boundary and contaminate public roads and land. The proximity of some facilities at the plant to the site boundary is such that in certain scenarios, material could contaminate off-site locations within a short period of time.

Notification to off-site organizations provides two important functions: first, it warns members of the public to take protective action in response to an accident; second, it initiates off-site response assets that can control access and conduct radiological monitoring. The notification processes used at the Pantex Plant may not provide enough time for protective action recommendations to be issued and executed before radioactive material is dispersed off-site. Any delay in notification adds to the time necessary for state response assets to deploy. Notification may be delayed due to the emergency action level (EAL) decision-making processes. Additionally, state radiological monitoring assets may be delayed in reaching the vicinity of Amarillo due to geographic constraints.[6] The response teams, located in Austin, TX, must travel nearly 500 miles before they are available to monitor the affected area. Notification delays would also impede instituting access control to public use areas around the site. While the Pantex Plant emergency response organization develops and provides models of radioactive material releases to state and county officials, actual monitoring to verify material deposition off site may not be proactively performed by the site's radiological response assets; these assets may be released at the plant's discretion in accordance with existing memoranda of understanding between the site and the counties/state. Pantex Plant radiological support personnel do not exercise this monitoring function during drills and exercises, and do not have processes in place to describe how off-site field monitoring would be executed.

There are limited requirements in DOE Order 151.1C that specify how the site will plan for these events and handle off-site radiological monitoring. The Board's staff team notes that the Pantex Plant has made agreements, via memoranda of understanding, with state and local authorities to create communication channels for much of this information. However, these existing mechanisms do not provide the proactive support from the plant to the local community that is necessary to ensure any release of contamination is accurately tracked in a timely manner to ensure the protection of the public. Given that the Pantex Plant is close to public roads and land, and has the potential to release radiological material off site within minutes of an initiating event, stronger requirements in the Order are needed to ensure the plant performs effective off-site monitoring until the necessary State of Texas resources arrive.

Technical Planning Bases and Decision-making Tools—The Board's staff team found that the technical planning bases and decision-making tools for the Pantex Plant's emergency management program are inadequate to demonstrate protection from time-sensitive events and do not consider all hazards at the site. For the set of hazards analyzed, the technical planning tools developed to respond to emergencies are inadequate to ensure timely notification of the need for protective actions to the workers and recommended protective actions to the public.

To meet DOE Order 151.1C emergency planning element requirements, a site must conduct an all-hazard analysis. From this survey, certain accident sequences are selected for additional consideration in the EPHA. The EPHA provides the basis for developing the site's EALs. EALs, which are also required by DOE Order 151.1C, are used during an emergency event to determine the categorization and level of classification of the emergency event. When using an EAL, emergency response decision-makers attempt to answer two questions. First, is the event an operational emergency? Second, if so, what is the potential area of impact and the degree of emergency response? The safety basis development process uses a similar hazard analysis process. When developing a safety basis, some infrequent accidents may be screened out of further analysis if they have a low probability of occurrence. However, for the purposes of EPHAs, low-probability, high-consequence events should be further analyzed to determine the magnitude of potential consequences and the expected level of response. Guidance is provided in DOE's Emergency Management Guide 151.1–1a, *Emergency Management Fundamentals and the Operational Emergency Base Program.* ''The DOE approach requires some planning even for events whose severity exceeds the design basis for safety controls; the facility/site or activity must be prepared to take actions to limit or prevent adverse health and safety impacts to workers and the public'' [11]. While these analyses of low-probability events may be less quantitative, they still need to be performed to ensure DOE and its contractors are cognizant of potential consequences and conduct an appropriate level of planning.

For events that Pantex Plant emergency management personnel have analyzed, the site uses EALs as a tool to determine if an operational emergency is occurring and the classification of the event, to notify site workers of the need for protective actions, and to notify the public of recommended protective actions. As currently developed, these EALs include a confirmatory step that may delay decision-makers providing these notifications and recommendations for protective actions for several minutes, possibly up to 30 minutes. The ability to provide notifications and recommendations for protective actions to workers and the public in a timely manner significantly increases the safety of these groups during operational emergencies. DOE

[6] The DOE Radiological Assistance Program (RAP) is a national emergency response asset that provides around-the-clock first-response capability to assess radiological emergencies, and has a team stationed in Amarillo, TX. This team may not be consistently available due to competing priorities and may not have sufficient local resources to support a response outside the Pantex Plant. DOE has not incorporated the RAP into the Pantex Plant's existing exercise program, leaving to question the capability of the RAP resources to provide off-site support. Additionally, there is potential that the RAP team could be deployed elsewhere at the time of an incident, precluding the use of that resource.

Order 151.1C specifies a 15-minute window to notify DOE Headquarters and the public of events in progress [1].

Pantex Plant emergency management personnel chose to use a decision tree model in their EALs, visually guiding an operator through decisions being made in response to an event on site. The example in Figure 3 below, taken from the Pantex EALs [12], shows the flow-path through decision making to action.

An operator—in the case of the Pantex Plant, the PSS—enters the EAL with relevant information concerning an emergency event. This leads the PSS to a conservative emergency categorization and classification. These classifications (Alert, Site Area Emergency, and General Emergency) ensure appropriate responses are taken given the anticipated magnitude of the accident consequences. In most radiological EALs at the Pantex Plant, the PSS receives initial information of emergency conditions from an instrumented signal. For example, coincident fire and radiation monitor alarms would indicate the presence of a possible fire with radioactive material release.

The Pantex Plant EALs also include confirmatory indicators as an explicit step in the decision-making process before classification can be performed. These are typically in the form of personnel providing eyewitness confirmatory statements about the nature of an event. From the EAL front matter [12], page 8:

> The PSS or Emergency Manager must rely on information resulting from communication with whoever is in command at the emergency scene, emergency responders, and plant personnel to supply confirmatory information necessary to make emergency classification decisions.

From page 11:

> Using the appropriate EAL, the PSS or Emergency Manager follows the decision tree and attempts to identify initial and confirmatory indicators of an actual emergency event while simultaneously continuing to gather information on the situation from Incident Command, emergency responders, and plant personnel. [If these resources are not already there, they are dispatched.] During this time, *initial protective actions may be implemented* [emphasis added] to protect plant personnel.
>
> If EAL confirmatory indicators are present and detected, the PSS or Emergency Manager follows the decision-tree to the classification area. This section may require retrieval of information on the quantity and type of material involved in the incident from the Move Right System or use of inserted tables. Once determined, the PSS or Emergency Manager classifies the emergency based on the EAL information.

These classification decisions allow the PSS to determine what, if any, protective actions are necessary for personnel on site and recommended protective actions for the public off site. Waiting for confirmation from first responders, if not provided by some other source, may cause a delay in the PSS issuing notifications and recommendations for protective actions to the workforce and the public. For example, in the following EAL, if no confirmatory information is provided, someone must be dispatched to confirm if an explosion truly occurred [12].

Similarly, note the reliance on personnel observations and inferences to assist the decision maker through appropriate classification of a fire in a nuclear explosive or special nuclear material facility [12].

In the following example, radiological support personnel must be dispatched, if not immediately available at the scene, to confirm the validity of a tritium release alarm before the appropriate emergency classification and protective actions are determined [12].

In the following example, it is not clear what a ''Convincing Report'' or combination of fire indicators is without further training or guidance on expectations for those who may report such events [12].

The specific examples provided, which are not intended to be all encompassing, demonstrate that the Pantex Plant emergency management strategy is reliant on confirmatory indicators and does not always provide sufficient guidance on how to accomplish the required confirmation. Immediate (or precautionary) protective actions, which protect the site workers in the short-term, would be delayed while additional assessment is performed. Such additional assessment would also delay notifying the off-site public of protective action recommendations. The Board's staff team believes changes to these procedures, or incorporation of additional instrumentation of adequate reliability, would provide the level of protection necessary to ensure a time-sensitive response to radiological accidents while minimizing false alarms.

Conclusions. The Board's staff team considers the concerns described above to be significant and concludes that the Pantex Plant's emergency management program will require Board action to influence DOE to address these deficiencies. The plant has made changes to specific programmatic elements; however, significant improvements have not yet been realized. Focused effort at addressing the concerns will substantially ensure protection of the workers and public at the Pantex Plant. Some specific actions to address these concerns include:

- Ensure the Pantex Plant drill and exercise programs comprehensively demonstrate proficiency in responding to emergencies for all hazards, all facilities, and all responders, consistent with the technical planning bases and any updates to them, over a five-year period in accordance with DOE Order 151.1C (or subsequent revisions). As part of this demonstration of proficiency:
  - Develop and institute a basis for conducting the drill program in support of emergency operations.
  - Strengthen the exercise program to provide an adequate number of challenging scenarios per year, including at least one full-scale site-wide exercise, in order to maintain qualifications and ensure proficiency of the emergency response organization and first responders.
  - Conduct a comprehensive assessment of the drill and exercise programs bases, schedule, and execution against a risk-ranked set of:
    - All hazards;
    - All facilities; and
    - All response elements.
  - Evaluate and improve the effectiveness of the NPO and contractor processes used to critique drills and exercises.
- Develop and implement processes and demonstrate the capabilities to:
  - Ensure the timeliness and accuracy of notifications to state and local authorities is commensurate with the initiation of off-site release of radioactive material at the Pantex Plant.
  - Provide consistent radiological monitoring support if an accident releases radiological material off-site, until state resources arrive and can assume responsibility for off-site monitoring.
- Evaluate, incorporate, and validate (correctness, completeness, and effectiveness), the following changes to the Pantex Plant decision-making tools and notification processes:
  - Evaluate the emergency action level (EAL) process for those accident scenarios identifiable solely via instrumented systems to reduce delays in determining and implementing protective actions.
  - For those accident scenarios that are not identifiable solely via instrumented systems, evaluate the range of emergency conditions and potential indicators, and identify where new monitoring systems can be added or existing administrative controls can

be modified to improve timeliness of response.

○ For all scenarios, evaluate if some protective actions should be initiated based solely on initial indicators (*i.e.,* a precautionary evacuation) while confirmatory indicators are sought.

○ Upon completion of these evaluations, incorporate new guidance and training for any changes made to the EAL decision-making tools and notification processes into the drill and exercise program.

The Board's staff team believes these problems will not be adequately addressed by Board's Recommendation 2014–1, *Emergency Preparedness and Response* [13]. Recommendation 2014–1 identifies specific concerns with DOE as a regulator, including a failure to maintain an adequate requirement set, which led to inconsistent implementation across DOE, as well as a lack of rigor in federal and contractor oversight that let problems persist. While some of DOE's actions to address Recommendation 2014–1 may provide a framework for the Pantex Plant to improve its emergency preparedness and response, the staff team believes the concerns noted above exist due to inadequate implementation of the current requirements. As a result, the staff team believes that timely resolution of these concerns requires separate Board action.

Risk Assessment for Recommendation 2015–1

Emergency Preparedness and Response at the Pantex Plant

The recommendation addresses vulnerabilities in the Pantex Plant's implementation of Department of Energy (DOE) requirements for emergency preparedness and response. In accordance with the Defense Nuclear Facilities Safety Board's (Board) enabling statue and Policy Statement 5 (PS–5), *Policy Statement on Assessing Risk* [14], this risk assessment was conducted to support the Board's Recommendation 2015–1, *Emergency Preparedness and Response at the Pantex Plant.* As stated in PS–5,

> The Board's assessment of risk may involve quantitative information showing that the order of magnitude of the risk is inconsistent with adequate protection of the health and safety of the workers and the public . . . the Board will explicitly document its assessment of risk when drafting recommendations to the Secretary of Energy in those cases where sufficient data exists to perform a quantitative risk assessment.

DOE's hazards assessments address initiating events, preventive and mitigative controls, and consequences. Initiating events in these assessments include operational and natural phenomena events. Preventive and mitigative controls are design basis controls identified in safety analysis documents. Consequences cover a wide spectrum, ranging from insignificant to catastrophic effects.

The emergency management program exists at the Pantex Plant because the risk associated with its facilities is acknowledged by DOE and is required by law. Emergency response provides the ''last line of defense in the event of . . . [an] accident'' [15]. Therefore, the emergency management program needs to function effectively to protect the workers and the public.

This recommendation is focused on improving the effectiveness of the Pantex Plant's emergency management program. A quantitative risk assessment on the effectiveness of this program requires data on probability and consequences. Detailed data on the probability of failure in emergency management program elements are not available for the Pantex Plant, nor do effective comparisons exist. Therefore, it is not possible to do a quantitative assessment of the risk of these elements to provide adequate protection of the workers and the public.[1]

The Board believes that more robust implementation of existing requirements would reduce the risk associated with the spectrum of accidents postulated at the plant, regardless of the cause, including process upsets, the effects of natural phenomena, and man-made initiating events, as well as provide additional margin to respond to those events considered beyond the design basis.

Cited References

[1] Department of Energy, *Comprehensive Emergency Management System,* DOE Order 151.1C, November 2, 2005.

[2] Department of Energy, *Programmatic Elements: Emergency Management Guide,* DOE Guide 151.1–3, July 11, 2007.

[3] Pantex Plant Safeguards, Security, and Emergency Services, *Full Participation Exercise 2014–1 (FPE 14–1) Exercise Plan (Twister-14),* August 6, 2014.

[4] Pantex Plant Safeguards, Security, and Emergency Services, *Emergency Management Training, Drill, and Exercise Program Plan,* Issue 011, EM–PLN–0023, (undated).

[5] Pantex Plant Safeguards, Security, and Emergency Services, *Full Scale Exercise 2015–1 (FSE 15–1) Exercise Evaluation Guides (Shaker-15),* February 4, 2015.

[6] Pantex Plant, *February 4, 2015 Shaker-15 Exercise After Action Report,* (undated).

[7] Department of Energy, Office of Independent Oversight and Performance Assurance, *Volume II, Inspection of Emergency Management at the Pantex Plant,* November 2002.

[8] Department of Energy, Office of Security and Safety Performance Assurance: Office of Independent Oversight and Performance Assurance, *Inspection of Emergency Management at the Pantex Site Office and the Pantex Plant,* August 2005.

[9] Department of Energy, Office of Health, Safety and Security: Office of Independent Oversight: Office of Emergency Management Oversight, *Independent Oversight Inspection of Emergency Management at the Pantex Site Office and the Pantex Plant,* June 2008.

[10] Department of Energy, Office of Health, Safety and Security: Office of Independent Oversight, *Independent Oversight Review of Emergency Management at the Pantex Site Office and Pantex Plant,* November 2010.

[11] Department of Energy, *Emergency Management Fundamentals and the Operational Emergency Base Program: Emergency Management Guide,* DOE Guide 151.1–1a, July 11, 2007.

[12] Babcock & Wilcox Technical Services Pantex, *Emergency Action Levels,* MNL–190884, Issue No. 007, (undated).

[13] Defense Nuclear Facilities Safety Board, *Emergency Preparedness and Response,* Recommendation 2014–1, September 3, 2014.

[14] Defense Nuclear Facilities Safety Board, *PS–5 Policy Statement on Assessing Risk,* August 15, 2013.

[15] Department of Energy, Office of Emergency Management Mission, accessed at: *http://nnsa.energy.gov/ourmission/emergencyresponse,* accessed April 24, 2015.

[16] U.S. Nuclear Regulatory Commission, *Emergency Plans,* Title 10, Code of Federal Regulations, Subsection 50.47.

[17] U.S. Nuclear Regulatory Commission, *Emergency Planning and Preparedness for Production and Utilization Facilities,* Title 10, Code of Federal Regulations, Part 50, Appendix E.

General References

Babcock & Wilcox Technical Services Pantex, *NNSA Emergency Readiness Assurance*

[1] Members of the Board's staff conducted research on other sources of risk information related to emergency management programs and noted the U.S. Nuclear Regulatory Commission (NRC) evaluates commercial nuclear production and utilization facilities against a set of sixteen ''standards,'' similar to DOE's concept of fifteen program elements found in DOE Order 151.1C, Comprehensive Emergency Management System. Of the sixteen NRC standards, four are considered ''risk significant'' and are weighted differently in the application of the NRC's reactor oversight process, a regulatory scheme applied to certain licensees to characterize the severity of findings [16, 17]. Under this scheme, findings identified within these standards are considered more significant. Three of the four standards, ''Classification,'' ''Notification,'' and ''Protective Action Recommendations,'' parallel the nature of the concerns with elements of the Pantex Plant's emergency management program stated by the Board in this recommendation.

Plans—FY 2012 Submission: Completed Activities For FY 2012 and Projected Activities For FY 2013, Pantex ERAP, (undated).
Defense Nuclear Facilities Safety Board, *Public Meeting and Hearing for Safety Culture, Emergency Preparedness, and Nuclear Explosive Operations at Pantex,* Amarillo, TX, March 14, 2013.
Defense Nuclear Facilities Safety Board, *Status of Emergency Management at Defense Nuclear Facilities of the Department of Energy,* Technical Report-21, March 1999.
Erhart, S.C., *Pantex Emergency Management Exercise (EMEX 13–1) January 2014,* memorandum to J. Maisonet, December 19, 2013.
Erhart, S. C., *Public Hearing and Meeting Regarding Safety Culture, Emergency Preparedness, and Nuclear Explosive Operations at Pantex,* communication to Peter S. Winokur, June 12, 2013.
Pantex Plant Safeguards, Security, and Emergency Services, *Operational Emergency Manual,* Issue No. 003, MNL–352187, (undated).
Pantex Plant Safeguards, Security, and Emergency Services, *Pantex Plant Comprehensive Emergency Management Plan,* Issue No. 007, EM–PLN–0019, (undated).
Pantex Plant Safeguards, Security, and Emergency Services, *Pantex Plant Emergency Planning Hazards Assessment,* Issue No. 009, MNL–190881, (undated).

[FR Doc. 2015–30562 Filed 12–2–15; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–24–000.
Applicants: Blythe Solar 110, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Blythe Solar 110, LLC.
Filed Date: 11/24/15.
Accession Number: 20151124–5263.
Comments Due: 5 p.m. ET 12/15/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2074–006*; ER10–2097–008.*
Applicants: Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company.
Description: Notice of Change in Status of Kansas City Power & Light Company, *et al.*
Filed Date: 11/24/15.
Accession Number: 20151124–5258.
Comments Due: 5 p.m. ET 12/15/15.
Docket Numbers: ER10–3297–008.
Applicants: Powerex Corp.
Description: Notice of Non-Material Change in Status of Powerex Corp.
Filed Date: 11/25/15.
Accession Number: 20151125–5247.
Comments Due: 5 p.m. ET 12/16/15.
Docket Numbers: ER16–388–000.
Applicants: Southern California Edison Company.
Description: Tariff Cancellation: Notice of Cancellation LGIA Alta Windpower Development to be effective 9/11/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5022.
Comments Due: 5 p.m. ET 12/16/15.
Docket Numbers: ER16–389–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Amendment to DWR Midway-Wheeler Ridge Agreement (RS245) to be effective 1/25/2016.
Filed Date: 11/25/15.
Accession Number: 20151125–5033.
Comments Due: 5 p.m. ET 12/16/15.
Docket Numbers: ER16–390–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Lathrop Irrigation District IA and TFA (SA 298) to be effective 11/30/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5038.
Comments Due: 5 p.m. ET 12/16/15.
Docket Numbers: ER16–391–000.
Applicants: Public Service Company of New Hampshire.
Description: § 205(d) Rate Filing: Schiller Generating Station LGIA—Service Agreement No. IA–ES–31 to be effective 1/1/2016.
Filed Date: 11/25/15.
Accession Number: 20151125–5090.
Comments Due: 5 p.m. ET 12/16/15.
Docket Numbers: ER16–392–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2015–11–25_Attachment MM AFUDC Filing to be effective 1/1/2016.
Filed Date: 11/25/15.
Accession Number: 20151125–5102.
Comments Due: 5 p.m. ET 12/16/15.
Docket Numbers: ER16–393–000.
Applicants: Fowler Ridge Wind Farm LLC.
Description: Compliance filing: Compliance Filing—Removal of Tariff Waiver to be effective 11/1/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5124.
Comments Due: 5 p.m. ET 12/16/15.
Docket Numbers: ER16–394–000.
Applicants: NedPower Mount Storm, LLC.
Description: Compliance filing: Compliance Filing—Removal of Affiliate Waiver to be effective 11/1/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5186.
Comments Due: 5 p.m. ET 12/16/15.
Docket Numbers: ER16–395–000.
Applicants: Selmer Farm, LLC.
Description: Compliance filing: Compliance Filing—Removal of Affiliate Waiver to be effective 11/1/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5190.
Comments Due: 5 p.m. ET 12/16/15.
Docket Numbers: ER16–396–000.
Applicants: CID Solar, LLC.
Description: Compliance filing: Compliance Filing—Removal of Affiliate Tariff to be effective 11/1/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5246.
Comments Due: 5 p.m. ET 12/16/15.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES16–6–000.
Applicants: Commonwealth Edison Company.
Description: Amendment to October 30, 2015 Application of Commonwealth Edison Company Under Section 204 of the Federal Power Act for Authorization of the Issuance Securities.
Filed Date: 11/24/15.
Accession Number: 20151125–5093.
Comments Due: 5 p.m. ET 12/4/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 25, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–30566 Filed 12–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–18–001]

Eastern Shore Natural Gas Company; Notice of Amendment to Application for Certificate of Public Convenience and Necessity

Take notice that on November 18, 2015, Eastern Shore Natural Gas Company (Eastern Shore), 1110 Forrest Avenue, Dover, Delaware 19904, filed in the above referenced docket an amendment to the certificate application in Docket No. CP15–18–000, pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations. Eastern Shore proposes to construct Kemblesville Loop portion of the White Oak Mainline Expansion Project (Project) along existing right-of-way rather than along a new right-of-way, as was originally proposed all in Chester County, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to William Rice, King & Spalding LLP, 1700 Pennsylvania Avenue NW, Suite 200, Washington, DC 20006, by phone 202–626–9602, by fax 202–626–3737, or by email *wrice@kslaw.com.*

Specifically, Eastern Shore originally proposed to construct a 3.9 mile long 16-inch diameter pipeline loop near Kemblesville, Pennsylvania (Kemblesville Loop) along new right-of-way away from the existing structures. However, upon closer review of the environmental impacts, Eastern Shore became aware that Alternative 2 route in the original filing would be more preferable. Alternative 2 route will (1) reduce the total length of the Kemblesville loop by 1.8 miles; (2) reduce the acreage of mature tree clearance from approximately 12 to approximately 6; (3) open up less forested acreage to the potential spread of noxious weeds and vines that over time could kill mature trees; and (4) minimize the removal of other vegetation thus reducing potential adverse impacts to Delaware River Basin. Eastern Shore requests that the Commission issue the requested authorizations during the first quarter of 2016, in order to allow Eastern Shore complete and place the project in service no later than September 1, 2016.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: December 16, 2015.

Dated: November 25, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–30570 Filed 12–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–39–000.
Applicants: Copper Mountain Solar 2, LLC.
Description: Application for authorization of transaction under FPA section 203 and request for expedited action of Copper Mountain Solar 2, LLC.
Filed Date: 11/25/15.
Accession Number: 20151125–5408.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: EC16–40–000.
Applicants: Marina Energy, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action of Marina Energy, LLC.
Filed Date: 11/25/15.
Accession Number: 20151125–5410.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: EC16–41–000.
Applicants: 8point3 Energy Partners LP, Kingbird Solar A, LLC, Kingbird Solar B, LLC.
Description: Application for Authorization Under FPA Section 203 and Request for Expedited Action of 8point3 Energy Partners LP, *et al.*
Filed Date: 11/25/15.
Accession Number: 20151125–5411.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: EC16–43–000.
Applicants: Arbuckle Mountain Wind Farm LLC, Arlington Wind Power Project LLC, Cloud County Wind Farm, LLC, Pioneer Prairie Wind Farm I, LLC, Rising Tree Wind Farm III LLC, Waverly Wind Farm LLC, Axium US Wind AcquisitionCo LLC.
Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Arbuckle Mountain Wind Farm LLC, *et al.*
Filed Date: 11/25/15.
Accession Number: 20151125–5427.
Comments Due: 5 p.m. ET 12/16/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–25–000.
Applicants: NextEra Blythe Solar Energy Center, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of NextEra Blythe Solar Energy Center, LLC.
Filed Date: 11/25/15.
Accession Number: 20151125–5262.
Comments Due: 5 p.m. ET 12/16/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2126–002.
Applicants: Idaho Power Company.
Description: Notice of Change in Status of Idaho Power Company.
Filed Date: 11/25/15.
Accession Number: 20151125–5430.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER10–2331–046; ER14–630–022; ER10–2319–037; ER10–2317–037; ER13–1351–019; ER10–2330–044.
Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA LLC, Florida Power Development LLC, Utility Contract Funding, L.L.C.
Description: Notice of Non-Material Change in Status of JPMorgan Sellers.
Filed Date: 11/25/15.
Accession Number: 20151125–5432.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER10–2331–047; ER14–630–023; ER10–2319–038; ER10–2317–038; ER13–1351–020; ER10–2330–045.
Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA LLC, Florida Power Development LLC, Utility Contract Funding, L.L.C.
Description: Notice of Non-Material Change in Status of JPMorgan Sellers.
Filed Date: 11/25/15.
Accession Number: 20151125–5436.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER10–3168–014; *ER10–2531–005.*
Applicants: ArcLight Energy Marketing, LLC, Cedar Creek Wind Energy, LLC.
Description: Notice of Non-Material Change in Status of ArcLight Energy Marketing, LLC, *et al.*
Filed Date: 11/25/15.
Accession Number: 20151125–5437.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER13–342–009.
Applicants: CPV Shore, LLC.
Description: Notice of Change in Status of CPV Shore, LLC.
Filed Date: 11/25/15.
Accession Number: 20151125–5431.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER15–1919–004.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: Compliance filing—EIM Year 1 Enhancements to be effective 11/4/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5361.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–136–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Errata to Filing in ER16–136–000 to Correct Proposed Effective Date to be effective 10/21/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5358.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–397–000.
Applicants: Cottonwood Solar, LLC.
Description: Compliance filing: Compliance Filing—Removal of Affiliate Waiver to be effective 11/1/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5261.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–398–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: Section 205 filing tariff amendments to OATT Attachment F to be effective 1/1/2016.
Filed Date: 11/25/15.
Accession Number: 20151125–5289.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–400–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: November 2015 Western WDT Service Agreement Biannual Filing to be effective 2/1/2016.
Filed Date: 11/25/15.
Accession Number: 20151125–5324.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–401–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: November 2015 Western Interconnection Agreement Biannual Filing to be effective 2/1/2016.
Filed Date: 11/25/15.
Accession Number: 20151125–5332.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–402–000.
Applicants: Imperial Valley Solar Company (IVSC) 2, LLC.
Description: Compliance filing: Compliance Filing—Removal of Affiliate Waiver to be effective 11/1/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5334.
Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–403–000.
Applicants: Pavant Solar LLC.
Description: Compliance filing: Compliance Filing—Pavant Removal of Affiliate Waiver 112515 to be effective 11/1/2015.
Filed Date: 11/25/15.
Accession Number: 20151125–5354.

Comments Due: 5 p.m. ET 12/16/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 27, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–30567 Filed 12–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3168–015; *ER10–2400–005*.

Applicants: ArcLight Energy Marketing, LLC, Blue Canyon Windpower LLC.

Description: Notice of Non-Material Change in Status of ArcLight Energy Marketing, LLC, *et al.*

Filed Date: 11/25/15.

Accession Number: 20151125–5438.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER10–3168–016; *ER10–2532–005*; *ER10–2722–005*.

Applicants: ArcLight Energy Marketing, LLC, Crescent Ridge LLC, Eurus Combine Hills I LLC.

Description: Notice of Non-Material Change in Status of ArcLight Energy Marketing, LLC, *et al.*

Filed Date: 11/25/15.

Accession Number: 20151125–5439.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–404–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Letter Agreement Silver State Solar Power South, LLC & NEER to be effective 11/26/2015.

Filed Date: 11/25/15.

Accession Number: 20151125–5385.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–405–000.

Applicants: Allegheny Ridge Wind Farm, LLC.

Description: § 205(d) Rate Filing: Category 2 Seller Notice re NE to be effective 11/26/2015.

Filed Date: 11/25/15.

Accession Number: 20151125–5392.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–406–000.

Applicants: Aragonne Wind LLC.

Description: § 205(d) Rate Filing: Category 2 Seller re SW to be effective 11/26/2015.

Filed Date: 11/25/15.

Accession Number: 20151125–5393.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–407–000.

Applicants: Dominion Bridgeport Fuel Cell, LLC.

Description: Compliance filing: Compliance Filing—DBFC Removal of Affiliate Waiver to be effective 11/1/2015.

Filed Date: 11/25/15.

Accession Number: 20151125–5394.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–408–000.

Applicants: Crescent Ridge LLC.

Description: § 205(d) Rate Filing: Category 2 Seller Notice re NE to be effective 11/26/2015.

Filed Date: 11/25/15.

Accession Number: 20151125–5395.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–409–000.

Applicants: Buena Vista Energy, LLC.

Description: § 205(d) Rate Filing: Category 2 Seller Notice re SW to be effective 11/26/2015.

Filed Date: 11/25/15.

Accession Number: 20151125–5396.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–410–000.

Applicants: GSG, LLC.

Description: § 205(d) Rate Filing: Category 2 Seller Notice re NE to be effective 11/26/2015.

Filed Date: 11/25/15.

Accession Number: 20151125–5397.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–411–000.

Applicants: Kumeyaay Wind LLC.

Description: § 205(d) Rate Filing: Category 2 Seller Notice re SW to be effective 11/26/2015.

Filed Date: 11/25/15.

Accession Number: 20151125–5398.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–412–000.

Applicants: Mendota Hills, LLC.

Description: § 205(d) Rate Filing: Category 2 Seller Notice re NE to be effective 11/26/2015.

Filed Date: 11/25/15.

Accession Number: 20151125–5399.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER16–413–000.

Applicants: NRG Wholesale Generation LP, Seward Generation, LLC.

Description: NRG Wholesale Generation LP and Seward Generation, LLC Joint Request for Waiver and Request for Expedited Consideration.

Filed Date: 11/25/15.

Accession Number: 20151125–5424.

Comments Due: 5 p.m. ET 12/16/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 27, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–30568 Filed 12–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #3

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2527–001; ER10–2528–001; ER10–3168–017; ER10–2529–001; ER10–2530–002; ER15–356–004; ER15–357–004; ER10–2533–001; ER10–2534–001; ER10–2535–001; ER12–2570–010; ER13–618–009.

Applicants: Allegheny Ridge Wind Farm, LLC, Aragonne Wind LLC, ArcLight Energy Marketing, LLC, Buena Vista Energy, LLC, Caprock Wind LLC, Chief Conemaugh Power, LLC, Chief Keystone Power, LLC, GSG, LLC, Kumeyaay Wind LLC, Mendota Hills, LLC, Panther Creek Power Operating, LLC, Westwood Generation, LLC.

Description: Notice of Non-Material Change in Status of Allegheny Ridge Wind Farm, LLC, *et al.*

Filed Date: 11/25/15.

Accession Number: 20151125–5441.

Comments Due: 5 p.m. ET 12/16/15.

Docket Numbers: ER10–3246–007; ER11–2044–018; ER10–2475–012; ER10–2474–012; ER12–162–015; ER15–2211–005; ER11–3876–018; ER13–520–005; ER13–521–005; ER13–1441–005; ER13–1442–005; ER12–1626–006; ER13–1266–006; ER13–1267–005; ER13–1268–005; ER13–1269–005; ER13–1270–005; ER13–1271–005; ER13–1272–005; ER13–1273–005; ER10–2601–005; ER10–2611–016; ER10–2605–009; ER12–922–003.

Applicants: PacifiCorp, MidAmerican Energy Company, Nevada Power Company, Sierra Pacific Power Company, Bishop Hill Energy II LLC, MidAmerican Energy Services, LLC, Cordova Energy Company LLC, Pinyon Pines Wind I, LLC, Pinyon Pines Wind II, LLC, Solar Star California XIX, LLC, Solar Star California XX, LLC, Topaz Solar Farms LLC, CalEnergy, LLC, CE Leathers Company, Del Ranch Company, Elmore Company, Fish Lake Power LLC, Salton Sea Power Generation Company, Salton Sea Power L.L.C., Vulcan/BN Geothermal Power Company, Power Resources, Ltd, Saranac Power Partners, L.P., Yuma Cogeneration Associates, Phillips 66 Company.

Description: Notification of Change in Status PacifiCorp, *et al.*

Filed Date: 11/25/15.

Accession Number: 20151125–5440.

Comments Due: 5 p.m. ET 12/16/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 27, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–30569 Filed 12–2–15; 8:45 am]

BILLING CODE 6717–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 10, 2015, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov*. See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. *Approval of Minutes*

- November 12, 2015

B. *Reports*

- Report on Farm Credit System's Funding Conditions
- Quarterly Report on Economic Conditions and FCS Conditions
- Semi-Annual Report on Office of Examination Operations

Closed Session *

- Office of Examination Quarterly Report

Dated: November 30, 2015.

Mary Alice Donner,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 2015–30663 Filed 12–1–15; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[AU Docket No. 14–252, GN Docket No. 12–268, WT Docket No. 12–269; DA 15–1365]

Wireless Telecommunications Bureau Clarifies Procedure for Disbursing Reverse Auction Incentive Payments

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document clarifies procedure for reverse incentive auction payments for Auction 1001.

FOR FURTHER INFORMATION CONTACT: *Wireless Telecommunications Bureau, Auctions and Spectrum Access Division:* For general forward auction questions: Mary Margaret Jackson at (202) 418–3641.

SUPPLEMENTARY INFORMATION: This is a summary of the *Clarification on Reverse Auction Payment Public Notice,* AU Docket No. 14–252, GN Docket No. 12–268, WT Docket No. 12–269, DA 15–1365, released on November 25, 2015. The complete text of the *Clarification on Reverse Auction Payment Public Notice* is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. ET Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text is also available on the Commission's Web site at *http://wireless.fcc.gov,* or by using the search function on the ECFS Web page at *http://www.fcc.gov/cgb/ecfs/.* Alternative formats are available to persons with disabilities by sending an email to *FCC504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

1. The Wireless Telecommunications Bureau (Bureau) in response to a number of comments and inquiries clarified the circumstances under which the Commission will accept payment

* Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(8) and (9).

instructions to make incentive payments to an entity other than a winning reverse auction bidder. The Commission has stated that incentive payments will be disbursed ''to the licensee that is the reverse auction applicant'' and that, in making such disbursements, it will ''follow winning reverse auction bidders' payment instructions as set forth on their respective standardized incentive payment forms to the extent permitted by law.'' The Bureau clarified that the winning reverse auction bidder need not be the owner of the account to which disbursement is made. Winning bidders may instruct that their payments be disbursed to a third party, such as a ''qualified intermediary,'' a ''qualified trust,'' an escrow account, or an account jointly owned by parties to a channel sharing agreement (CSA) who are named as owners of that account. The flexibility to instruct that payments be disbursed to a third party will facilitate channel sharing and thereby promote voluntary broadcaster participation in the reverse auction.

2. In addition, the Bureau clarified that incentive payments will be disbursed only to a single payee and into a single account. Any division of payments (*e.g.,* among the parties to a CSA or to different accounts) will be the responsibility of the winning reverse auction bidder or the party to which the winning bidder's payment is disbursed, not the Commission. Disbursement will be made to a third party only if the winning bidder has so instructed on its incentive payment form. Finally, winning bidders and third parties to which winning bidders instruct that payments be disbursed will be required: (1) To agree to indemnify and to hold harmless the United States from any and all liability arising from the disbursement of incentive payments; (2) to acknowledge and agree that the payments are subject to offset pursuant to applicable law for debts (owed to the Commission or the United States) by either the winning bidder or the third party payee designated by the winning bidder; and (3) to acknowledge and agree that payments will not be made to (or for the benefit of) any winning bidder or other payee appearing on the U.S. Treasury's ''Do Not Pay'' portal.

3. The Bureau is not providing guidance on how the federal tax laws may apply to incentive payments. Specific procedures for disbursing payments, including the forms for submitting instructions and the necessary financial information, will be set forth by future public notice.

Federal Communications Commission.

William Huber,

Associate Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. 2015–30606 Filed 12–2–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

December 1, 2015.

TIME AND DATE: 10:00 a.m., Thursday, December 10, 2015.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session:

Secretary of Labor v. *AK Coal Resources, Inc.,* Docket No. PENN 2014–159

Secretary of Labor v. *Pinnacle Mining Co., LLC,* Docket No. WEVA 2014–963

Secretary of Labor v. *James L. Deck,* Docket No. SE 2014–322–M

Secretary of Labor v. *BCJ Sand & Rock, Inc.,* Docket No. WEST 2015–7–M

Secretary of Labor v. *E & G Masonry Stone #2,* Docket No. CENT 2015–21–M

Secretary of Labor v. *U.S. Silver—Idaho, Inc.,* Docket No. WEST 2015–717–M

Secretary of Labor v. *Apogee Coal Co., LLC,* Docket No. WEVA 2014–632

Secretary of Labor v. *Campbell Redi-Mix, Inc.,* Docket Nos. WEST 2014–917–M and WEST 2014–918–M

(Issues include whether motions to reopen the cases should be granted by the Commission.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2015–30639 Filed 12–1–15; 11:15 am]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 28, 2015.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Midwest Bancorp,* Itasca, Illinois; to merge with NI Bancshares, and thereby indirectly acquire National Bank & Trust Corporation, both in Sycamore, Illinois.

Board of Governors of the Federal Reserve System, November 30, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–30579 Filed 12–2–15; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–WWI–2015–04; Docket No. 2015–0006; Sequence 4]

World War One Centennial Commission; Notification of Opportunity To View Design Submissions for National World War I Memorial at Pershing Park

AGENCY: World War One Centennial Commission, GSA.

ACTION: Public Exhibition of Stage II Design Submittals.

SUMMARY: Notice of this opportunity is being provided according to the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2). This notice provides information about a public display of design submissions for the National World War I Memorial at Pershing Park.

DATES: *Effective:* December 3, 2015.

Dates for public viewing opportunities: December 14–22, 2015.

Dates and Location for Public Viewing Opportunities: The Stage II design submittals will be available for viewing in the John A. Wilson Building Atrium, at the Council of the District of Columbia, 1350 Pennsylvania Avenue NW., Washington, DC 20004. The Wilson Building is open from 9:00 a.m. to 5:30 p.m., Eastern Standard Time (EST). The Atrium is accessible through security screening on the ground floor from the D Street entrance (across from the Ronald Reagan Building), or (on weekdays only) via the Pennsylvania Avenue entrance, accessible down the stairs or elevators to the ground floor. This location has handicapped access. Visitors must show a government-issued ID to enter the building.

FOR FURTHER INFORMATION CONTACT: Daniel S. Dayton, Designated Federal Officer, c/o The Foundation for the Commemoration of the World Wars, 701 Pennsylvania Avenue NW., 123, Washington, DC 20004–2608, telephone number 202–380–0725 (note: this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The World War One Centennial Commission was established by Public Law 112–272, as a commission to ensure a suitable observance of the centennial of World War I, to provide for the designation of memorials to the service of members of the United States Armed Forces in World War I, and for other purposes including the enhancement of Pershing Park site of the National World War I Memorial. Under this authority, the Committee will plan, develop, and execute programs, projects, and activities to commemorate the centennial of World War I, encourage private organizations and State and local governments to organize and participate in activities commemorating the centennial of World War I, facilitate and coordinate activities throughout the United States relating to the centennial of World War I, serve as a clearinghouse for the collection and dissemination of information about events and plans for the centennial of World War I, and develop recommendations for Congress and the President for commemorating the centennial of World War I.

Dated: November 30, 2015.

Daniel S. Dayton,

Designated Federal Official, World War I Centennial Commission.

[FR Doc. 2015–30600 Filed 12–2–15; 8:45 am]

BILLING CODE 9820–95–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment From Piedmont Clinic, Inc.

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b–21 to b–26, (Patient Safety Act) and the related Patient Safety and Quality Improvement Final Rule, 42 CFR part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008, (73 FR 70732–70814), provide for the formation of Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information regarding the quality and safety of health care delivery. The Patient Safety Rule authorizes AHRQ, on behalf of the Secretary of HHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. AHRQ has accepted a notification of voluntary relinquishment from Piedmont Clinic, Inc. of its status as a PSO, and has delisted the PSO accordingly.

DATES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was effective at 12:00 Midnight ET (2400) on October 15, 2015.

ADDRESSES: Both directories can be accessed electronically at the following HHS Web site: *http://www.pso.AHRQ.gov/listed*.

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, Room 06N94B, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *PSO@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when the PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

AHRQ has accepted a notification from Piedmont Clinic, Inc., a component entity of Piedmont Healthcare Inc., PSO number P0084, to voluntarily relinquish its status as a PSO. Accordingly, Piedmont Clinic, Inc. was delisted effective at 12:00 Midnight ET (2400) on October 15, 2015.

Piedmont Clinic, Inc. has patient safety work product (PSWP) in its possession. The PSO will meet the requirements of section 3.108(c)(2)(i) of the Patient Safety Rule regarding notification to providers that have reported to the PSO. In addition, according to sections 3.108(c)(2)(ii) and 3.108(b)(3) of the Patient Safety Rule regarding disposition of PSWP, the PSO

has 90 days from the effective date of delisting and revocation to complete the disposition of PSWP that is currently in the PSO's possession.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.ahrq.gov/*.

Sharon B. Arnold,

AHRQ Deputy Director.

[FR Doc. 2015–30586 Filed 12–2–15; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–6066–N]

Medicare, Medicaid, and Children's Health Insurance Programs; Provider Enrollment Application Fee Amount for Calendar Year 2016

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

ACTION: Notice.

SUMMARY: This notice announces a $554.00 calendar year (CY) 2016 application fee for institutional providers that are initially enrolling in the Medicare or Medicaid program or the Children's Health Insurance Program (CHIP); revalidating their Medicare, Medicaid, or CHIP enrollment; or adding a new Medicare practice location. This fee is required with any enrollment application submitted on or after January 1, 2016 and on or before December 31, 2016.

DATES: This notice is effective on January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Frank Whelan, (410) 786–1302.

SUPPLEMENTARY INFORMATION:

I. Background

In the February 2, 2011 **Federal Register** (76 FR 5862), we published a final rule with comment period titled ''Medicare, Medicaid, and Children's Health Insurance Programs; Additional Screening Requirements, Application Fees, Temporary Enrollment Moratoria, Payment Suspensions and Compliance Plans for Providers and Suppliers.'' This rule finalized, among other things, provisions related to the submission of application fees as part of the Medicare, Medicaid, and CHIP provider enrollment processes. As provided in section 1866(j)(2)(C)(i) of the Social Security Act (the Act) (as amended by section 6401 of the Affordable Care Act) and in 42 CFR 424.514, ''institutional providers'' that are initially enrolling in the Medicare or Medicaid programs or CHIP, revalidating their enrollment, or adding a new Medicare practice location are required to submit a fee with their enrollment application. An ''institutional provider'' for purposes of Medicare is defined at § 424.502 as ''(a)ny provider or supplier that submits a paper Medicare enrollment application using the CMS–855A, CMS–855B (not including physician and non-physician practitioner organizations), CMS–855S, or associated Internet-based PECOS enrollment application.'' As we explained in the February 2, 2011 final rule (76 FR 5914), in addition to the providers and suppliers subject to the application fee under Medicare, Medicaid-only, and CHIP-only institutional providers would include nursing facilities, intermediate care facilities for persons with intellectual disabilities (ICF/IID), psychiatric residential treatment facilities, and may include other institutional provider types designated by a state in accordance with their approved state plan.

As indicated in §§ 424.514 and § 455.460, the application fee is not required for either of the following:

- A Medicare physician or non-physician practitioner submitting a CMS–855I.
- A prospective or revalidating Medicaid or CHIP provider—

++ Who is an individual physician or non-physician practitioner; or

++ That is enrolled in Title XVIII of the Act or another state's Title XIX or XXI plan and has paid the application fee to a Medicare contractor or another state.

II. Provisions of the Notice

A. CY 2015 Fee Amount

In the December 5, 2014 **Federal Register** (79 FR 72183), we published a notice announcing a fee amount for the period of January 1, 2015 through December 31, 2015 of $553.00. This figure was calculated as follows:

- Section 1866(j)(2)(C)(i)(I) of the Act established a $500 application fee for institutional providers in CY 2010.
- Consistent with section 1866(j)(2)(C)(i)(II) of the Act, § 424.514(d)(2) states that for CY 2011 and subsequent years, the preceding year's fee will be adjusted by the percentage change in the consumer price index (CPI) for all urban consumers (all items; United States city average, CPI–U) for the 12-month period ending on June 30 of the previous year.
- The CPI–U increase for CY 2011 was 1.0 percent, based on data obtained from the Bureau of Labor Statistics (BLS). This resulted in an application fee amount for CY 2011 of $505 (or $500 × 1.01).
- The CPI–U increase for the period of July 1, 2010 through June 30, 2011 was 3.54 percent, based on BLS data. This resulted in an application fee amount for CY 2012 of $522.87 (or $505 × 1.0354). In the aforementioned February 2, 2011 final rule, we stated that if the adjustment sets the fee at an uneven dollar amount, we would round the fee to the nearest whole dollar amount. Accordingly, the application fee amount for CY 2012 was rounded to the nearest whole dollar amount, or $523.00.
- The CPI–U increase for the period of July 1, 2011 through June 30, 2012 was 1.664 percent, based on BLS data. This resulted in an application fee amount for CY 2013 of $531.70 ($523 × 1.01664). Rounding this figure to the nearest whole dollar amount resulted in a CY 2013 application fee amount of $532.00.
- The CPI–U increase for the period of July 1, 2012 through June 30, 2013 was 1.8 percent, based on BLS data. This resulted in an application fee amount for CY 2014 of $541.576 ($532 × 1.018). Rounding this figure to the nearest whole dollar amount resulted in a CY 2014 application fee amount of $542.00.
- The CPI–U increase for the period of July 1, 2013 through June 30, 2014 was 2.1 percent, based on BLS data. This resulted in an application fee amount for CY 2015 of $553.382 ($542 × 1.021). Rounding this figure to the nearest whole dollar amount resulted in a CY 2015 application fee amount of $553.00.

B. CY 2016 Fee Amount

Using BLS data, the CPI–U increase for the period of July 1, 2014 through June 30, 2015 was 0.2 percent. This results in a CY 2016 application fee amount of $554.106 ($553 × 1.002). As we must round this to the nearest whole dollar amount, the resultant application fee amount for CY 2016 is $554.00.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995. However, it does reference previously approved information collections. The forms CMS–855A, CMS–855B, and CMS–855I are approved under OMB

control number 0938–0685; the CMS–855S is approved under OMB control number 0938–1056.

IV. Regulatory Impact Statement

A. Background

We have examined the impact of this notice as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). As explained in this section of the notice, we estimate that the total cost of the increase in the application fee will not exceed $100 million. Therefore, this notice does not reach the $100 million economic threshold and is not considered a major notice.

B. Costs

The costs associated with this notice involve the increase in the application fee amount that certain providers and suppliers must pay in CY 2016.

1. Estimates of Number of Affected Institutional Providers in December 5, 2014 Fee Notice

In the December 5, 2014 application fee notice, we estimated that based on CMS statistics—

- 10,000 newly enrolling Medicare institutional providers would be subject to and pay an application fee in CY 2015.
- 35,000 revalidating Medicare institutional providers would be subject to and pay an application fee in CY 2015.
- 8,438 newly enrolling Medicaid and CHIP providers would be subject to and pay an application fee in CY 2015.
- 19,421 revalidating Medicaid and CHIP providers would be subject to and pay an application fee in CY 2015.

2. CY 2016 Estimates

a. Medicare

Based on CMS data, we estimate that in CY 2016 approximately—

- 10,000 newly enrolling institutional providers will be subject to and pay an application fee; and
- 45,000 revalidating institutional providers will be subject to and pay an application fee.

Using a figure of 55,000 (10,000 newly enrolling + 45,000 revalidating) institutional providers, we estimate an increase in the cost of the Medicare application fee requirement in CY 2016 of $5,585,000 (or (10,000 additional newly enrolling or revalidating institutional providers × $554) + (45,000 × $1.00) from our CY 2015 projections and as previously described.

b. Medicaid and CHIP

Based on CMS and state statistics, we estimate that approximately 30,000 (9,000 newly enrolling + 21,000 revalidating) Medicaid and CHIP institutional providers will be subject to an application fee in CY 2016. Using this figure, we project an increase in the cost of the Medicaid and CHIP application fee requirement in CY 2016 of $1,213,973 (or ((562 additional newly enrolling institutional providers + 1,579 additional revalidating institutional providers, or 2,141 total additional institutional providers) × $554) + 27,859 × $1.00) from our CY 2015 projections and as previously described.

c. Total

Based on the foregoing, we estimate the total increase in the cost of the application fee requirement for Medicare, Medicaid, and CHIP providers and suppliers in CY 2016 to be $6,798,973 ($5,585,000 + $1,213,973) from our CY 2015 projections.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.5 million to $38.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. As we stated in the RIA for the February 2, 2011 final rule with comment period (76 FR 5952), we do not believe that the application fee will have a significant impact on small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this notice would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2015, that threshold is approximately $144 million. The Agency has determined that there will be minimal impact from the costs of this notice, as the threshold is not met under the UMRA.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. Since this notice does not impose substantial direct costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Dated: November 14, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2015–30686 Filed 12–2–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–2175]

Recommendations for Assessment of Blood Donor Suitability, Donor Deferral and Blood Product Management in Response to Ebola Virus; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft document entitled ''Recommendations for Assessment of Blood Donor Suitability, Donor Deferral and Blood Product Management in Response to Ebola Virus; Draft Guidance for Industry.'' The draft guidance document provides blood establishments that collect blood and blood components for transfusion or further manufacture, including Source Plasma, with FDA recommendations for assessing blood donor suitability, donor deferral, and blood product management in the event that an outbreak of Ebola virus disease (EVD) with widespread transmission is declared in at least one country. The draft guidance document applies primarily to Ebola virus (species *Zaire ebolavirus*), but recommendations are expected to apply to other viruses of the Ebolavirus genus such as Sudan virus, Bundibugyo virus, and Taï Forest virus. The recommendations would apply to routine collection of blood and blood components for transfusion or further manufacture, including Source Plasma.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by March 2, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA 2014–D–2175 for ''Recommendations for Assessment of Blood Donor Suitability, Donor Deferral and Blood Product Management in Response to Ebola Virus; Draft Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Paul E. Levine, Jr., Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Recommendations for Assessment of Blood Donor Suitability, Donor Deferral and Blood Product Management in Response to Ebola Virus; Draft Guidance for Industry.'' The draft guidance document provides blood establishments that collect blood and blood components for transfusion or further manufacture, including Source Plasma, with FDA recommendations for assessing blood donor suitability, donor deferral, and blood product management in the event that an outbreak of EVD with widespread transmission is declared in at least one country.

Ebola virus is a member of the family *Filoviridae* that can cause severe hemorrhagic fever in humans and non-human primates with historically high morbidity and mortality rates of up to 90 percent. However, in the 2014 outbreak in West Africa, the mortality rate has been markedly lower. In humans, EVD is typically characterized at onset by fever, severe headache, muscle pain and weakness, followed by diarrhea, vomiting, abdominal pain, and sometimes diffuse hemorrhage (bleeding or bruising). In previous outbreaks of EVD, symptoms generally appeared within 21 days and most often within 4–10 days following infection; however, based on mathematical models, symptom onset later than 21 days is estimated as possible in 0.1 to 12 percent of cases. In addition, there have been isolated reports of apparently asymptomatic Ebola virus infection in

individuals who had contact with Ebola patients.

Transmission of Ebola virus from human to human occurs by direct contact with body fluids (such as blood, urine, stool, saliva, semen, vaginal fluids, or vomit) of symptomatic infected individuals. Therefore, blood and blood products from symptomatic individuals, if they were to donate, would have the potential of transmitting Ebola virus to recipients.

Current regulations 21 CFR 640.3(b) and 21 CFR 640.63(b)(3) require that a donor be in good health with a normal temperature at the time of donation. Standard procedures that are in place to assure that the donor feels healthy at the time of donation serve as an effective safeguard against collecting blood or blood components from a donor who seeks to donate after the onset of clinical symptoms. FDA is providing guidance to reduce the risks of collecting blood and blood components from potentially Ebola virus-infected persons during the asymptomatic incubation period before the onset of clinical symptoms, as well as from individuals with a history of Ebola virus infection or disease.

The draft guidance permits blood establishments to update their donor educational materials to instruct donors with a history of Ebola virus infection or disease to not donate blood or blood components. In the event that one or more countries is designated as having widespread transmission of Ebola virus, the draft guidance includes recommendations to blood establishments to update their donor history questionnaire (DHQ), including the full-length and abbreviated DHQ and accompanying materials, to assess prospective donors for risk of Ebola virus infection or disease. The draft guidance also includes recommendations to blood establishments to defer indefinitely a blood donor with a history of Ebola virus infection or disease, until more data regarding the persistence of Ebola virus in survivors becomes available. For a donor who in the past 8 weeks has been a resident of or has travelled to a country with widespread transmission of Ebola virus disease, FDA recommends that establishments defer the donor for 8 weeks from the time of the donor's departure from that country. For a donor who has had close contact with a person confirmed or under investigation for Ebola virus infection or disease in whom diagnosis is pending, FDA recommends that establishments defer a donor for 8 weeks after the last close contact that could have resulted in direct contact with body fluids, or 8 weeks after the last sexual contact with a person known to have recovered from Ebola virus disease. In addition, FDA recommends that establishments defer for a period of 8 weeks after exposure a donor who has been notified by a Federal, State, or local public health authority that he or she may have been exposed to a person with Ebola virus disease.

The draft guidance includes FDA recommendations on retrieval and quarantine of blood and blood components from a donor later determined to have Ebola virus infection or disease or risk factors for Ebola virus infection or disease, for notification of consignees, and for reporting a biological product deviation to FDA. The draft guidance also addresses convalescent plasma intended for transfusion.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Recommendations for Assessment of Blood Donor Suitability, Donor Deferral and Blood Product Management in Response to Ebola Virus; Draft Guidance for Industry.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

The draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 601.12 have been approved under OMB control number 0910–0338; the collections of information in 21 CFR 606.160(b)(1)(i), 640.3(a) and 640.63(b)(3) have been approved under OMB control number 0910–0116; the collection of information in 21 CFR 606.171 has been approved under OMB control number 0910–0458.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: November 27, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–30589 Filed 12–2–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0017]

Agency Information Collection Activities: Protest

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: Protest. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before February 1, 2016 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the 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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Protest.

OMB Number: 1651–0017.

Form Number: Form 19.

Abstract: CBP Form 19, *Protest,* is filed to seek the review of a CBP officer. This review may be conducted by a CBP officer who participated directly in the underlying decision. This form is also used to request ''Further Review'' which means a request for review of the protest to be performed by a CBP officer who did not participate directly in the protested decision, or by the Commissioner, or his designee as provided in the CBP Regulations.

The matters that may be protested include: The appraised value of merchandise; the classification and rate and amount of duties chargeable; all charges within the jurisdiction of the U.S. Department of Homeland Security; exclusion of merchandise from entry or delivery, or demand for redelivery; the liquidation or reliquidation of an entry; and the refusal to pay a claim for drawback.

The parties who may file a protest or application for further review include: the importer or consignee shown on the entry papers, or their sureties; any person paying any charge or exaction; any person seeking entry or delivery, or upon whom a demand for redelivery has been made; any person filing a claim for drawback; or any authorized agent of any of the persons described above.

CBP Form 19 collects information such as the name and address of the protesting party, information about the entry being protested, detailed reasons for the protest, justification for applying for further review.

The information collected on CBP Form 19 is authorized by Sections 514 and 514(a) of the Tariff Act of 1930 and provided for by 19 CFR part 174. This form is accessible at *http://www.cbp.gov/sites/default/files/documents/CBP_Form_19.pdf.*

Current Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (with no change).

Affected Public: Businesses.

Estimated Number of Respondents: 3,750.

Estimated Number of Total Annual Responses: 45,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 45,000.

Dated: November 30, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–30614 Filed 12–2–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0052]

Agency Information Collection Activities: User Fees

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: User Fees. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before February 1, 2016 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the 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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: User Fees.

OMB Number: 1651–0052.

Form Number: CBP Forms 339A, 339C and 339V.

Abstract: The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA—Pub. L. 99–272; 19 U.S.C. 58c) authorizes the collection of user fees by Customs and Border Protection (CBP). The collection of these fees requires submission of information from the party remitting the fees to CBP. This information is submitted on three forms including the CBP Form 339A for aircraft at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20339A.pdf,* CBP Form 339C for commercial vehicles at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20339C.pdf,* and CBP Form 339V for vessels at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20339V.pdf.* The information on these forms may also be filed electronically at: *https://dtops.cbp.dhs.gov/.* This collection of information is provided for by 19 CFR 24.22.

In addition, CBP requires express consignment courier facilities (ECCFs) to file lists of couriers using the facility in accordance with 19 CFR 128.11. In cases of overpayments, carriers using the courier facilities may send a request

to CBP for a refund in accordance with 19 CFR 24.23(b). This request must specify the grounds for the refund. ECCFs are also required to file a quarterly report in accordance with 19 CFR 24.23(b)(4).

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

CBP Form 339A—Aircraft

Estimated Number of Respondents: 15,000.

Estimated Number of Annual Responses: 15,000.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 4,005.

CBP Form 339C—Vehicles

Estimated Number of Respondents: 50,000.

Estimated Number of Annual Responses: 50,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 16,500.

CBP Form 339V—Vessels

Estimated Number of Respondents: 10,000.

Estimated Number of Annual Responses: 10,000.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 2,670.

ECCF Quarterly Report

Estimated Number of Respondents: 18.

Estimated Number of Annual Responses: 72.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 144.

ECCF Application and List of Couriers

Estimated Number of Respondents: 3.

Estimated Number of Annual Responses: 12.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 6.

Dated: November 30, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–30612 Filed 12–2–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–SM–2015–N225; FF09M21200–156–FXMB1231099BPP0]

Proposed Information Collection; Alaska Migratory Bird Subsistence Harvest Household Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on June 30, 2016. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by February 1, 2016.

ADDRESSES: Send your comments on the IC to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0124'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Migratory Bird Treaty Act of 1918 (16 U.S.C. 703–712) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for managing migratory bird populations that frequent the United States and for setting harvest regulations that allow for the conservation of those populations. These responsibilities include gathering accurate geographical and temporal data on various characteristics of migratory bird harvest. We use harvest data to review regulation proposals and to issue harvest regulations.

The Migratory Bird Treaty Act Protocol Amendment (1995) (Amendment) provides for the customary and traditional use of migratory birds and their eggs for subsistence use by indigenous inhabitants of Alaska. The Amendment states that its intent is not to cause significant increases in the take of species of migratory birds relative to their continental population sizes. A submittal letter from the Department of State to the White House (May 20, 1996) accompanied the Amendment and specified the need for harvest monitoring. The submittal letter stated that the Service, the Alaska Department of Fish and Game (ADFG), and Alaska Native organizations would collect harvest information cooperatively within the subsistence eligible areas. Harvest survey data help to ensure that customary and traditional subsistence uses of migratory birds and their eggs by indigenous inhabitants of Alaska do not significantly increase the take of species of migratory birds relative to their continental population sizes.

Between 1989 and 2004, we monitored subsistence harvest of migratory birds using annual household surveys in the Yukon-Kuskokwim Delta, which is the region of highest subsistence bird harvest in the State of Alaska. In 2004, we began monitoring subsistence harvest of migratory birds in subsistence eligible areas Statewide. The Statewide harvest assessment program helps to track trends and changes in levels of harvest. The harvest assessment program relies on collaboration among the Service, the ADFG, and a number of Alaska Native organizations.

We gather information on the annual subsistence harvest of about 60 bird species/species categories (ducks, geese, swans, cranes, upland game birds, seabirds, shorebirds, and grebes and loons) in the subsistence eligible areas of Alaska. The survey covers 11 regions of Alaska, which are further divided into 29 subregions. We survey the regions and villages in a rotation schedule to accommodate budget constraints and to minimize respondent burden. The survey covers spring, summer, and fall harvest in most regions.

In collaboration with Alaska Native organizations, we hire local resident surveyors to collect the harvest information. The surveyors list all households in the villages to be surveyed and provide survey information and harvest report forms to randomly selected households that have agreed to participate in the survey. To ensure anonymity of harvest information, we identify households by a numeric code. The surveyor visits households three times during the

survey year. At the first household visit, the surveyor explains the survey purposes and invites household participation. The surveyor returns at the end of the season of most harvest and at the end of the two other seasons combined to help the household complete the harvest report form.

We have designed the survey methods to streamline procedures and reduce respondent burden. We plan to use two forms for household participation:

• FWS Form 3–2380 (Tracking Sheet and Household Consent). The surveyor visits each household selected to participate in the survey to provide information on the objectives and to obtain household consent to participate. The surveyor uses this form to record consent and track subsequent visits for completion of harvest reports.

• FWS Forms 3–2381–1, 3–2381–2, 3–2381–3, and 3–2381–4 (Harvest Report). The Harvest Report has drawings of bird species most commonly available for harvest in the different regions of Alaska, with fields for writing down the numbers of birds and eggs taken. There are four versions of this form: Interior Alaska, North Slope, Southern Coastal Alaska, and Western Alaska. This form has a sheet for each season surveyed, and each sheet has fields for the household code, community name, harvest year, date of completion, and comments.

II. Data

OMB Control Number: 1018–0124.

Title: Alaska Migratory Bird Subsistence Harvest Household Survey.

Service Form Number(s): 3–2380, 3–2381–1, 3–2381–2, 3–2381–3, and 3–2381–4.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Households within subsistence eligible areas of Alaska.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually for Tracking Sheet and Household Consent; three times annually for Harvest Report.

Activity	Number of respondents	Number of responses	Completion time per response (minutes)	Total annual burden hours
3–2380, Tracking Sheet and Household Consent	2,553	2,553	5	213
3–2381–1 thru 3–2381–4, Harvest Report (three seasonal sheets)	2,300	6,900	5	575
Totals	4,853	9,453	.....	788

III. Comments

We invite comments concerning this information collection on:

• Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

• The accuracy of our estimate of the burden for this collection of information;

• Ways to enhance the quality, utility, and clarity of the information to be collected; and

• Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 27, 2015.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2015–30557 Filed 12–2–15; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/ A0A501010.999900]

Renewal of Agency Information Collection for Bureau of Indian Education Tribal Colleges and Universities; Application for Grants and Annual Report Form; Correction

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice; correction.

SUMMARY: The Bureau of Indian Affairs published a document in the **Federal Register** of November 25, 2015, concerning request for comments on the Renewal of Agency Information Collection for Bureau of Indian Education Tribal Colleges and Universities; Application for Grants and Annual Report Form, OMB Control Numbers 1076–0018 and 1076–0105. The document contained an incorrect email address for the submission of comments.

FOR FURTHER INFORMATION CONTACT: Elizabeth K. Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

Correction

In the **Federal Register** of November 25, 2015, in FR Doc. 2015–29954 on page 73811, in the second column, correct the **ADDRESSES** caption to read:

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to Juanita Mendoza, Acting Chief of Staff, Bureau of Indian Education, 1849 C Street NW., MIB—Mail Stop 4657, Washington, DC 20240; email *Juanita.Mendoza@bie.edu.*

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2015–30581 Filed 12–2–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD01000 L12100000.MD0000 16XL1109AF]

Meeting of the California Desert District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) California Desert District Advisory Council (DAC) will meet as indicated below.

DATES: The DAC will participate in a field tour of BLM-administered public lands on Friday, December 4, 2015, from 8:00 a.m. to 5:00 p.m. and will meet in formal session on Saturday, December 5, 2015, from 8:00 a.m. to 5:00 p.m. in El Centro, California. Members of the public are welcome. They must provide their own transportation, meals and beverages. Final agendas for the Friday field trip and the Saturday public meeting, along with the Saturday meeting location, will be posted on the DAC Web page at *http://www.blm.gov/ca/st/en/info/rac/dac.html* when finalized.

FOR FURTHER INFORMATION CONTACT: Stephen Razo, BLM California Desert District External Affairs, 1–951–697–5217. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal hours.

SUPPLEMENTARY INFORMATION: All DAC meetings are open to the public. The 15-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management on BLM-administered lands in the California desert. Public comment for items not on the agenda will be scheduled at the beginning of the meeting Saturday morning. Time for public comment is made available by the council chairman during the presentation of various agenda items, and is scheduled at the end of the meeting for topics not on the agenda.

While the Saturday meeting is tentatively scheduled from 8:00 a.m. to 5:00 p.m., the meeting could conclude prior to 5:00 p.m. should the council conclude its presentations and discussions. Therefore, members of the public interested in a particular agenda item or discussion should schedule their arrival accordingly. Agenda for the Saturday meeting will include updates by council members, the BLM California Desert District Manager, five Field Managers, and council subgroups. Focus topics for the meeting will include renewable energy, Salton Sea, and geothermal. Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, External Affairs, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

Dated: November 23, 2015.

Teresa A. Raml,

California Desert District Manager.

[FR Doc. 2015–30617 Filed 12–2–15; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SER–EVER–19669]; [PPSESEROC3, PPMPSAS1Y.YP0000]

Final Environmental Impact Statement for the Acquisition of Florida Power & Light Company Land in the East Everglades Expansion Area

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) announces the availability of the Final Environmental Impact Statement (EIS) for the acquisition of Florida Power & Light Company (FPL) land in the East Everglades Expansion Area (EEEA), Everglades National Park, Florida.

DATES: The NPS will execute the Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of its Notice of Availability of the Final EIS in the **Federal Register**.

ADDRESSES: Electronic copies of the Final EIS will be available online at *http://parkplanning.nps/ever.* A limited number of compact disks and printed copies of the Final EIS will be made available at Everglades National Park Headquarters, Everglades National Park, 40001 State Highway 9336, Homestead, Florida 33034–6733.

FOR FURTHER INFORMATION CONTACT: Brien Culhane, Everglades National Park, 40001 State Road 9336, Homestead, FL 33034–6733 or by telephone at (305) 242–7717.

SUPPLEMENTARY INFORMATION: The Final EIS addresses alternatives for NPS acquisition of existing FPL land located within the park, or of a sufficient interest in the property, to facilitate hydrologic and ecologic restoration of the park and the Everglades ecosystem. The acquisition of the existing FPL parcel is needed to support the goals of restoring the Northeast Shark River Slough and to fulfill the purposes of the Comprehensive Everglades Restoration Plan. Acquisition of land within the EEEA through an exchange of lands with FPL is legally authorized by Public Law 111–11 (March 30, 2009).

The Final EIS describes five alternatives. The Final EIS addresses the potential impacts from the acquisition of FPL land in the park, as well as the indirect impacts that could result from the subsequent construction and operation of transmission lines, which could be built either inside or outside the park as a result of the land acquisition alternative selected. The following describes each of the alternatives included in the Final EIS:

Alternative 1a, No NPS Action—No FPL Construction (environmental baseline): The NPS would not take action to acquire FPL property within the park. This alternative assumes that FPL would not construct transmission lines on its existing land in the park, in the exchange corridor, or in any area outside the park.

Alternative 1b, No NPS Action—FPL Construction in the Park: the NPS would not take action to acquire FPL property within the park, the same as alternative 1a, but this alternative assumes that FPL would construct transmission lines on its existing land in the park.

Alternative 2, NPS Acquisition of FPL Land: the NPS would acquire the FPL property by purchase or through the exercise of eminent domain authority by the United States. This alternative would result in an increase of 320 acres of NPS-owned land within the authorized boundary of the park and would allow for flowage of water on this property. This alternative assumes that FPL would likely acquire a replacement corridor east of the existing park boundary within or adjacent to the FPL and Miami-Dade Limestone Products Association (MDLPA) West Consensus Corridor to meet its transmission needs, and the transmission lines would be built outside the park. Alternative 2 is the environmentally preferable alternative.

Alternative 3 (NPS Preferred Alternative), Fee for Fee Land Exchange: the NPS would acquire fee title to the FPL property through an exchange for park property, as authorized by the exchange legislation. NPS land conveyed to FPL (the ''exchange corridor'') would consist of 260 acres along 6.5 miles of the eastern boundary of the EEEA. The NPS would also convey to FPL a 90-foot-wide perpetual

nonnative vegetation management easement adjacent to the entire length of the exchange corridor. The fee for fee land exchange would be subject to terms and conditions that are to be agreed upon between NPS and FPL and incorporated into a binding exchange agreement. FPL would be required to allow the United States the perpetual right, power, and privilege to flood and submerge the exchange corridor consistent with hydrologic restoration requirements. The construction scenario associated with this alternative assumes that FPL would build the transmission lines in the exchange corridor.

This alternative has been revised from the Draft EIS to the Final EIS due to updated transmission line siting requirements included in the state site certification process, which were not available in time for the Draft EIS. The final order directed FPL to avoid siting any transmission lines in the park and pursue the use of the West Consensus Corridor as the primary corridor for siting transmission lines. The FPL West Preferred Corridor (which includes the NPS exchange lands) would only be used for transmission lines if FPL cannot secure an adequate right-of-way within the FPL West Consensus Corridor (outside of the park boundary) in a timely manner and at a reasonable cost. FPL's success in acquiring interests in the West Consensus Corridor would minimize or eliminate the amount of property in the exchange corridor required for these transmission lines.

In the Final EIS, this alternative now includes a commitment that FPL shall reconvey to the NPS all acreage in the exchange corridor that is determined to be unneeded by FPL to build the transmission lines. FPL would not develop land within the exchange corridor until completing the requirements of the site certification process and determining land ownership needs. The park boundary would be adjusted after the reconveyance, so that it reflects the actual final land ownership between FPL and NPS. These commitments would be identified in a binding exchange agreement between the two parties.

Alternative 4, Easement for Fee Land Exchange: the NPS would acquire fee title to the FPL property through an exchange for an easement on NPS property. This is similar to alternative 3, except that NPS would grant FPL an easement for potential transmission line construction (not fee title) over the lands along the eastern boundary of the EEEA, in accordance with the terms and conditions developed for this easement for fee exchange. The NPS would retain ownership of the corridor, but would no longer have unencumbered use of it. The NPS would also convey a 90-foot-wide perpetual nonnative vegetation management easement to FPL adjacent to the entire length of the exchange corridor. The easement for fee land exchange would be subject to terms and conditions that are to be agreed upon between NPS and FPL and incorporated into a binding exchange agreement. Similar to alternative 3, the FPL easement corridor would be subject to a perpetual flowage easement.

Alternative 5, Perpetual Flowage Easement on FPL Property: the NPS would acquire a perpetual flowage easement on FPL's property within the EEEA through purchase, condemnation, or donation by FPL. FPL would retain ownership of its corridor in the park during the term of the easement and could seek to site transmission lines there. The flowage allowed under this easement would allow sufficient water flow over this area to support ecosystem restoration projects. The construction scenario associated with this alternative would be the same as the one for alternative 1B (FPL construction of transmission lines on its existing land in the park).

The Final EIS responds to, and incorporates, agency and public comments received on the Draft EIS. The Draft EIS was available for public review and comment for 60 days from January 17, 2014, through March 18, 2014. During the comment period, 275 pieces of correspondence were received. Two of these were petitions or letters containing 14,075 total signatures; a third form letter contained 178 signatures and 70 individual pieces of correspondence, which are included in the 275 total comments received. Alternative 2 is the environmentally preferable alternative and alternative 3 is the NPS preferred alternative.

The responsible official for this EIS is the Regional Director, NPS Southeast Region, 100 Alabama Street SW., 1924 Building, Atlanta, Georgia 30303.

Dated: November 18, 2015.

Shawn Benge,

Deputy Regional Director, Southeast Region.

[FR Doc. 2015–30580 Filed 12–2–15; 8:45 am]

BILLING CODE 4310–JD–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–15–041]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 11, 2015 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–549 and 731–TA–1299–1303 (Preliminary) (Circular Welded Carbon-Quality Steel Pipe from Oman, Pakistan, the Philippines, the United Arab Emirates, and Vietnam). The Commission is currently scheduled to complete and file its determinations on December 14, 2015; views of the Commission are currently scheduled to be completed and filed on December 21, 2015.
5. Vote in Inv. Nos. 701–TA–550 and 731–TA–1304–1305 (Preliminary) (Certain Iron Mechanical Transfer Drive Components from Canada and China). The Commission is currently scheduled to be completed and filed on December 14, 2015; views of the Commission are currently scheduled to be completed and filed on December 21, 2015.
6. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 30, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–30634 Filed 12–1–15; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Mylan Technologies, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written

comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before January 4, 2016. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before January 4, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/OD/D, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on October 29, 2015, Mylan Technologies, Inc., 110 Lake Street, Saint Albans, Vermont 05478 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Methylphenidate (1724)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: November 27, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–30555 Filed 12–2–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Fresenius Kabi USA, LLC

ACTION: Notice of registration.

SUMMARY: Fresenius Kabi USA, LLC applied to be registered as an importer of a certain basic class of controlled substance. The Drug Enforcement Administration (DEA) grants Fresenius Kabi USA, LLC registration as an importer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated September 16, 2015, and published in the **Federal Register** on September 23, 2015, 80 FR 57389 Fresenius Kabi USA, LLC, 3159 Staley Road, Grand Island, New York 14072 applied to be registered as an importer of a certain basic class of controlled substance. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Fresenius Kabi USA, LLC to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for product development and preparation of stability batches.

Dated: November 27, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–30556 Filed 12–2–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: United States Pharmacopeial Convention

ACTION: Notice of registration.

SUMMARY: United States Pharmacopeial Convention applied to be registered as an importer of certain basic classes of controlled substances. The Drug Enforcement Administration (DEA) grants United States Pharmacopeial Convention registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated June 25, 2015, and published in the **Federal Register** on July 6, 2015, 80 FR 38466, United States Pharmacopeial Convention, 12601 Twinbrook Parkway, Rockville, Maryland 20852 applied to be registered as an importer of certain basic classes of controlled substances. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of United States Pharmacopeial Convention to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic classes of controlled substances:

Controlled substance	Schedule
Cathinone (1235)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
3,4-Methylenedioxyamphetamine (7400).	I
Codeine-N-oxide (9053)	I
Difenoxin (9168)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Norlevorphanol (9634)	I
Amphetamine (1100)	II

Controlled substance	Schedule
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Phencyclidine (7471)	II
4-Anilino-N-phenethyl-4-piperidine (ANPP) (8333).	II
Phenylacetone (8501)	II
Alphaprodine (9010)	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II

The company plans to import the listed controlled substances in bulk powder form from foreign sources for the manufacture of analytical reference standards for sale to their customers.

The company plans to import analytical reference standards for distribution to its customers for research and analytical purposes. Placement of these drug codes onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under to 21 U.S.C 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: November 23, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–30552 Filed 12–2–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Navinta, LLC

ACTION: Notice of registration.

SUMMARY: Navinta, LLC applied to be registered as a manufacturer of certain basic classes of controlled substances. The Drug Enforcement Administration (DEA) grants Navinta, LLC registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated June 25, 2015, and published in the **Federal Register** on July 6, 2015, 80 FR 38471, Navinta, LLC, 1499 Lower Ferry Road, Ewing, New Jersey 08618–1414 applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Navinta, LLC to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
4-Anilino-N-phenethyl-4-piperidine (ANPP) (8333).	II
Fentanyl (9801)	II

The company plans initially to manufacture API quantities of the listed controlled substances for validation purposes and FDA approval, then eventually upon FDA approval to produce commercial size batches for distribution to dosage form manufacturers.

Dated: November 23, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–30558 Filed 12–2–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Akorn, Inc.

ACTION: Notice of registration.

SUMMARY: Akorn, Inc. applied to be registered as an importer of a certain basic class of controlled substance. The Drug Enforcement Administration (DEA) grants Akorn, Inc. registration as an importer of this controlled substance.

SUPPLEMENTARY INFORMATION:

By notice dated September 1, 2015, and published in the **Federal Register** on September 9, 2015, 80 FR 54327 Akorn, Inc., 1222 W. Grand Avenue, Decatur, Illinois 62522 applied to be registered as an importer of a certain basic class of controlled substance. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Akorn, Inc. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to import remifentanil in dosage form for distribution.

Dated: November 23, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–30559 Filed 12–2–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Meridian Medical Technologies

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before January 4, 2016. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before January 4, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/OD/D, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on October 20, 2015, Meridian Medical Technologies, 2555 Hermelin Drive, Saint Louis, Missouri 63144 applied to be registered as an importer of morphine (9300), a basic class of controlled substance listed in schedule II.

The company manufactures a product containing morphine in the United States. The company exports this product to customers around the world. The company has been asked to ensure that its product, which is sold to European customers, meets the standards established by the European Pharmacopeia, administered by the Directorate for the Quality of Medicines (EDQM). In order to ensure that its product will meet European specifications, the company seeks to import morphine supplied by EDQM for use as reference standards.

This is the sole purpose for which the company will be authorized by the DEA to import morphine.

Dated: November 27, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–30553 Filed 12–2–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Mylan Pharmaceuticals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before January 4, 2016. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before January 4, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/OD/D, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on October 12, 2015, Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Road, Morgantown, West Virginia 26505 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Amphetamine (1100)	II
Methylphenidate (1724)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Methadone (9250)	II
Morphine (9300)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: November 23, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–30549 Filed 12–2–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Organix, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before February 1, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to

exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on September 7, 2015, Organix, Inc., 240 Salem Street, Woburn, Massachusetts 01801 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Heroin (9200)	I
Morphine (9300)	II

The company plans to manufacture reference standards for distribution to its research and forensics customers. In reference to drug codes 7360 (marihuana) and 7370 (THC) the company plans to manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Dated: November 27, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–30554 Filed 12–2–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Noramco, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before February 1, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/OD/D, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on October 6, 2015, Noramco, Inc., 500 Swedes Landing Road, Wilmington, Delaware 19801–4417 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Morphine-N-oxide (9307)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Phenylacetone (8501)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Opium, granulated (9640)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Tapentadol (9780)	II

The company plans to manufacture the above-listed controlled substances in bulk for distribution to its customers.

Dated: November 23, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–30550 Filed 12–2–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Catalent CTS, LLC

ACTION: Notice of registration.

SUMMARY: Catalent CTS, LLC applied to be registered as an importer of a certain basic class of controlled substance. The Drug Enforcement Administration (DEA) grants Catalent CTS, LLC registration as an importer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated August 21, 2015, and published in the **Federal Register** on August 31, 2015, 80 FR 52509, Catalent CTS, LLC, 10245 Hickman Mills Drive, Kansas City, Missouri 64137 applied to be registered as an importer of a certain basic class of controlled substance. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Catalent CTS, LLC to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of marihuana (7360), a basic class of controlled substance listed in schedule I.

The company plans to import finished pharmaceutical products containing cannabis extracts in dosage form for clinical trial studies.

This compound is listed under drug code 7360. No other activity for this drug code is authorized for this registration. Approval of permits applications will occur only when the registrant's business activity is consistent with what is authorized under to 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: November 27, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–30551 Filed 12–2–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Hazardous Waste Operations and Emergency Response

AGENCY: Office of the Secretary, Labor.

ACTION: Notice.

SUMMARY: On November 30, 2015 the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Hazardous Waste Operations and Emergency Response,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq*. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before January 4, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201511-1218-003* (this link will only become active on December 1, 2015) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard information collection. The HAZWOPER Standard specifies a number of information collection requirements. Employers can use the information collected under the HAZWOPER rule to develop the various programs the Standard requires and to ensure that their workers are trained properly about the safety and health hazards associated with hazardous waste operations and emergency response to hazardous waste releases. The OSHA uses the records developed in response to this Standard to determine adequate compliance with the Standard's safety and health provisions. An employer's failure to collect and distribute information required in this standard will significantly affect OSHA efforts to control and reduce injuries and fatalities. Such failure would also be contrary to the direction Congress provided in the Superfund Amendments and Reauthorization Act. Occupational Safety and Health Act of 1970 sections 2(b)(9), 6, and 8(c) authorize this information collection. *See* 29 U.S.C. 651(b)(9), 655, and 657(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0202.

OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 21, 2015 (80 FR 29344).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0202. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Hazardous Waste Operations and Emergency Response Standard.

OMB Control Number: 1218–0202.

Affected Public: Private Sector—businesses or other for-profit.

Total Estimated Number of Respondents: 30,052.

Total Estimated Number of Responses: 1,440,759.

Total Estimated Annual Time Burden: 261,551 hours.

Total Estimated Annual Other Costs Burden: $3,124,960.

Dated: November 27, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–30576 Filed 12–2–15; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Respirable Coal Mine Dust Sampling

AGENCY: Office of the Secretary, Labor.

ACTION: Notice.

SUMMARY: On November 30, 2015, the Department of Labor (DOL) will submit the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) revision titled, ''Respirable Coal Mine Dust Sampling,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before January 4, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201206-1219-002* (this link will only become active on December 1, 2015) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Respirable Coal Mine Dust Sampling. This information collection has been classified as a revision, because it increases burden based on provisions transferred to this collection from the request approved under ICR Reference Number, 201210–1219–002. Federal Mine Safety and Health Act of 1977 section 103(h) authorizes this information collection. *See* 30 U.S.C. 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0011. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 17, 2015 (80 FR 55874).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0011. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Respirable Coal Mine Dust Sampling.

OMB Control Number: 1219–0011.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 1,035.

Total Estimated Number of Responses: 1,749,915.

Total Estimated Annual Time Burden: 115,345 hours.

Total Estimated Annual Other Costs Burden: $43,011

Dated: November 27, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–30577 Filed 12–2–15; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; The 1,2-Dibromo-3-Chloropropane Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''The 1,2-Dibromo-3-Chloropropane Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before January 4, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201507-1218-005* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free

numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the 1,2-Dibromo-3-Chloropropane (DBCP) Standard information collection requirements codified in regulations 29 CFR 1910–1044. The Standard mandates an Occupational Safety and Health Act (OSH Act) covered employer subject to the Standard to train workers about the hazards of DBCP, to monitor worker exposure, to provide medical surveillance, and to maintain accurate records of worker exposure to DBCP. Employers, workers, physicians, and the Government use these records to ensure workers are not harmed by exposure to DBCP in the workplace. OSH Act sections 2(b)(9), 6, and 8(c) authorize this information collection. *See* 29 U.S.C. 651(b)(9), 655, and 657(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0101.

OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 18, 2015 (80 FR 28300).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0101. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: The 1,2-Dibromo-3-Chloropropane (DBCP) Standard.

OMB Control Number: 1218–0101.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 1.

Total Estimated Number of Responses: 1.

Total Estimated Annual Time Burden: 1 hour.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 27, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–30575 Filed 12–2–15; 8:45 am]

BILLING CODE 4510–26–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76529; File No. SR–CBOE–2015–106]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Permit P.M.-Settled Options on Broad-Based Indexes To Expire on Any Wednesday of the Month by Expanding the End of Week/End of Month Pilot Program

November 30, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 17, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to expand the End of Week/End of Month Pilot Program to permit P.M.-settled options on broad-based indexes to expire on any Wednesday of the month. The text of the proposed rule change is provided below (additions are *italicized*; deletions are [bracketed]).

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 24.4. Position Limits for Broad-Based Index Options

(a) No change.

(b) End of Week Expirations*,* [and] End of Month Expirations*, and Wednesday Expirations* (as provided for in Rule 24.9(e), QIXs, Q–CAPS, Packaged Vertical Spreads and Packaged Butterfly Spreads on a broad-based index shall be aggregated with option contracts on the same broad-based index and shall be subject to the overall position limit.

* * * * *

Rule 24.9. Terms of Index Option Contracts

(a)–(d) No change.

(e) *Nonstandard Expirations Pilot Program* [End of Week/End of Month Expirations Pilot Program (''EOW/EOM Pilot Program'')]

(1) End of Week (''EOW'') Expirations. The Exchange may open for trading EOWs on any

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

broad-based index eligible for standard options trading to expire on any Friday of the month, other than the third Friday-of-the-month. EOWs shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that EOWs shall be P.M.-settled.

The maximum numbers of expirations that may be listed for EOWs is the same as the maximum numbers of expirations permitted in Rule 24.9(a)(2) for standard options on the same broad-based index. *Other than expirations that are third Friday-of-the-month or that coincide with an EOM expiration,* EOW expirations shall be for [the nearest] *consecutive* Friday expirations. [from the actual listing date, other than the third Friday-of-the-month or that coincide with an EOM expiration]. *EOWs that are first listed in a given class may expire up to four weeks from the actual listing date.* If the last trading day of a month is a Friday *and the Exchange lists EOMs and EOWs in a given class,* the Exchange will list an EOM *instead of* [and not] an EOW *in the given class.* Other expirations in the same class are not counted as part of the maximum numbers of EOW expirations for a broad-based index class.

(2) End of Month (''EOM'') Expirations. The Exchange may open for trading EOMs on any broad-based index eligible for standard options trading to expire on last trading day of the month. EOMs shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on [on] the third Friday of the expiration month; provided, however, that EOMs shall be P.M.-settled.

The maximum numbers of expirations that may be listed for EOMs is the same as the maximum numbers of expirations permitted in Rule 24.9(a)(2) for standard options on the same broad-based index. EOM expirations shall be for [the nearest] *consecutive* end of month expirations [from the actual listing date]. *EOMs that are first listed in a given class may expire up to four weeks from the actual listing date.* Other expirations in the same class are not counted as part of the maximum numbers of EOM expirations for a broad-based index class.

(3) Wednesday (''WED'') Expirations. The Exchange may open for trading WEDs on any broad-based index eligible for standard options trading to expire on any Wednesday of the month, other than a Wednesday that is EOM. WEDs shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that WEDs shall be P.M.-settled.

The maximum numbers of expirations that may be listed for WEDs is the same as the maximum numbers of expirations permitted in Rule 24.9(a)(2) for standard options on the same broad-based index. Other than expirations that coincide with an EOM expiration, WED expirations shall be for consecutive Wednesday expirations. WEDs that are first listed in a given class may expire up to four weeks from the actual listing date. If the last trading day of a month is a Wednesday and the Exchange lists EOMs and WEDs in a given class, the Exchange will list an EOM instead of a WED in the given class. Other expirations in the same class are not counted as part of the maximum numbers of WED expirations for a broad-based index class.

[(3)] *(4)* Duration of *Nonstandard Expirations Pilot Program* [EOW/EOM Pilot Program]. The *Nonstandard Expirations Pilot Program* [EOW/EOM Pilot Program] shall be through May 3, [2016] *2017*.

[(4)] *(5)* EOW/EOM/*WED* Trading Hours on the Last Trading Day. On the last trading day, transactions in expiring EOWs, [and] EOMs, *and WEDs* may be effected on the Exchange between the hours of 8:30 a.m. (Chicago time) and 3:00 p.m. (Chicago time).

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 14, 2010, the Commission approved a CBOE proposal to establish a pilot program under which the Exchange is permitted to list P.M.-settled options on broad-based indexes to expire on (a) any Friday of the month, other than the third Friday-of-the-month (''EOWs''), and (b) the last trading day of the month (''EOM'').[3] Under the terms of the End of Week/End of Month Expirations Pilot Program (the ''Pilot''), EOWs and EOMs are permitted on any broad-based index that is eligible for regular options trading. EOWs and EOMs are cash-settled expirations with European-style exercise, and are subject to the same rules that govern the trading of standard index options.

The purpose of this filing is to expand the Pilot to permit P.M.-settled options on broad-based indexes to expire on any Wednesday of the month (''WEDs''), other than Wednesdays that are EOM. To expand the Pilot as described, the Exchange is proposing to amend Rule 24.9(e)(3) to expressly provide the Exchange with the ability to list P.M.-settled WEDs on broad-based indexes eligible for options trading. In order to allow data regarding WEDs to be collected, this proposal seeks to extend the duration of the Pilot to May 3, 2017.[4] Additionally, if the Exchange were to propose an extension of the Pilot or should the Exchange propose to make the Pilot permanent, then the Exchange would submit a filing proposing such amendments to the Pilot. Furthermore, any positions established under the Pilot would not be impacted by the expiration of the Pilot. For example, if the Exchange lists an EOW, EOM, or WED expiration that expires after the Pilot expires (and is not extended) then those positions would continue to exist. However, any further trading in those series would be restricted to transactions where at least one side of the trade is a closing transaction.

Wednesday Expiration

With respect to Wednesday expirations, the Exchange proposes to amend Rule 24.9(e)(3) by adding the following rule text

Wednesday (''WED'') Expirations. The Exchange may open for trading WEDs on any broad-based index eligible for standard options trading to expire on any Wednesday of the month, other than a Wednesday that is EOM. WEDs shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that WEDs shall be P.M.-settled.

WEDs will be subject to the same rules that currently govern the trading of traditional index options, including sales practice rules, margin requirements, and floor trading procedures. Contract terms for WEDs will be similar to EOWs.

Maximum Number of Expirations

With respect to the maximum number of expirations, the Exchange proposes to amend Rule 24.9(e)(3) by adding the following rule text:

The maximum numbers of expirations that may be listed for WEDs is the same as the maximum numbers of expirations permitted

[3] *See* Securities Exchange Act Release No. 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (order approving SR–CBOE–2009–075).

[4] *See* Securities Exchange Act Release No. 73422 (October 24, 2014), 79 FR 64640 (October 30, 2014) (SR–CBOE–2014–079). The Pilot is currently set to expire on May 3, 2016.

in Rule 24.9(a)(2) for standard options on the same broad-based index. Other than expirations that coincide with an EOM expiration, WED expirations shall be for consecutive Wednesday expirations. WEDs that are first listed in a given class may expire up to four weeks from the actual listing date. If the last trading day of a month is a Wednesday and the Exchange lists EOMs and WEDs in a given class, the Exchange will list an EOM instead of a WED in the given class. Other expirations in the same class are not counted as part of the maximum numbers of WED expirations for a broad-based index class.

In support of this change, CBOE states that under Rule 24.9(a)(2), the maximum numbers [sic] of expirations varies depending on the type of class or by specific class. Therefore, the maximum number of expirations permitted for WEDs on a given class would be determined based on the specific broad-based index option class. For example, if the broad-based index option class is used to calculate a volatility index, the maximum number of WEDs permitted in that class would be 12 expirations (as is permitted in Rule 24.9(a)(2)).

For WEDs, CBOE proposes that other than expirations that coincide with an EOM expiration, WED expirations shall be for consecutive Wednesday expirations.[5] However, the Exchange is also proposing that WEDs that are first listed in a given class may expire up to four weeks from the actual listing date.[6] It is generally the Exchange's practice to list new expirations in a class in a manner that allows market participants to trade a particular product for longer than a week. Even weekly products such as EOWs and WEDs are not designed to have a life cycle—from listing to expiration—of one week; instead, they are simply designed to expire weekly. Thus, consistent with the Exchange's listing practices, this rule change will explicitly allow the Exchange to launch WEDs in an options class that do not expire on the following Wednesday from the actual listing date. For example, upon approval of this rule change, if the actual listing date of the first WEDs in a class is Monday, November 2nd, the expiration date of the first WEDs need not be Wednesday, November 4th; rather, the first expiration could be November 11th or a Wednesday thereafter. A similar provision will apply to EOWs and EOMs.

CBOE also proposes to follow the listing hierarchy described in the original Pilot filing, which provides that if the last trading day of the month is a Friday, the Exchange will list an EOM instead of an EOW.[7] Thus, with regards to WEDs, if the last trading day of a month is a Wednesday, the Exchange would list an EOM and not a WED. However, the Exchange is clarifying in Rules 24.9(e)(1) for EOWs and 24.9(e)(3) for WEDs that the hierarchy of EOMs over EOWs and WEDs only arises when the Exchange lists EOMs and EOWs or WEDs in a particular options class. In other words, if the last trading day of a month is a Wednesday and the Exchange does not list EOMs in class ABC but does list WEDs in ABC, then the Exchange may list a WED expiration for the last trading day of the month in class ABC. The same goes for EOWs. If the last trading day of a month is a Friday and the Exchange does not list EOMs in a particular options class but lists EOWs in the class, then the Exchange may list EOWs for the last trading day of the month in that particular options class.

Finally, CBOE proposes to add that other expirations in the same class would not be counted as part of the maximum numbers of WED expirations for a broad-based index class. CBOE states that this provision is modeled after the maximum number of expirations applicable to EOW and EOM options.[8] This provision is also similar to one recently adopted in connection with weekly CBOE Volatility Index (''VIX'') expirations, in that standard VIX expirations are not counted toward the maximum number of expirations permitted for weekly expiration in VIX options.[9]

CBOE has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any additional traffic associated with the listing of the maximum number of WED expirations permitted under the Pilot.

Position Limits

Since WEDs will be a new type of series and not a new class, the Exchange proposes that WEDs on the same broad-based index (*e.g.,* of the same class) shall be aggregated for position limits (if any) and any applicable reporting and other requirements.[10] The Exchange is proposing to add ''WEDs'' to Rule 24.4(b) to reflect the aggregation requirement. This proposed aggregation is consistent with the aggregation requirements for other types of option series (*e.g.,* EOWs, EOMs, QOS, QIXs) that are listed on the Exchange and which do not expire on the customary ''third Saturday.''[11]

Retitle the EOW/EOM Pilot Program

As part of adding WED expirations to the existing EOW/EOM Pilot Program, the Exchange believes it is necessary to retitle paragraph (e) of Rule 24.9. Thus, the Exchange proposes to retitle the Pilot as the ''Nonstandard Expirations Pilot Program.''

Annual Pilot Program Report

As part of the Pilot, the Exchange currently submits a Pilot report to the Securities and Exchange Commission (''Commission'') at least two months prior to the expiration date of the Pilot (the ''annual report'') . The annual report contains an analysis of volume, open interest and trading patterns. In addition, for series that exceed certain minimum open interest parameters, the annual report provides analysis of index price volatility and, if needed, share trading activity. The annual report will be expanded to provide the same data and analysis related to WED expirations as is currently provided for EOW and EOM expirations.

The Pilot is currently set to expire on May 3, 2016. As the annual report is provided at least two months prior the expiration date of the Pilot, there would not be significant data concerning WED expirations in the next annual report, which is due in approximately February 2016. Thus, the Exchange is seeking to extend the pilot to May 3, 2017. The Exchange will still provide an annual report in approximately February 2016 that covers EOWs, EOMs, and WEDs.

[5] This proposal also provides that for EOWs, other than expirations that are third Friday-of-the-month or that coincide with an EOM expiration, EOW expirations shall be for consecutive Friday expirations.

[6] The purpose of these provisions is to prevent gaps in expirations. For example, the provision prevents the Exchange from listing a WED expiration to expire on Wednesday, October 14th, then not listing a WED expiration to expire on October 21st, and then listing a WED expiration to expire on October 28th. The provision is not meant to prevent the Exchange from launching a new product and having the initial expiration dates be weeks from the initial launch.

[7] *See* Securities Exchange Act Release No. 62658 (August 5, 2010), 75 FR 49010 (SR–CBOE–2009–075).

[8] *See* Rule 24.9(e)(1) and (2).

[9] *See* fourth bullet under Rule 24.9(a)(2).

[10] *See e.g.,* Rule 4.13, *Reports Related to Position Limits* and Interpretation and Policy .03 to Rule 24.4 which sets forth the reporting requirements for certain broad-based indexes that do not have position limits.

[11] As will be discussed in detail below, the Exchange trades structured quarterly and short term options. FLEX Options do not become fungible with subsequently introduced Non-FLEX structured quarterly and short term options. *See* Securities Exchange Act Release No. 59675 (April 1, 2009), 74 FR 15794 (April 7, 2009) (SR–OCC–2009–05). Because of the similarities between WED expirations and existing structured quarterly and short term options, FLEX Options will similarly not become fungible with WED expirations listed for trading.

All annual reports will continue to be provided to the Commission on a confidential basis.

Analysis of Volume and Open Interest

For EOW, EOM, and WED series, the annual report will contain the following volume and open interest data for each broad-based index overlying EOW, EOM, and WED options:

(1) Monthly volume aggregated for all EOW, EOM, and WED series,

(2) Volume in EOW, EOM, and WED series aggregated by expiration date,

(3) Month-end open interest aggregated for all EOW, EOM, and WED series,

(4) Month-end open interest for EOM series aggregated by expiration date, week-ending open interest for EOW series aggregated by expiration date, and Wednesday-ending open interest for WED series aggregated by expiration date,

(5) Ratio of monthly aggregate volume in EOW, EOM, and WED series to total monthly class volume, and

(6) Ratio of month-end open interest in EOM series to total month-end class open interest, ratio of week-ending open interest in EOW series to total week-ending open interest, and ratio of Wednesday-ending open interest in WED series to total week-ending open interest.

Upon request by the SEC, CBOE will provide a data file containing: (1) EOW, EOM, and WED option volume data aggregated by series, and (2) EOW week-ending open interest for expiring series, EOM month-end open interest for expiring series, and WED Wednesday-ending open interest for expiring series.

Monthly Analysis of EOW & EOM & WED Trading Patterns

In the annual report, CBOE also proposes to identify EOW, EOM, and WED trading patterns by undertaking a time series analysis of open interest in EOW, EOM, and WED series aggregated by expiration date compared to open interest in near-term standard Expiration Friday A.M.-settled series in order to determine whether users are shifting positions from standard series to EOW, EOM, and WED series. Declining open interest in standard series accompanied by rising open interest in EOW, EOM, and WED series would suggest that users are shifting positions.

Provisional Analysis of Index Price Volatility and Share Trading Activity

For each EOW, EOM, and WED Expiration that has open interest that exceeds certain minimum thresholds, the annual report will contain the following analysis related to index price changes and, if needed, underlying share trading volume at the close on expiration dates:

(1) A comparison of index price changes at the close of trading on a given expiration date with comparable price changes from a control sample. The data will include a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by the CBOE Volatility Index (''VIX''), will be provided; and

(2) if needed, a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money EOW, EOM, and WED expirations. The data, if needed, will include a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for selecting the component securities, and sample periods will be determined by the Exchange and the Commission.

Discussion

In support of this proposal, the Exchange states that it trades other types of series and FLEX Options [12] that expire on different days than regular options and in some cases have P.M.-settlement. For example, since 1993 the Exchange has traded Quarterly Index Expirations (''QIXs'') that are cash-settled options on certain broad-based indexes which expire on the first business day of the month following the end of a calendar quarter and are P.M.-settled.[13] The Exchange also trades Quarterly Option Series (''QOS'') that overlie exchange traded funds (''ETFs'') or indexes which expire at the close of business on the last business day of a calendar quarter and are P.M.-settled.[14] Additionally, as described above, this Pilot currently allows the Exchange to trade EOW and EOM options that are P.M.-settled. The Exchange has experience with these special dated options and has not observed any market disruptions resulting from the P.M.-settlement feature of these options. The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settlement WED expirations.

The Exchange trades P.M.-settled EOW expirations, which provide market participants a tool to hedge special events and to reduce the premium cost of buying protection. The Exchange seeks to introduce P.M.-settled WED expirations to, among other things, expand hedging tools available to market participants and to continue the reduction of premium cost of buying protection. The Exchange believes that a WED expiration, similar to EOW expirations, would allow market participants to purchase an option based on their needed timing and allow them to tailor their investment or hedging needs more effectively. With SPX WEDs in particular, the Exchange believes VIX options and futures traders will be able to use SPX WEDs to more effectively manage the pricing complexity and risk of VIX options and futures. In addition, because P.M.-settlement permits trading throughout the day on the day the contract expires, the Exchange believes this feature will permit market participants to more effectively manage overnight risk and trade out of their positions up until the time the contract settles.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [16] 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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [17] requirement that the rules of an exchange not be designed

[12] *See* Securities Exchange Act Release No. 61439 (January 28, 2010), 75 FR 5831 (February 4, 2010) (SR–CBOE–2009–087) (order approving rule change to establish a pilot program to modify FLEX option exercise settlement values and minimum value sizes).

[13] *See* Rule 24.9(c).

[14] *See* Rules 5.5(e) and 24.9(a)(2)(B).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Id.*

to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the EOW/EOM Pilot has been successful to date and that WEDs simply expand the ability of investors to hedge risks against market movements stemming from economic releases or market events that occur throughout the month in the same way that EOWs and EOMs have expanded the landscape of hedging. Similarly, the Exchange believes WEDs should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to more closely tailor their investment objectives.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe the proposal will impose any burden on intramarket competition as all market participants will be treated in the same manner as existing EOWs and EOMs. Additionally, the Exchange does not believe the proposal will impose any burden on intermarket competition as market participants on other exchanges are welcome to become Trading Permit Holders and trade at CBOE if they determine that this proposed rule change has made CBOE more attractive or favorable. Finally, although the majority of the Exchange's broad-based index options are exclusively-listed at CBOE, all options exchanges are free to compete by listing and trading their own broad-based index options that expire on Wednesdays.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register**or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–106 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–106. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–106 and should be submitted on or before December 24, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–30608 Filed 12–2–15; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9367]

Overseas Schools Advisory Council Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Executive Committee Meeting on Thursday, January 21, 2016, at 9:30 a.m. in conference room 1498, Marshall Center, Department of State Building, 2201 C Street NW., Washington, DC. The meeting is open to the public and will last until approximately 12:00 p.m.

The Overseas Schools Advisory Council works closely with the U.S. business community to improve American-sponsored schools overseas that are assisted by the Department of State and attended by dependents of U.S. government employees, and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools. There will be a report and discussion about the status of the Council-sponsored projects such as The World Virtual School and The Child Protection Project. The Regional Education Officers in the Office of Overseas Schools will make presentations on the activities and initiatives in the American-sponsored overseas schools.

Members of the public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the State Department is controlled, and individual building passes are required for all attendees. Persons who plan to attend should advise the office of Dr. Keith D. Miller, Department of State, Office of Overseas Schools, telephone 202–261–8200, prior to January 14, 2016. Each visitor will be asked to provide his/her date of birth and either a driver's license or passport number at the time of registration and attendance, and must carry a valid photo ID to the meeting.

Personal data is requested pursuant to Public Law 99–399 (Omnibus

[18] 17 CFR 200.30–3(a)(12).

Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *https://foia.state.gov/_docs/SORN/State-36.pdf* for additional information.

Any requests for reasonable accommodation should be made at the time of registration. All such requests will be considered, however, requests made after January 14, 2016, might not be possible to fill. All attendees must use the C Street entrance to the building.

Dated: November 18, 2015.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 2015–30626 Filed 12–2–15; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Delegation of Authority 390–1]

Re-Delegation of Certain Authorities and Functions Under the International Organizations Immunities Act

By virtue of the authority vested in the Secretary of State by the International Organizations Immunities Act (the Act), and delegated on November 19, 2015, and to the extent consistent with law, I hereby delegate to the following officers the authorities and functions contained in Section 8 of the Act, as amended (22 U.S.C. 288e):

(1) The Director and Deputy Director of the Office of Foreign Missions;

(2) the Chief of Protocol and Assistant Chief of Protocol for Diplomatic Affairs; and

(3) the Deputy Permanent Representative and Minister Counselor for Host Country Affairs, of the U.S. Mission to the United Nations, New York.

Notwithstanding any provisions herein, the Secretary, Deputy Secretary, the Deputy Secretary for Management and Resources, or the Under Secretary for Management may at any time exercise the functions herein delegated. Any act, executive order, regulation, manual or procedure subject to, affected, or incorporated by, this delegation shall be deemed to be such act, executive order, regulation, manual or procedure as amended from time to time.

This document shall be published in the **Federal Register**.

Dated: November 19, 2015.

Patrick F. Kennedy,

Under Secretary of State for Management.

[FR Doc. 2015–30548 Filed 12–2–15; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

Delegation of Authority 390; Delegation of Certain Authorities and Functions Under the International Organizations Immunities Act

By virtue of the authority vested in the Secretary of State by Section 1 of the State Department Basic Authorities Act (22 U.S.C. 2651a) and the International Organizations Immunities Act (the Act), and delegated pursuant to Delegation of Authority 245–1, dated February 13, 2009, I hereby delegate to the Under Secretary for Management, to the extent consistent with law, the authorities and functions contained in Section 8 of the Act, as amended (22 U.S.C. 288e).

This authority may be re-delegated to the extent consistent with law.

Any actions related to the functions described herein that may have been taken prior to the date of this delegation of authority by the Office of the Chief of Protocol; the U.S. Mission to the United Nations; or the Office of Foreign Missions, are hereby confirmed and ratified. Such actions shall remain in force as if taken under this delegation of authority, unless or until such actions are rescinded, amended or superseded.

Notwithstanding any provisions herein, the Secretary, Deputy Secretary, or the Deputy Secretary for Management and Resources may at any time exercise the functions herein delegated. Any act, executive order, regulation, manual or procedure subject to, affected, or incorporated by, this delegation shall be deemed to be such act, executive order, regulation, manual or procedure as amended from time to time.

This document shall be published in the **Federal Register**.

Dated: November 19, 2015.

Heather A. Higginbottom,

Deputy Secretary of State for Management and Resources.

[FR Doc. 2015–30547 Filed 12–2–15; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2015–63]

Petition for Exemption; Summary of Petition Received; United Airlines, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before December 23, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–4360 using any of the following methods:

- *Federal eRulemaking 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.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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: Keira Jones (202) 267–4025, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on November 25, 2015.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2015–4360.
Petitioner: United Airlines, Inc.
Section(s) of 14 CFR Affected: § 121.465(b)(1) and (2).
Description of Relief Sought: Petitioner seeks relief to enable a scheduled Aircraft Dispatcher to complete the operating duty periods in excess of 10 consecutive hours in order to complete operating familiarization that would familiarize aircraft dispatchers with long-range flights. The petitioner proposes that aircraft dispatchers covered under the requested exemption would be provided a rest period of at least 8 hours prior to their next duty assignment.

[FR Doc. 2015–30572 Filed 12–2–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2015–60]

Petition for Exemption; Summary of Petition Received; Freight Runners Express, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before December 23, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–4436 using any of the following methods:

- *Federal eRulemaking 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.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov*, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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: For technical questions concerning this action, contact Nia Daniels, (202) 267–7626, 800 Independence Avenue SW., Washington, DC 20009.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on November 25, 2015.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2015–4436.
Petitioner: Freight Runners Express, Inc.
Section(s) of 14 CFR Affected: 135.128(a).
Description of Relief Sought: Freight Runners Express, Inc. is requesting an exemption from § 135.128(a) to allow FAA-certificated flight attendants to perform duties related to the safety of the airplane and its occupants by leaving their duty stations during taxi.

[FR Doc. 2015–30574 Filed 12–2–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2015–58]

Petition for Exemption; Summary of Petition Received; Cargo Airlines Limited

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before December 23, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–3898 using any of the following methods:

- *Federal eRulemaking 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.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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: Keira Jones (202) 267–4025, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on November 25, 2015.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2015–3898.

Petitioner: Cargo Airlines Limited.

Section(s) of 14 CFR Affected: § 61.77(a).

Description of Relief Sought: Cargo Airlines Limited (CAL) requests relief to obtain a special purpose flight authorization to operate in the U.S. airspace to demonstrate, accept, and ferry two Boeing B747–400F aircraft.

[FR Doc. 2015–30573 Filed 12–2–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for the obligation of Federal-aid funds for 74 State projects involving the acquisition of vehicles and equipment on the condition that they be assembled in the U.S.

DATES: The effective date of the waiver is December 4, 2015.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, 202–366–1562, or via email at *gerald.yakowenko@dot.gov*. For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, 202–366–1373, or via email at *jomar.maldonado@dot.gov*. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at *http://www.archives.gov* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

Background

This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for the obligation of Federal-aid funds for 74 State projects involving the acquisition of vehicles (including sedans, vans, pickups, trucks, buses, and street sweepers) and equipment (such as Bridge snooper truck and trail grooming equipment) on the condition that they be assembled in the U.S. The waiver would apply to approximately 547 vehicles. The requests, available at *http://www.fhwa.dot.gov/construction/contracts/cmaq151006.cfm,* are incorporated by reference into this notice. These projects are being undertaken to implement air quality improvement, safety, and mobility goals under FHWA's Congestion Mitigation and Air Quality Improvement Program; National Bridge and Tunnel Inventory and Inspection Program; and the Recreational Trails Program.

Title 23, Code of Federal Regulations, section 635.410 requires that steel or iron materials (including protective coatings) that will be permanently incorporated in a Federal-aid project must be manufactured in the U.S. For FHWA, this means that all the processes that modified the chemical content, physical shape or size, or final finish of the material (from initial melting and mixing, continuing through the bending and coating) occurred in the U.S. The statute and regulations create a process for granting waivers from the Buy America requirements when its application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. In 1983, FHWA determined that it was both in the public interest and consistent with the legislative intent to waive Buy America for manufactured products other than steel manufactured products. However, FHWA's national waiver for manufactured products does not apply to the requests in this notice because they involve predominately steel and iron manufactured products. The FHWA's Buy America requirements do not have special provisions for applying Buy America to ''rolling stock'' such as vehicles or vehicle components (see 49 U.S.C. 5323(j)(2)(C), 49 CFR 661.11, and 49 U.S.C. 24405(a)(2)(C) for examples of Buy America rolling stock provisions for other DOT agencies).

Based on all the information available to the agency, FHWA concludes that there are no domestic manufacturers that produce the vehicles and vehicle components identified in this notice in such a way that their steel and iron elements are manufactured domestically. The FHWA's Buy America requirements were tailored to the types of products that are typically used in highway construction, which generally meet the requirement that steel and iron materials be manufactured domestically. In today's global industry, vehicles are assembled with iron and steel components that are manufactured all over the world. The FHWA is not aware of any domestically produced vehicle on the market that meets FHWA's Buy America requirement to have all its iron and steel be manufactured exclusively in the U.S. For example, the Chevrolet Volt, which was identified by many commenters in a November 21, 2011, **Federal Register** Notice (76 FR 72027) as a car that is made in the U.S., is comprised of only 45 percent of U.S. and Canadian content according to the National Highway Traffic Safety Administration's Part 583 American Automobile Labeling Act Report Web page (*http://www.nhtsa.gov/Laws+&+Regulations/Part+583+American+Automobile+Labeling+Act+(AALA)+Reports*). Moreover, there is no indication of how much of this 45 percent content is U.S.-manufactured (from initial melting and mixing) iron and steel content.

In accordance with Division K, section 122 of the ''Consolidated and Further Continuing Appropriations Act, 2015'' (Pub. L. 113–235), FHWA published a notice of intent to issue a waiver on its Web site at *http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=115* on October 6, 2015. The FHWA received no comments in response to the publication.

Based on FHWA's conclusion that there are no domestic manufacturers that can produce the vehicles and equipment identified in this notice in such a way that steel and iron materials are manufactured domestically, and after consideration of the comments received, FHWA finds that application of FHWA's Buy America requirements to these products is inconsistent with the public interest (23 U.S.C. 313(b)(1) and 23 CFR 635.410(c)(2)(i)). However, FHWA believes that it is in the public interest and consistent with the Buy America requirements to impose the condition that the vehicles and the vehicle components be assembled in the

U.S. Requiring final assembly to be performed in the U.S. is consistent with past guidance to FHWA Division Offices on manufactured products (see Memorandum on Buy America Policy Response, Dec. 22, 1997, *http://www.fhwa.dot.gov/programadmin/contracts/122297.cfm*). A waiver of the Buy America requirement without any regard to where the vehicle is assembled would diminish the purpose of the Buy America requirement. Moreover, in today's economic environment, the Buy America requirement is especially significant in that it will ensure that Federal Highway Trust Fund dollars are used to support and create jobs in the U.S. This approach is similar to the conditional waivers previously given for various vehicle projects. Thus, so long as the final assembly of the 74 State projects occurs in the U.S., applicants to this waiver request may proceed to purchase these vehicles and equipment consistent with the Buy America requirement.

In accordance with the provisions of section 117 of the ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Technical Corrections Act of 2008'' (Pub. L. 110–244), FHWA is providing this notice of its finding that a public interest waiver of Buy America requirements is appropriate on the condition that the vehicles and equipment identified in the notice be assembled in the U.S. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to FHWA's Web site via the link provided to the waiver page noted above.

(Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410)

Issued on: November 25, 2015.

Gregory G. Nadeau,

Administrator, Federal Highway Administration.

[FR Doc. 2015–30601 Filed 12–2–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0002]

Agency Information Collection (Income, Asset and Employment Statement and Application for Veterans Pension)

AGENCY: Department of Veterans Affairs.

ACTION: Notice; correction.

SUMMARY: The Department of Veterans Affairs (VA) published a collection of information notice in the **Federal Register** on November 12, 2015, which contained errors to the title and abstract. This document corrects these errors by updating the title and abstract and making corrections throughout

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at 202–632–7492.

Correction

In FR Doc. 2015–28615, published on November 12, 2015, at 80 FR 70081, make the following correction. On page 70081, in the second and third columns, the notice should read as follows:

[OMB Control No. 2900–0002]

Agency Information Collection (Income, Asset and Employment Statement and Application for Veterans Pension) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 4, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0002'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0002.''

SUPPLEMENTARY INFORMATION:

Title: Income, Asset and Employment Statement and Application for Veterans Pension.

OMB Control Number: 2900–0002.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21P–527EZ—The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA), administers an integrated program of benefits and services, established by law, for veterans, service personnel, and their dependents and/or beneficiaries. Title 38 U.S.C. 5101(a) provides that a specific claim in the form provided by the Secretary must be filed in order for benefits to be paid to any individual under the laws administered by the Secretary. VA Form 21P–527EZ will be the prescribed form for Veterans Pension applications.

VA proposes to remove VA Form 21–527EZ, Application for Veterans Pension, from OMB control number 2900–0747 and have it assigned to OMB control number 2900–0002 since the form has been transferred to Pension & Fiduciary Service (21P). Also, due to the change in business lines, we are changing the form prefix to 21P.

VA Form 21P–527—This form will be used by Veterans to apply for pension benefits after they have previously applied for pension or for service-connected disability compensation using one of the prescribed forms under 38 U.S.C 5101(a). A veteran might reapply for pension if a previous compensation or pension claim was denied or discontinued, or if the veteran is receiving compensation and the veteran now believes that pension would be a greater benefit.

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

The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 7, 2015 at [80 FR 152, pages 47563–47564].

Affected Public: Individuals or Households.

Estimated Annual Burden: 59,230 hours.

Estimated Average Burden per Respondent: 0.50 hours (30 minutes).

Frequency of Response: One-time.

Estimated Number of Respondents: 118,197 respondents.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2015–30439 Filed 12–2–15; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 80 Thursday,
No. 232 December 3, 2015

Part II

Environmental Protection Agency

40 CFR Parts 52, 78, and 97
Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 78, and 97

[EPA–HQ–OAR–2015–0500; FRL–9935–25–OAR]

RIN 2060–AS05

Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The primary purpose of this proposal is to address interstate air quality impacts with respect to the 2008 ozone National Ambient Air Quality Standards (NAAQS). The EPA promulgated the Cross-State Air Pollution Rule (CSAPR) on July 6, 2011, to address interstate transport of ozone pollution under the 1997 ozone NAAQS and fine particulate matter ($PM_{2.5}$) under the 1997 and 2006 $PM_{2.5}$ NAAQS. The EPA is proposing to update CSAPR to address interstate emission transport with respect to the 2008 ozone NAAQS. This proposal also responds to the July 28, 2015 remand by the Court of Appeals for the District of Columbia Circuit of certain states' ozone-season nitrogen oxides (NO_X) emissions budgets established by CSAPR. This proposal also updates the status of certain states' outstanding interstate ozone transport obligations with respect to the 1997 ozone NAAQS, for which CSAPR provided a partial remedy.

This proposal finds that ozone season emissions of NO_X in 23 eastern states affect the ability of downwind states to attain and maintain the 2008 ozone NAAQS. These emissions can be transported downwind as NO_X or, after transformation in the atmosphere, as ozone. For these 23 eastern states, the EPA proposes to issue Federal Implementation Plans (FIPs) that generally update the existing CSAPR NO_X ozone-season emissions budgets for electricity generating units (EGUs) and implement these budgets via the CSAPR NO_X ozone-season allowance trading program. The EPA would finalize a FIP for any state that does not have an approved SIP addressing its contribution by the date this rule is finalized. The EPA is proposing implementation starting with the 2017 ozone season. In conjunction with other federal and state actions, these requirements would assist downwind states in the eastern United States in attaining and maintaining the 2008 ozone standard.

DATES: Comments must be received on or before January 19, 2016. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before January 4, 2016.

Public hearing. The EPA will be holding one public hearing on the proposed Cross-State Air Pollution Rule Update for the 2008 Ozone National Ambient Air Quality Standards. The hearing will be held to accept oral comments on the proposal. The hearing will be held on December 17, 2015 in Washington, DC. The hearing will begin at 9 a.m. EST and will conclude at 8 p.m. EST. Additional information for this public hearing is available in a separate **Federal Register** notice and at *http://www2.epa.gov/airmarkets/proposed-cross-state-air-pollution-update-rule*.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2015–0500, to the *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Mr. David Risley, Clean Air Markets Division, Office of Atmospheric Programs (Mail Code 6204M), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 343–9177; email address: *Risley.David@epa.gov*.

SUPPLEMENTARY INFORMATION:

Preamble Glossary of Terms and Abbreviations

The following are abbreviations of terms used in the preamble.

CAA or Act Clean Air Act
CAIR Clean Air Interstate Rule
CAMx Comprehensive Air Quality Model with Extensions
CBI Confidential Business Information
CEMS Continuous Emission Monitoring Systems
CFR Code of Federal Regulations
CSAPR Cross-State Air Pollution Rule
EGU Electric Generating Unit
EPA U.S. Environmental Protection Agency
FIP Federal Implementation Plan
FR Federal Register
GWh Gigawatt hours
ICR Information Collection Request
IPM Integrated Planning Model
Km Kilometer
lb/mmBtu Pounds per Million British Thermal Unit
LNB Low-NO_X Burners
mmBtu Pounds per Million British Thermal Unit
MOVES Motor Vehicle Emission Simulator
NAAQS National Ambient Air Quality Standard
NBP NO_X Budget Trading Program
NEI National Emission Inventory
NO_X Nitrogen Oxides
NODA Notice of Data Availability
NSPS New Source Performance Standard
OFA Overfire Air
$PM_{2.5}$ Fine Particulate Matter
PPB Parts Per Billion
RIA Regulatory Impact Analysis
SC–CO_2 Social Cost of Carbon
SCR Selective Catalytic Reduction
SIP State Implementation Plan
SMOKE Sparse Matrix Operator Kernel Emissions
SNCR Selective Non-catalytic Reduction
SO_2 Sulfur Dioxide
TSD Technical Support Document

Table of Contents

I. Executive Summary

The EPA promulgated the original Cross-State Air Pollution Rule (CSAPR) on July 6, 2011, to address interstate ozone transport under the 1997 ozone National Ambient Air Quality Standards (NAAQS). The EPA is proposing to update CSAPR to address interstate emission transport with respect to the 2008 ozone NAAQS. The 2008 ozone NAAQS is an 8-hour standard that was set at 75 parts per billion (ppb). *See* 73 FR 16436 (March 27, 2008).

A. Purpose of Regulatory Action

The purpose of this rulemaking is to reduce interstate emission transport that significantly contributes to nonattainment, or interferes with maintenance, of the 2008 ozone NAAQS in the eastern U.S. To achieve this goal, this proposal would further limit ozone season (May 1 through September 30) NO_X emissions from electric generating units (EGUs) in 23 eastern states.

Ozone causes a variety of negative effects on human health, vegetation, and ecosystems. In humans, acute and chronic exposure to ozone is associated with premature mortality and a number of morbidity effects, such as asthma exacerbation. Ozone exposure can also negatively impact ecosystems.

Studies have established that ozone occurs on a regional scale (*i.e.,* thousands of kilometers) over much of the eastern U.S., with elevated concentrations occurring in rural as well as metropolitan areas. To reduce this regional-scale ozone transport, assessments of ozone control approaches have concluded that NO_X control strategies are most effective. Further, studies have found that EGU NO_X emission reductions can be effective in reducing individual 8-hour peak ozone concentrations and in reducing 8-hour peak ozone concentrations averaged across the ozone season.[1] Specifically, studies indicate that EGUs' emissions, which are generally released higher in the air column through tall stacks and are significant in quantity, may disproportionately contribute to long-range transport of ozone pollution on a per-ton basis.[2]

Clean Air Act (CAA or the Act) section 110(a)(2)(D)(i)(I), sometimes called the ''good neighbor provision,'' requires states [3] to prohibit emissions that will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any primary or secondary NAAQS.

The EPA originally finalized CSAPR on July 6, 2011. *See* 76 FR 48208 (August 8, 2011). CSAPR addresses the 1997 ozone NAAQS and the 1997 and 2006 fine particulate matter ($PM_{2.5}$) NAAQS.[4] (See section IV for a discussion of CSAPR litigation and implementation.)

CSAPR provides a 4-step process to address the requirements of the good neighbor provision for ozone or $PM_{2.5}$ standards: (1) Identifying downwind receptors that are expected to have problems attaining or maintaining clean air standards (*i.e.,* NAAQS); (2) determining which upwind states contribute to these identified problems in amounts sufficient to ''link'' them to the downwind air quality problems; (3)

[1] Summertime Zero-Out Contributions of regional NO_X and VOC emissions to modeled 8-hour ozone concentrations in the Washington, DC; Philadelphia, PA, and New York City MSAs. ''Contributions of regional air pollutant emissions to ozone and fine particulate matter-related mortalities in eastern U.S. urban areas''.

[2] Butler, et al., ''Response of Ozone and Nitrate to Stationary Source Reductions in the Eastern USA.''

[3] The term ''state'' has the same meaning as provided in CAA section 302(d) which specifically includes the District of Columbia.

[4] CSAPR did not evaluate the 2008 ozone standard because the 2008 ozone NAAQS was under reconsideration during the analytic work for the rule.

for states linked to downwind air quality problems, identifying upwind emissions that significantly contribute to downwind nonattainment or interfere with downwind maintenance of a standard by quantifying available upwind emission reductions and apportioning upwind responsibility among linked states; and (4) for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, reducing the identified upwind emissions via regional emissions allowance trading programs. Each time the ozone or $PM_{2.5}$ NAAQS are revised, this process can be applied for the new NAAQS. In this action, the EPA proposes to apply this 4-step process to update CSAPR with respect to the 2008 ozone NAAQS.

Application of this process with respect to the 2008 ozone NAAQS provides the analytic basis for proposing to further limit ozone season EGU NO_X emissions in 23 eastern states. However, the EPA seeks comment on this proposal from all states and stakeholders.

The requirements of this proposal are in addition to existing, on-the-books EPA and state environmental regulations, including the Clean Power Plan (CPP), which is included in the base case for this proposal. On August 3, 2015, President Obama and EPA announced the Clean Power Plan—a historic and important action on emissions that contribute to climate change. The CPP reduces carbon pollution from the power sector. Due to the compliance timeframes of the CPP, the EPA does not anticipate significant interactions with the CPP and the near-term ozone season EGU NO_X emission reduction requirements under this proposal. However, states and utilities will be able to make their compliance plans with both programs in mind. Further discussion of the CPP is provided later in this proposal.

In addition to reducing interstate ozone transport with respect to the 2008 ozone NAAQS, this proposal also addresses the status of outstanding interstate ozone transport obligations with respect to the 1997 ozone NAAQS. Under CSAPR, the EPA promulgated FIPs for 25 states to address ozone transport under the 1997 NAAQS. For 11 of these states,[5] in the 2011 final rule, CSAPR quantified ozone season NO_X emission reductions that were not necessarily sufficient to eliminate all significant contribution to downwind nonattainment or interference with downwind maintenance of the 1997 ozone NAAQS downwind. Relying on base case modeling completed for this proposed rulemaking, this action proposes to find that the reductions required by those 11 FIPs were in fact sufficient to eliminate such significant contributions to downwind air quality problems for that standard.

This action also responds to the July 28, 2015 opinion of the Court of Appeals for the District of Columbia (D.C. Circuit) remanding without vacatur 11 states' CSAPR phase 2 NO_X ozone-season emissions budgets. *EME Homer City Generation, L.P.* v. *EPA,* No. 795 F.3d 118, 129–30, 138 (*EME Homer City II*). This action proposes to respond to that remand by replacing the budgets invalidated by the D.C. Circuit for nine states and by removing two states from the CSAPR NO_X ozone-season trading program.[6]

On October 1, 2015, the EPA strengthened the ground-level ozone NAAQS, based on extensive scientific evidence about ozone's effects on public health and welfare. This proposal to reduce interstate emission transport with respect to the 2008 ozone NAAQS is a separate and distinct regulatory action and is not meant to address the CAA's good neighbor provision with respect to the 2015 ozone NAAQS final rule.

The Clean Air Act gives states the responsibility to address interstate pollution transport through good neighbor State Implementation Plans (SIPs). The EPA supports state efforts to submit good neighbor SIPs for the 2008 ozone NAAQS and has shared information with states to facilitate such SIP submittals. However, in the event that good neighbor SIPs are not submitted or cannot be approved, this rulemaking proposes Federal Implementation Plans (FIPs), as required under section 110(c)(1) of the CAA, to establish and implement EGU NO_X reductions identified in this rule.

On July 13, 2015, the EPA published a rule finding that 24 states[7] failed to make complete submissions that address the requirements of section 110(a)(2)(D)(i)(I) related to the interstate transport of pollution as to the 2008 ozone NAAQS. See 80 FR 39961 (July 13, 2015) (effective August 12, 2015). The finding action triggered a 2-year deadline for the EPA to issue FIPs to address the good neighbor provision for these states by August 12, 2017.

The EPA would finalize a FIP for a state that we find has failed to submit a complete good neighbor SIP or for which we issue a final rule disapproving its good neighbor SIP.

The EPA proposes to align implementation of this proposed rule with relevant attainment dates for the 2008 ozone NAAQS, as required by the D.C. Circuit's decision *North Carolina* v. *EPA*.[8] The EPA's final 2008 Ozone NAAQS SIP Requirements Rule[9] revised the attainment deadline for ozone nonattainment areas currently designated as moderate from December 2018 to July 2018 in accordance with the D.C. Circuit's decision in *NRDC* v. *EPA*.[10] Because July 2018 falls during the 2018 ozone season, the 2017 ozone season will be the last full season from which data can be used to determine attainment of the NAAQS by the July 2018 attainment date. We believe that *North Carolina* compels the EPA to identify upwind reductions and implementation programs to achieve these reductions, to the extent possible, for the 2017 ozone season.

In order to apply the first and second steps of the CSAPR 4-step process to interstate transport for the 2008 ozone NAAQS, the EPA used air quality modeling to project ozone concentrations at air quality monitoring sites to 2017. The EPA evaluated these modeling projections for the air quality monitoring sites and considered current ozone monitoring data at these sites to identify receptors that are anticipated to have problems attaining or maintaining the 2008 ozone NAAQS. The EPA then used air quality modeling to evaluate contributions from upwind states to these downwind receptors.

CSAPR and previous federal transport rules, such as the NO_X SIP Call and the Clean Air Interstate Rule (CAIR)—discussed in detail below—addressed collective contributions of ozone pollution from states in the eastern U.S. These rules did not address contributions in the 11 western

[5] Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Tennessee, and Texas. (See CSAPR Final Rule, 76 FR at 48220, and the CSAPR Supplemental Rule, 76 FR at 80760, December 27, 2011).

[6] The EPA proposes to replace emissions budgets for Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, and West Virginia. The EPA proposes to remove Florida and South Carolina from the CSAPR ozone-season NO_X trading program.

[7] The states included in this finding of failure to submit are: Alabama, Arkansas, California, Florida, Georgia, Iowa, Illinois, Kansas, Massachusetts, Maine, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Mexico, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

[8] 531 F.3d 896, 911–12 (D.C. Cir. 2008) (holding that EPA must coordinate interstate transport compliance deadlines with downwind attainment deadlines).

[9] 80 FR 12264, 12268; 40 CFR 51.1103.

[10] 777 F.3d 456, 469 (D.C. Cir. 2014).

contiguous United States.[11] There may be additional criteria to evaluate regarding collective contribution of transported air pollution in the West, such as those raised in EPA-state meetings to discuss approaches for determining how emissions in upwind states impact air quality in downwind states.[12] Given that the near-term 2017 implementation timeframe constrains the opportunity to conduct evaluations of additional criteria, the EPA proposes to focus this rulemaking on eastern states. This focus would not relieve western states of obligations to address interstate transport under the Act. The EPA and western states, working together, would continue to evaluate interstate transport on a case-by-case basis. While the EPA proposes to focus this rulemaking on eastern states, we seek comment on whether to include western states in this rule.

To apply the third step of the 4-step process, the EPA assessed ozone season NO_X reductions that are achievable for the 2017 ozone season. This assessment reveals that there is significant EGU NO_X reduction potential that can be achieved for 2017 at reasonable cost, which would make meaningful and timely improvements in ozone air quality. The EPA applied a multi-factor test to evaluate EGU NO_X reduction potential for 2017 and proposes to quantify EGU NO_X ozone-season emissions budgets reflecting emission reductions from cost-effective pollution control measures achievable for the 2017 ozone season (estimated to obtain NO_X reductions at a uniform cost of approximately $1,300 per ton).

The EPA is not proposing to quantify non-EGU emission reductions to reduce interstate ozone transport for the 2008 ozone NAAQS at this time because we are uncertain that significant NO_X mitigation is achievable from non-EGUs for the 2017 ozone season. The EPA will continue to evaluate whether non-EGU emission reductions can be achieved on a longer time-frame at a future date. However, as explained later in this document, this proposal seeks comment on a preliminary evaluation of stationary non-EGU NO_X mitigation potential and on allowing a state to include legacy NO_X SIP Call non-EGUs in the CSAPR trading program by adopting a SIP revision that the EPA would approve as modifying the CSAPR trading program provisions with regard to that state.

To evaluate full elimination of a state's significant contribution to nonattainment and interference with maintenance, EGU and non-EGU ozone season NO_X reductions should both be evaluated. To the extent air quality impacts persist after implementation of the NO_X reductions identified in this rulemaking, a final judgment on whether the proposed EGU NO_X reductions represent a full or partial elimination of a state's good neighbor obligation for the 2008 NAAQS is therefore subject to an evaluation of the contribution to interstate transport from additional non-EGU emission sectors.

However, the EPA believes that it is beneficial to implement, without further delay, EGU NO_X reductions since they are achievable in the near term. Generally, notwithstanding that additional reductions may be required to fully address the states' interstate transport obligations, the proposed NO_X emission reductions are needed for these states to eliminate their significant contribution to nonattainment and interference with maintenance of the 2008 ozone NAAQS and needed for downwind states with ozone nonattainment areas that are required to attain the standard by 2018.[13]

At the same time, the EPA also notes that section 110(a)(2)(D)(i)(I) of the CAA only requires upwind states to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the NAAQS in other states. It does not shift to upwind states the full responsibility for ensuring that all areas in other states attain and maintain the NAAQS. Downwind states also have control responsibilities because, among other things, the Act requires each state to adopt enforceable plans to attain and maintain air quality standards. The requirements established for upwind states through this proposed rule will supplement downwind states' local emission control strategies that, in conjunction with the certainty on maximum allowable upwind state EGU emissions that this proposed rule would provide, promote attainment and maintenance of the 2008 ozone NAAQS.

To meet the fourth step of the 4-step process (*i.e.,* implementation) the proposed FIPs contain enforceable measures necessary to achieve the emission reductions in each state. The proposed FIPs would require power plants in affected states (*i.e.,* states that significantly contribute to ozone transport in the east) to participate in the CSAPR NO_X ozone-season allowance trading program (as modified by the proposed changes described elsewhere in this notice). CSAPR's trading programs and EPA's prior emissions trading programs provide a proven implementation framework for achieving emission reductions. In addition to providing environmental certainty (*i.e.,* a cap on emissions), these programs also provide regulated sources with flexibility in choosing compliance strategies. By using the existing CSAPR NO_X ozone-season allowance trading program, the EPA is proposing to use an implementation framework that was shaped by notice and comment in previous rulemakings and reflects the evolution of these programs in response to court decisions. Further, this program is familiar to the EGUs that will be regulated under this rule, which means that monitoring, reporting, and compliance will be done as it already is under CSAPR's current ozone-season and annual programs.[14]

These FIP requirements, if finalized, would begin with the 2017 ozone season and would continue for subsequent ozone seasons to ensure that upwind states included in this proposed rule meet their Clean Air Act obligation to address interstate emissions transport with respect to the 2008 ozone NAAQS for 2017 and future years. To the extent that emissions in an included state would otherwise exceed the promulgated emission level, these good neighbor EGU emissions limits will ensure that future emissions are consistent with states' ongoing good neighbor obligations. To the extent that emissions in an included state would be reduced for other reasons, for example planned lower-NO_X emitting generation coming online, then those actions will help the state comply with its good neighbor requirements.

Generally, for states that would be affected by one of the FIPs proposed in this action and that are already included in the CSAPR NO_X ozone-season trading program to address interstate ozone transport for the 1997 NAAQS, this action proposes to revise the existing part 97 regulations that define that program to incorporate lower EGU NO_X ozone-season emissions budgets for each of the affected states in order to reduce ozone transport for the 2008

[11] For the purpose of this action, the western U.S. (or the West) consists of the 11 western contiguous states of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming.

[12] For example, EPA-State meetings held in Research Triangle Park, NC on April 8, 2013 and Denver, Colorado on April 17, 2013.

[13] The proposed requirements for one state, North Carolina, would fully eliminate that state's significant contribution to downwind air quality problems.

[14] One state, Kansas, would have a new CSAPR ozone season requirement under this proposal. Kansas currently participates in the CSAPR NO_X and SO_2 annual programs. The remaining 22 states were included in the original CSAPR ozone-season program as to the 1997 ozone NAAQS.

ozone NAAQS.[15] If finalized, compliance with these lower emissions budgets for the 2008 ozone NAAQS would also satisfy compliance with the existing higher emissions budgets for the 1997 ozone NAAQS. Therefore, the EPA proposes to replace the existing CSAPR emissions budgets (*i.e.* for the 1997 ozone NAAQS) for the affected states with the lower emissions budgets proposed to reduce ozone transport for the 2008 ozone NAAQS. Compliance with the final lower emissions budgets for the 2008 ozone NAAQS would supersede compliance with the CSAPR NO_X ozone-season budgets for the 1997 ozone NAAQS. This action would therefore respond to the remand of *EME Homer City II* with respect to the NO_X ozone-season emissions budgets for nine states [16] by replacing the budgets declared invalid by the court with revised budgets designed to address the 2008 ozone NAAQS.

The proposed FIPs, if finalized, would not limit states' flexibility in meeting their CAA requirements, as any state included in this proposed rule can submit a good neighbor SIP at any time that, if approved by the EPA, could replace the FIP for that state. Additionally, CSAPR already provides states with the option to submit abbreviated SIPs to customize the methodology for allocating NO_X ozone-season allowances while participating in the ozone-season trading program and we propose to continue that approach in this rule.

The EPA therefore proposes revisions to the Code of Federal Regulations, specifically 40 CFR part 97, subpart BBBBB (federal CSAPR NO_X ozone-season trading program); 40 CFR 52.38(b) (rules on replacing or modifying the federal CSAPR NO_X ozone-season trading program with a SIP); 40 CFR 52.540, 52.882, and 52.2140 (adding or limiting requirements for EGUs in certain individual states to participate in the CSAPR NO_X ozone-season trading program); and 40 CFR 78.1 (modifying the list of decisions subject to administrative appeal procedures under part 78) to address interstate transport for the 2008 ozone NAAQS. In addition, various minor corrections are proposed to these CFR and other sections of parts 52, 78, and 97 relating to the CSAPR ozone-season and annual trading programs.

The 23 eastern states for which the EPA proposes to promulgate FIPs to reduce interstate ozone transport as to the 2008 ozone NAAQS are listed in Table I–1.

TABLE I–A–1—PROPOSED LIST OF COVERED STATES FOR THE 2008 8-HOUR OZONE NAAQS

State name
Alabama
Arkansas
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maryland
Michigan
Mississippi
Missouri
New Jersey
New York
North Carolina
Ohio
Oklahoma
Pennsylvania
Tennessee
Texas
Virginia
West Virginia
Wisconsin

For eastern states for which the EPA is not proposing FIPs in this action, the EPA notes that updates to the modeling for the final rule, made based on comments received on the proposal, could change the analysis as to which states significantly contribute to nonattainment or interfere with maintenance. In this regard, the final modeling could result in additional states being included in the final rule. Therefore, the EPA provides all data and methods necessary for all eastern states to comment on all aspects of this proposal in the Ozone Transport Policy Analysis TSD. This information includes EGU NO_X ozone-season emissions budgets for all eastern states, in the event that final rule modeling demonstrates that additional states significantly contribute to downwind air quality problems.

The EPA notes that the annual $PM_{2.5}$ NAAQS was updated after CSAPR was promulgated (78 FR 306, January 15, 2013). However, this rulemaking does not address the 2012 $PM_{2.5}$ standard. The EPA acknowledges that, in *EME Homer City II,* the D.C. Circuit also remanded without vacatur the CSAPR phase 2 SO_2 emissions budgets as to four states. 795 F.3d at 129, 138. This proposal does not address the remand of these CSAPR phase 2 SO_2 annual emissions budgets. The EPA intends to address the remand of the phase 2 SO_2 annual emissions budgets separately. The existing CSAPR emissions budgets and implementation programs (CSAPR SO_2 annual and NO_X annual requirements), which address interstate transport for the 1997 and 2006 $PM_{2.5}$ NAAQS, continue to apply at this time.

B. Major Provisions

The major provision of this action are described in the remainder of this preamble and organized as follows: Section III describes the human health and environmental context, the EPA's overall approach for addressing interstate transport, and the EPA's response to the remand of certain CSAPR NO_X ozone-season emissions budgets; section IV describes the EPA's legal authority for this action; section V describes the air quality modeling platform and emission inventories that the EPA used to identify downwind receptors of concern and upwind state ozone contributions to those receptors; section VI describes the EPA's proposed approach to quantify upwind state obligations in the form of EGU NO_X emissions budgets; section VII details the implementation requirements including key elements of the CSAPR allowance trading program and deadlines for compliance; section VIII describes the expected costs, benefits, and other impacts of this proposed rule; section IX discusses proposed changes to the existing regulatory text for the CSAPR FIPs and the CSAPR trading programs; and section X discusses the statutes and executive orders affecting this rulemaking. The EPA invites comment on this proposed rulemaking.

C. Benefits and Costs

The proposed rule would achieve near-term emission reductions from the power sector, lowering ozone season NO_X in 2017 by 85,000 tons, compared to baseline 2017 projections without the rule.

Consistent with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' we have estimated the costs and benefits of the proposed rule. Estimates here are subject to uncertainties discussed further in the Regulatory Impact Analysis (RIA) in the docket. The estimated net benefits of the proposed rule at a 3 percent discount rate are $700 million to $1.2 billion (2011$). The non-monetized benefits include reduced ecosystem effects and reduced visibility impairment. Discussion of the costs and benefits of the proposal is provided in preamble section VIII, below, and in the RIA,

[15] One state, Kansas, would have a new CSAPR ozone season requirement under this proposal. The remaining 22 states were included in the original CSAPR ozone-season program as to the 1997 ozone NAAQS.

[16] The EPA proposes to replace emissions budgets for Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, and West Virginia.

which is found in the docket for this proposed rulemaking. The EPA's estimate of the proposed rule's costs and quantified benefits is summarized in Table I.C–1, below.

TABLE I.C–1—SUMMARY OF COMPLIANCE COSTS, MONETIZED BENEFITS, AND MONETIZED NET BENEFITS OF THE PROPOSED RULE FOR 2017 (2011$)

Description	Impacts at 3 percent discount rate ($ millions)
Annualized Compliance Costs [a]	$93.
Monetized benefits [b]	700 to 1,200.
Net benefits (benefits-costs)	620 to 1,200.

[a] Total annualized social costs are estimated at a 3 percent discount rate. The social costs presented here reflect the EGU ozone season costs of complying with the proposed FIPs.

[b] Total monetized benefits are estimated at a 3 percent discount rate. The total monetized benefits reflect the human health benefits associated with reducing exposure to ozone and $PM_{2.5}$. It is important to note that the monetized benefits and co-benefits include many but not all health effects associated with pollution exposure. Benefits are shown as a range reflecting studies from Krewski *et al.* (2009) with Smith *et al.* (2009) to Lepeule *et al.* (2012) with Zanobetti and Schwartz (2008).

II. General Information

A. To whom does this action apply?

This proposed rule affects EGUs, and regulates the following groups:

Industry group	NAICS *
Fossil fuel-fired electric power generation	221112

* 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 this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in 40 CFR 97.504. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. Air Quality Issues Addressed and Overall Approach for the Proposed Rule

A. The Interstate Transport Challenge Under the 2008 Ozone Standard

1. Background on the Overall Nature of the Interstate Ozone Transport Problem

Interstate transport of NO_X emissions poses significant challenges with respect to the 2008 ozone NAAQS in the eastern U.S. and thus presents a threat to public health and welfare.

a. Nature of Ozone and the Ozone NAAQS

Ground-level ozone is not emitted directly into the air, but is created by chemical reactions between NO_X and volatile organic compounds (VOC) in the presence of sunlight. Emissions from electric utilities and industrial facilities, motor vehicles, gasoline vapors, and chemical solvents are some of the major sources of NO_X and VOC.

Because ground-level ozone formation increases with temperature and sunlight, ozone levels are generally higher during the summer. Increased temperature also increases emissions of volatile man-made and biogenic organics and can indirectly increase NO_X emissions as well (*e.g.,* increased electricity generation for air conditioning).

The 2008 primary and secondary ozone standards are both 75 parts per billion (ppb) as an 8-hour level. Specifically, the standards require that the 3-year average of the fourth highest 24-hour maximum 8-hour average ozone concentration may not exceed 75 ppb.

b. Ozone Transport

Studies have established that ozone formation, atmospheric residence, and transport occurs on a regional scale (*i.e.,* thousands of kilometers) over much of the eastern U.S., with elevated concentrations occurring in rural as well as metropolitan areas. While substantial progress has been made in reducing ozone in many urban areas, regional-scale ozone transport is still an important component of peak ozone concentrations during the summer ozone season.

The EPA has previously concluded in the NO_X SIP Call, CAIR, and CSAPR that, for reducing regional-scale ozone transport, a NO_X control strategy would be most effective. NO_X emissions can be transported downwind as NO_X or, after transformation in the atmosphere, as ozone. As a result of ozone transport, in any given location, ozone pollution levels are impacted by a combination of local emissions and emissions from upwind sources. The transport of ozone pollution across state borders compounds the difficulty for downwind states in meeting health-based air quality standards (*i.e.,* NAAQS).

Recent assessments of ozone, for example those conducted for the October 2015 Regulatory Impact Analysis of the Final Revisions to the National Ambient Air Quality Standards for Ground-Level Ozone (EPA–452/R–15–007) continue to show the importance of NO_X emissions on ozone transport. This analysis is in the docket for this proposal and can be also found at the EPA's Web site at: *http://www3.epa.gov/ozonepollution/pdfs/20151001ria.pdf.*

There are five general categories of NO_X emission sources: EGUs, non-EGU point, onroad mobile, non-road mobile, and area. Studies have found that EGU NO_X emission reductions can be

effective in reducing individual 8-hour peak ozone concentrations and in reducing 8-hour peak ozone concentrations averaged across the ozone season. For example, a study that evaluates the effectiveness on ozone concentrations of EGU NO_X reductions achieved under the NO_X Budget Trading Program shows that regulating NO_X emissions has been highly effective in reducing both ozone and dry-NO_3 concentrations during the ozone season. Further, this study indicates that EGU emissions, which are generally released higher in the air column through tall stacks and are significant in quantity, may disproportionately contribute to long-range transport of ozone pollution on a per-ton basis.[17] Another study shows that EGU NO_X emissions can contribute between 5 ppb and 25 ppb to average 8-hour peak ozone concentrations in mid-Atlantic metropolitan statistical areas.[18]

Previous regional ozone transport efforts, including the NO_X SIP Call, CAIR, and CSAPR, required ozone season NO_X reductions from EGUs to address interstate transport of ozone. The EPA has taken comment on regulating EGU NO_X emissions to address interstate ozone transport in the notice-and-comment process for these rulemakings. The EPA received no significant adverse comments in any of these proposals regarding the rules' focus on ozone season EGU NO_X reductions to address interstate ozone transport.

As described later in this notice, the EPA's analysis finds that the power sector continues to be capable of making NO_X reductions at reasonable cost that reduce interstate transport with respect to ground-level ozone. EGU NO_X emission reductions can be made in the near-term under this proposal by fully operating existing EGU NO_X post-combustion controls (*i.e.,* Selective Catalytic Reduction and Selective Non-Catalytic Reduction)—including optimizing NO_X removal by existing, operational controls and turning on and optimizing existing idled controls; installation of (or upgrading to) state-of-the-art NO_X combustion controls; and shifting generation to units with lower NO_X emission rates. Further, additional assessment reveals that these available EGU NO_X reductions would make meaningful and timely improvements in ozone air quality.

The Clean Air Act's good neighbor provision requires states and the EPA to address interstate transport of air pollution that affects downwind states' ability to attain and maintain NAAQS. Other provisions of the CAA, namely sections 179B and 319(b), are available to deal with NAAQS exceedances not attributable to the interstate transport of pollution covered by the good neighbor provisions but caused by emission sources outside the control of a downwind state. These provisions address international transport and exceptional events, respectively.[19] [20]

c. Health and Environmental Effects

Exposure to ambient ozone causes a variety of negative effects on human health, vegetation, and ecosystems. In humans, acute and chronic exposure to ozone is associated with premature mortality and a number of morbidity effects, such as asthma exacerbation. In ecosystems, ozone exposure causes visible foliar injury, decreases plant growth, and affects ecosystem community composition. See the EPA's November 2014 Regulatory Impact Analysis of the Proposed Revisions to the National Ambient Air Quality Standards for Ground-Level Ozone (EPA–452/P–14–006), in the docket for this proposal and available on the EPA's Web site at: *http://www.epa.gov/ttn/ecas/regdata/RIAs/20141125ria.pdf*, for more information on the human health and welfare and ecosystem effects associated with ambient ozone exposure.

2. Events Affecting Application of the Good Neighbor Provision for the 2008 Ozone NAAQS

The 2008 revisions to the ozone NAAQS were promulgated on March 12, 2008. *See* National Ambient Air Quality Standards for Ozone, Final Rule, 73 FR 16436 (March 27, 2008). The revision of the NAAQS, in turn, triggered a 3-year deadline of March 12, 2011, for states to submit SIP revisions addressing infrastructure requirements under CAA sections 110(a)(1) and 110(a)(2), including the good neighbor provision. During this 3-year SIP development period, on September 16, 2009, the EPA announced [21] that it would reconsider the 2008 ozone NAAQS. To reduce the workload for states during the interim period of reconsideration, the EPA also announced its intention to propose staying implementation of the 2008 standards for a number of the requirements. On January 6, 2010, the EPA proposed to revise the 2008 NAAQS for ozone from 75 ppb to a level within the range of 60 to 70 ppb. *See* 75 FR 2938 (January 19, 2010). The EPA indicated its intent to issue final standards based upon the reconsideration by summer 2011.

On July 6, 2011, the EPA finalized CSAPR, in response to the DC Circuit's remand of the EPA's prior federal transport rule, CAIR. *See* 76 FR 48208 (August 8, 2011). CSAPR addresses ozone transport under the 1997 ozone NAAQS, but does not address the 2008 ozone standard, because the 2008 ozone NAAQS was under reconsideration during the analytic work for the rule.

On September 2, 2011, consistent with the direction of the President, the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget returned the draft final 2008 ozone rule EPA had developed upon reconsideration to the Agency for further consideration.[22] In view of this direction and the timing of the agency's ongoing periodic review of the ozone NAAQS required under CAA section 109 (as announced on September 29, 2008), the EPA decided to coordinate further proceedings on its voluntary reconsideration rulemaking of the 2008

[17] Butler, *et al.,* ''Response of Ozone and Nitrate to Stationary Source Reductions in the Eastern USA''.

[18] Summertime Zero-Out Contributions of regional NO_X and VOC emissions to modeled 8-hour ozone concentrations in the Washington, DC; Philadelphia, PA, and New York City MSAs. ''Contributions of regional air pollutant emissions to ozone and fine particulate matter-related mortalities in eastern U.S. urban areas''.

[19] The EPA recognizes that both in-state and upwind wildfires may contribute to monitored ozone concentrations. The EPA encourages all states to consider how the appropriate use of prescribed fire may benefit of public safety and health by resulting in fewer ozone exceedances for both the affected state and their neighboring states.

[20] The CAA and the EPA's implementing regulations, specifically the Exceptional Events Rule at 40 CFR 50.14, allow for the exclusion of air quality monitoring data from regulatory determinations when events, including wildland fires, contribute to NAAQS exceedances or violations if they meet certain requirements, including the criterion that the event be not reasonably controllable or preventable. Wildland fires can be of two types: Wildfire (unplanned) and prescribed fire (planned). Under the Exceptional Events Rule, wildfires are considered, by their nature, to be not reasonably controllable or preventable. Because prescribed fires on wildland are intentionally ignited for resource management purposes, to meet the not reasonably controllable or preventable criterion, they must be conducted under a certified Smoke Management Program or employ basic smoke management practices. Both types of wildland fire must also satisfy the other rule criteria. The EPA will soon propose revisions to the Exceptional Events Rule and release a draft guidance document, which applies the proposed rule revisions to wildfire events that could influence ozone concentrations. These actions, which the EPA intends to finalize in the summer of 2016, further clarify the treatment of wildland fires under the Exceptional Events Rule.

[21] Fact Sheet. The EPA to reconsider Ozone Pollution Standards. *http://www.epa.gov/groundlevelozone/pdfs/O3_Reconsideration_FACT%20SHEET_091609.pdf.*

[22] *See* Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards, August 2014, *http://www.epa.gov/ttn/naaqs/standards/ozone/data/20140829pa.pdf,* at 1–9.

ozone standard with that of its ongoing periodic review of the ozone NAAQS.[23] Implementation for the original 2008 ozone standard was renewed. However, during this time period, a number of legal developments pertaining to the EPA's promulgation of CSAPR created uncertainty surrounding the EPA's statutory interpretation and implementation of the good neighbor provision.

On August 21, 2012, the D.C. Circuit issued a decision in *EME Homer City Generation, L.P.* v. *EPA* addressing several legal challenges to CSAPR and holding, among other things, that states had no obligation to submit good neighbor SIPs until the EPA had first quantified each state's good neighbor obligation.[24] According to that decision, the submission deadline for good neighbor SIPs under the CAA would not necessarily be tied to the promulgation of a new or revised NAAQS. While the EPA disagreed with this interpretation of the statute and sought review of the decision in the D.C. Circuit and the U.S. Supreme Court, the EPA complied with the D.C. Circuit's ruling during the pendency of its appeal. In particular, the EPA indicated that, consistent with the D.C. Circuit's opinion, it would not at that time issue findings that states had failed to submit SIPs addressing the good neighbor provision.[25]

On January 23, 2013, the Supreme Court granted the EPA's petition for certiorari.[26] During 2013 and early 2014, as the EPA awaited a decision from the Supreme Court, the EPA initiated efforts and technical analyses aimed at identifying and quantifying state good neighbor obligations for the 2008 ozone NAAQS. As part of this effort, the EPA solicited stakeholder input and also provided states with, and requested input on, emissions inventories for 2011 (78 FR 70935, November 27, 2013) and inventory projections for 2018 (79 FR 2437, January 14, 2014).

On April 29, 2014, the Supreme Court reversed the D.C. Circuit's *EME Homer City* opinion on CSAPR and held, among other things, that under the plain language of the CAA, states must submit SIPs addressing the good neighbor provision within 3 years of promulgation of a new or revised NAAQS, regardless of whether the EPA first provides guidance, technical data, or rulemaking to quantify the state's obligation.[27] Thus, the Supreme Court affirmed that states have an obligation in the first instance to address the good neighbor provision after promulgation of a new or revised NAAQS, a holding that also applies to states' obligation to address transport for the 2008 ozone NAAQS.

The Supreme Court holding affirmed that states were required to submit SIPs addressing the good neighbor provision with respect to the 2008 ozone NAAQS by March 12, 2011. To the extent that states have failed to submit SIPs to meet this statutory obligation, then the EPA has not only the authority, but the obligation, to promulgate FIPs to address the CAA requirement.

Following the remand of the case to the D.C. Circuit, the EPA requested that the court lift the CSAPR stay and toll the CSAPR compliance deadlines by three years. On October 23, 2014, the D.C. Circuit granted the EPA's request. The EPA issued an interim final rule to revise the regulatory deadlines in CSAPR to reflect the three-year delay in implementation. Accordingly, CSAPR phase 1 implementation began in 2015 and phase 2 will begin in 2017.[28]

On March 6, 2015, the EPA's final 2008 Ozone NAAQS SIP Requirements Rule[29] revised the attainment deadline for ozone nonattainment areas currently designated as moderate to July 2018. In order to demonstrate attainment by the deadline, the demonstration would have to be based on design values calculated using 2015 through 2017 ozone season data, since the July 2018 deadline does not afford a full ozone season of measured data. The EPA established this deadline in the 2015 Ozone SIP Requirements Rule after previously establishing a deadline of December 31, 2018, that was vacated by the D.C. Circuit Court in *Natural Resources Defense Council* v. *EPA*.[30]

On July 28, 2015, the D.C. Circuit issued its opinion regarding CSAPR on remand from the Supreme Court, *EME Homer City II,* 795 F.3d 118. The court largely upheld CSAPR, but remanded to EPA without vacatur certain states' emissions budgets for reconsideration. This proposal responds to the remand of certain CSAPR NO_X ozone-season emissions budgets to the EPA for reconsideration; see section C below. Regarding the remand of CSAPR phase 2 SO_2 annual emissions budgets as to four states, this proposal does not address that particular aspect of the D.C. Circuit opinion. The EPA intends to address the remand of the phase 2 SO_2 annual emissions budgets separately.

B. Proposed Approach To Address Ozone Transport Under the 2008 Ozone NAAQS via FIPs

1. The CSAPR Framework

CSAPR establishes a 4-step process to address the requirements of the good neighbor provision.[31] The EPA proposes to follow the same steps for this rulemaking with respect to the 2008 ozone NAAQS. These steps are: (1) Identifying downwind receptors that are expected to have problems attaining or maintaining clean air standards (*i.e.,* NAAQS); (2) determining which upwind states contribute to these identified problems in amounts sufficient to ''link'' them to the downwind air quality problems; (3) for states linked to downwind air quality problems, identifying upwind emissions that significantly contribute to nonattainment or interfere with maintenance of a standard by quantifying available upwind emission reductions and apportioning upwind responsibility among linked states; and (4) for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, reducing the identified upwind emissions via regional emissions allowance trading programs.

Step 1—In the original CSAPR, downwind air quality problems were assessed using modeled future air quality concentrations for a year aligned with attainment deadlines for the NAAQS considered in that rulemaking. The assessment of future air quality conditions generally accounts for on-the-books emission reductions[32] and the most up-to-date forecast of future emissions in the absence of the transport policy being evaluated (*i.e.,* base case conditions). The locations of

[23] *Id.*

[24] *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 31 (D.C. Cir. 2012).

[25] *See, e.g.,* Memorandum from the Office of Air and Radiation former Assistant Administrator Gina McCarthy to the EPA Regions, ''Next Steps for Pending Redesignation Requests and State Implementation Plan Actions Affected by the Recent Court Decision Vacating the 2011 Cross-State Air Pollution Rule,'' November 19, 2012; 78 FR 65559 (November 1, 2013) (final action on Florida infrastructure SIP submission for 2008 8-hour ozone NAAQS); 78 FR 14450 (March 6, 2013) (final action on Tennessee infrastructure SIP submissions for 2008 8-hour ozone NAAQS); Final Rule, Findings of Failure To Submit a Complete State Implementation Plan for Section 110(a) Pertaining to the 2008 Ozone National Ambient Air Quality Standard, 78 FR 2884 (January 15, 2013).

[26] *EPA* v. *EME Homer City Generation, L.P.,* 133 S. Ct. 2857 (2013) (granting the EPA's and other parties' petitions for certiorari).

[27] *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584, 1600–01 (2014).

[28] 79 FR 71663 (December 3, 2014).

[29] 80 FR 12264, 12268 (Mar. 6, 2015); 40 CFR 51.1103.

[30] 777 F.3d 456 (D.C. Cir. 2014).

[31] *See* CSAPR, Final Rule, 76 FR 48208 (August 8, 2011).

[32] Since CSAPR was designed to replace CAIR, CAIR emissions reductions were not considered ''on-the-books.''

downwind air quality problems are identified as those with receptors that are projected to be unable to attain (*i.e.,* nonattainment receptor) or maintain (*i.e.,* maintenance receptor) the standard. This proposal follows this same general approach. However, the EPA also proposes to consider current monitored air quality data to further inform the projected identification of downwind air quality problems for this proposal. Further details and application of step one for this proposal are described in section V of this notice.

Step 2—The original CSAPR used a screening threshold of one percent of the NAAQS to identify upwind states that were ''linked'' to downwind air pollution problems. States were identified as needing further evaluation for actions to address transport if their air quality impact [33] was greater than or equal to the threshold for at least one downwind problem receptor (*i.e.,* nonattainment or maintenance receptor identified in step 1). We evaluated a given state's contribution based on the average relative downwind impact calculated over multiple days. States whose air quality impacts to all downwind problem receptors were below this threshold did not require further evaluation for actions to address transport—that is, these states were determined to make insignificant contributions to downwind air quality problems and therefore have no emission reduction obligations under the good neighbor provision. The EPA used this threshold because much of the ozone nonattainment problem in the eastern half of the United States results from relatively small contributions from a number of upwind states. Use of the one percent threshold for CSAPR is discussed in the preambles to the proposed and final CSAPR rules. *See* 75 FR 45237 (Aug. 2, 2010); 76 FR 48238, (Aug. 8, 2011). The EPA proposes to use this same approach for this rule. Application of step two for this proposal is described in section V of this notice.

Step 3—For states that are linked in step 2 to downwind air quality problems, the original CSAPR used a multi-factor test to evaluate emission reductions available in upwind states by application of uniform cost thresholds. The EPA evaluated NO_X reductions that were available in upwind states by applying a marginal cost of NO_X emissions to entities in these states. This approach, in essence, simulated placing an economic value on NO_X emissions and evaluated emission reduction potential that was cost-effective under this constraint. The EPA evaluated NO_X reduction potential, cost, and downwind air quality improvements available at several cost thresholds in the multi-factor test. This evaluation quantified the magnitude of emissions that significantly contribute to nonattainment or interfere with maintenance of a NAAQS downwind and apportioned upwind responsibility among linked states, an approach upheld by the U.S. Supreme Court in *EPA* v. *EME Homer City*.[34] The EPA proposes to apply this approach to identify NO_X emission reductions necessary to reduce interstate transport for the 2008 ozone NAAQS, updated to also explicitly consider over-control. For this proposal, the multi-factor test is also used to evaluate possible over-control by evaluating if an upwind state is linked solely to downwind air quality problems that are resolved at a given cost threshold, or if upwind states would reduce their emissions at a given cost threshold to the extent that they would no longer meet or exceed the 1% air quality contribution threshold. This evaluation of cost, NO_X reductions, and air quality improvements, including its consideration of potential over-control, results in the EPA's determination of upwind emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind. Next, emissions budgets are determined. Emissions budgets are remaining allowable emissions after the elimination of emissions identified as significantly contributing to nonattainment or interfering with maintenance of the standard downwind. The EPA's assessment of significant contribution to nonattainment and interference with maintenance and development of EGU NO_X ozone-season emissions budgets is described in section VI of this notice.

Step 4—Finally, the original CSAPR used allowance trading programs to implement the necessary emission reductions. Specifically, the emissions budgets identified in step 3 were implemented via a tradable allowance program. Emissions allowances were issued to units covered by the trading program and the allowances can be turned in at the close of each compliance period to account for a specified amount of ozone season EGU NO_X emissions. Additionally, the original CSAPR included variability limits, which define the amount by which collective emissions within a state may exceed the level of the budgets in a given year to account for variability in EGU operations. CSAPR set assurance levels equal to the sum of each state's emissions budget plus its variability limit. The original CSAPR included assurance provisions that help to assure that state emissions remain below the assurance levels in each state by requiring additional allowance surrenders in the instance that emissions in the state exceed the state's assurance level. This limited interstate trading approach is responsive to previous court decisions (see discussion in section IV of this preamble) and has been upheld in subsequent litigation regarding CSAPR. The EPA proposes to apply this approach to reduce interstate transport for the 2008 ozone NAAQS. Implementation using the CSAPR allowance trading program is described in section VII of this notice.

2. Partial Versus Full Resolution of Transport Obligation

Given the unique circumstances surrounding the implementation of the 2008 ozone standard that have delayed state and EPA efforts to address interstate transport, at this time the EPA is focusing its efforts on the immediately available and cost-effective emission reductions that are achievable by the 2017 ozone season.

a. Partial Remedy Under Proposed FIPs

This rulemaking proposes to establish (or revise currently established) FIPs for 23 eastern states under the good neighbor provision of the CAA. These FIPs contain requirements for EGUs in these states to reduce ozone season NO_X emissions for the 2017 ozone season. As noted in section VI, the EPA has identified important EGU emission reductions that are achievable starting for the 2017 ozone season in each of the covered states through actions such as turning on and operating existing pollution controls. These readily available emission reductions will assist downwind states to attain and maintain the 2008 ozone NAAQS and will provide human health and welfare benefits through reduced exposure to ozone pollution.

While these reductions are necessary to assist downwind states attain and maintain the 2008 ozone NAAQS and are necessary to address good neighbor obligations for these states, the EPA acknowledges that they may not be sufficient to fully address these states' good neighbor obligations.[35] With respect to the 2008 ozone standard, the

[33] For ozone the impacts would include those from volatile organic compounds (VOC) and NO_X, and from all sectors.

[34] *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584, 1606–07 (2014).

[35] The proposed requirements for one state, North Carolina, would fully eliminate that state's significant contribution to downwind air quality problems.

EPA has generally not attempted to quantify the ozone season NO_X reductions that may be necessary to eliminate all significant contribution to nonattainment and interference with maintenance in other states. Given the time constraints for implementing NO_X reduction strategies, the EPA believes that implementation of a full remedy may not be achievable for 2017, even though a partial remedy is achievable.

To evaluate full elimination of a state's significant contribution to nonattainment and interference with maintenance, EGU and non-EGU ozone season NO_X reductions should both be evaluated. However, the EPA is not proposing to quantify non-EGU emissions reductions to address interstate ozone transport for the 2008 ozone NAAQS at this time because: (1) There is greater uncertainty in the non-EGU emission inventory estimates than for EGUs; and (2) there appear to be few non-EGU reductions that could be accomplished by the beginning of the 2017 ozone season. This is discussed further in section VI of this proposal and in the Non-EGU NO_X Mitigation Strategies TSD. We intend to continue to collect information and undertake analysis for potential future emissions reductions at non-EGUs that may be necessary to fully quantify states' significant contributions in a future action.

Because the reductions proposed in this action are EGU-only and because EPA has focused the policy analysis for this proposal on reductions available by 2017, for most states they represent a first, partial step to addressing a given upwind state's significant contribution to downwind air quality impacts for the 2008 ozone NAAQS. Generally, a final determination of whether the proposed EGU NO_X reductions represent a full or partial elimination of a state's good neighbor obligation for the 2008 NAAQS is subject to an evaluation of the contribution to interstate transport from additional emission sectors, such as non-EGUs. However, the EPA believes that it is beneficial to implement, without further delay, EGU NO_X reductions that are achievable in the near term. The proposed NO_X emission reductions are needed (although they may not be all that is needed) for these states to eliminate their significant contribution to nonattainment and interference with maintenance of the 2008 ozone NAAQS. The EPA's current statutory deadlines to promulgate FIPs extend until 2017 for most states, and the EPA will remain mindful of those deadlines as it evaluates what further steps may be necessary to address interstate transport for the 2008 ozone NAAQS. The EPA seeks comment on possible future steps that may be necessary to resolve the remainder of the good neighbor obligation for the 2008 ozone standard.

The EPA has shared information with states to facilitate the development of the ozone transport SIPs.[36] The EPA encourages state SIP development and will continue to assist states in developing transport SIPs regardless of whether they are covered by this proposed FIP. Where a state would be covered by this proposed FIP, the EPA may be able to partially approve SIPs that include controls on EGU emissions that achieve ozone season NO_X emission reductions and/or that establish EGU NO_X ozone emissions budgets approximately equivalent to those identified in this proposal as achievable by 2017. (This is discussed in more detail in Section VII.) In these SIPS, states could also demonstrate that they are achieving the same level of emissions reductions through non-EGU source measures as they would achieve under the EGU budgets established in the FIP. For example, a SIP could set EGU budgets, but allow emission reductions from non-EGU sources as a compliance option. EPA also seeks comment on methods it can use to ensure that any non-EGU reductions are incremental to the base case, permanent, and enforceable.

b. Potential for Full Remedy Under SIPs

The EPA also notes that many states have already submitted, or are currently developing, SIP submittals to address the good neighbor provision of the CAA for the 2008 ozone standard, and expects that some may assert that the state plan fully addresses the state's good neighbor obligation.

The EPA anticipates that those SIPs intending to fully address the state's good neighbor obligations and for which the state is seeking approval may fall into one of two categories:

(1) The SIP concludes that the state is meeting its good neighbor obligation without need for additional NO_X reductions. This SIP could include an adequate demonstration, using EPA or state-generated analytical results, which supports the state's conclusion that the state contributes insignificant amounts to downwind nonattainment or maintenance problems in other states. The EPA would generally expect to propose full approval of these SIPs.

(2) The SIP demonstrates that the state will timely achieve reductions that fully address its significant contribution to nonattainment or interference with maintenance in downwind states. This demonstration could include an assessment of how all emissions source sectors contribute to the state's contribution and how these sectors are controlled in that state. States wishing to seek full approval of good neighbor SIPs should contact their appropriate regional office. Guidance on developing such SIPs is outside the scope of this action, but the EPA intends to work closely with any state that is interested in pursuing this option.

3. Why We Focus on Eastern States

CSAPR and previous federal transport rules, such as the NO_X SIP Call and CAIR, were designed to address collective contributions of ozone pollution from states in the eastern U.S. These rules did not address contributions in the 11 western contiguous United States.[37] The EPA's air quality modeling that supports this proposed rule includes data for the western states. This assessment shows that there are problem receptors in the West to which western states contribute amounts greater than or equal to the screening threshold used to evaluate transport across eastern states (*i.e.,* 1 percent of the NAAQS). However, there may be additional criteria to evaluate regarding transported air pollution in the West when evaluating upwind states' contributions to downwind air quality impacts, such as those discussed in EPA-state meetings to discuss approaches for determining how emissions in upwind states impact air quality in downwind states.[38] Given that the near-term 2017 implementation timeframe constrains the opportunity to conduct a further evaluation of western states, the EPA proposes to focus this rulemaking on eastern states. This focus would not relieve western states of obligations to address interstate transport under the Act. The EPA and states working together would continue to evaluate interstate transport in the western states on a case-by-case basis. The EPA would also continue to engage

[36] On January 22, 2015, the EPA issued a memo with preliminary air quality modeling data that characterized interstate ozone transport projected to 2018. On April 8, 2015, the EPA held a workshop that continued a discussion with states on the path forward for addressing interstate transport for the 2008 8-hour ozone NAAQS. On August 4, 2015, we published a NODA with updated modeling that states could use to support development of transport SIPs.

[37] For the purpose of this action, the western U.S. (or the West) consists of the 11 western contiguous states of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming, and the eastern U.S. (or East) consists of the remaining states in the contiguous U.S.

[38] For example, EPA-State meetings held in Research Triangle Park, NC on April 8, 2013 and Denver, Colorado on April 17, 2013.

with western states on air quality modeling analyses and the implications of those analyses for interstate transport.

While the EPA proposes to focus this rulemaking on eastern states, we seek comment on whether to include western states in this rule. The EPA notes that analyses developed to support this proposal, including air quality modeling and the EPA's assessment of EGU NO_X mitigation potential, contain data that could be useful for states in developing SIPs or could be used to develop FIPs, where necessary.

The EPA seeks comment on the data provided for western states, including emissions inventories, ozone concentration modeling, contribution modeling, and EPA's assessment of EGU NO_X reduction potential.[39] These data are available in the docket for this proposal. The EPA also solicits comment on whether to promulgate FIPs to address interstate ozone transport for the 2008 ozone NAAQS for western states, either in this rulemaking or in a subsequent rulemaking.

4. Short-Term NO_X Emissions

In eastern states, the highest measured ozone days tend to occur within the hottest days, weeks, or months of the summer. On many high ozone days, there is higher demand for electricity (for instance, to run air conditioners). In general and technical discussions with representatives and officials of eastern states in April 2013 and April 2015, and in several letters to the EPA, officials from the Ozone Transport Region (OTR)[40] states suggested that EGU emissions transported from upwind states may disproportionally affect downwind ozone concentrations on peak ozone days in the eastern U.S. These representatives asked that the EPA consider additional ''peak day'' limits on EGU NO_X emissions.

Some states have also asked the EPA to consider whether existing emission controls are being turned off for short periods (*e.g.,* multiple days) within the ozone season, for example during hot weeks. These states assert that emissions from short-term idling of controls may contribute to downwind ozone NAAQS exceedances in the eastern U.S. These states suggest that sub-seasonal limits on EGU NO_X emissions would reduce ozone formation that might be attributable to short-term idling of NO_X controls.

The EPA seeks comment on whether or not short-term (*e.g.,* peak-day) EGU NO_X emissions disproportionately impact downwind ozone concentrations, and if they do, then what EGU emission limits (*e.g.,* daily or monthly emission rates or differential allowance surrender ratios on high ozone days) would be reasonable complements to the proposed seasonal CSAPR requirement to mitigate this impact.

C. Responding to the Remand of CSAPR NO_X Ozone-Season Emissions Budgets

As noted above, in *EME Homer City II,* the D.C. Circuit declared invalid the CSAPR phase 2 NO_X ozone-season emissions budgets of 11 states, holding that those budgets over-control with respect to the downwind air quality problems to which those states were linked for the 1997 ozone NAAQS. 795 F.3d at 129–30, 138. As to ten of these states, the court held that EPA's 2014 modeling conducted to support the RIA for CSAPR demonstrated that air quality problems at the downwind locations to which those states were linked would resolve by phase 2 of the CSAPR program without further transport regulation (either CAIR or CSAPR). *Id.* at 129–30. With respect to Texas, the court held that the record reflected that the ozone air quality problems to which the state was linked could be resolved at a lower cost threshold. *Id.* The court therefore remanded those budgets to EPA for reconsideration consistent with the court's opinion. *Id.* at 138. The court instructed the EPA to act ''promptly'' in addressing these issues on remand. *Id.* at 132.

The court's decision explicitly applies to 11 state budgets involved in that litigation: Florida, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Virginia, and West Virginia. *Id.* at 129–30, 138. EPA is proposing in this rulemaking to promulgate FIPs for nine of those states to address interstate transport with respect to the 2008 ozone NAAQS: Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, and West Virginia. The proposed FIPs incorporate revised emissions budgets that would supplant and replace the budgets promulgated in the CSAPR rule to address the 1997 ozone NAAQS, the same budgets remanded by the D.C. Circuit for reconsideration. Further, as proposed in this rule, these proposed budgets would be effective for the 2017 ozone season, the same period in which the phase 2 budgets that were invalidated by the court are currently scheduled to become effective. Therefore, this proposed action provides an appropriate and timely response to the court's remand by replacing the budgets promulgated in the CSAPR to address the 1997 ozone NAAQS, which were declared invalid by the D.C. Circuit, with budgets developed to address the revised and more stringent 2008 ozone NAAQS.[41]

The EPA notes that it is able to propose addressing the D.C. Circuit's remand of CSAPR NO_X ozone-season emissions budgets because the agency was already performing analysis and policy development for this proposal, which is directly applicable to this aspect of the D.C. Circuit opinion.

Separately, various petitioners filed legal challenges in the D.C. Circuit to a supplemental rule that added five states to the CSAPR ozone-season trading program, 76 FR 80760 (Dec. 27, 2011). *See Public Service Company of Oklahoma* v. *EPA,* No. 12–1023 (D.C. Cir., filed Jan. 13, 2012). The case was held in abeyance during the pendency of the litigation in *EME Homer City.* The case remains pending in the D.C. Circuit as of the date of signature of this proposed rule.[42] The EPA notes that this rulemaking also proposes to promulgate FIPs for all five states added to CSAPR in the supplemental rule: Iowa, Michigan, Missouri, Oklahoma, and Wisconsin. The proposed FIPs incorporate revised emissions budgets that would supplant and replace the budgets promulgated in the supplemental CSAPR rule to address the 1997 ozone NAAQS for these five states

[39] On August 4, 2015, the EPA published a Notice of Data Availability (80 FR 46271) requesting comment on the air quality modeling platform and air quality modeling results that are being used for this proposed rule. Specifically, in the NODA, the EPA requested comment on the data and methodologies related to the 2011 and 2017 emissions and the air quality modeling to project 2017 concentrations and contributions. Comments received on that data via the NODA will be considered for the final rule.

[40] The OTR was established by the CAA amendments of 1990 to facilitate addressing the ozone problem on a regional basis and consists of the following states: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, the District of Columbia and northern Virginia. 42 U.S.C. 7511c, CAA section 184.

[41] The methodology for developing the proposed budgets to address the 2008 ozone NAAQS is described in more detail in Sections VI and VII below. Section VI also includes an evaluation, as instructed by the court in *EME Homer City II,* to affirm that the proposed budgets do not over-control with respect to downwind air quality problems identified in this rule. 795 F.3d at 127–28.

[42] In 2012, the EPA also finalized two rules making certain revisions to CSAPR. 77 FR 10324 (Feb. 21, 2012); 77 FR 34830 (June 12, 2012). Various petitioners filed legal challenges to these rules in the D.C. Circuit, and the cases were also held in abeyance pending the litigation in *EME Homer City. See Wisconsin Public Service Corp.* v. *EPA,* No. 12–1163 (D.C. Cir., filed Apr. 6, 2012); *Utility Air Regulatory Group* v. *EPA,* No. 12–1346 (D.C. Cir., filed Aug. 9, 2012). The cases currently remain pending in the D.C. Circuit.

and would be effective for the 2017 ozone season.

For the two remaining ozone-season states affected by this portion of the *EME Homer City II* decision, Florida and South Carolina, the EPA is not proposing in this action to promulgate FIPs because the air quality modeling performed to support the proposal does not indicate that these states are linked to any identified downwind nonattainment or maintenance receptors with respect to the 2008 ozone standard. Inherently then, because the 2008 ozone NAAQS is more stringent than the 1997 ozone NAAQS, this modeling also does not indicate that Florida or South Carolina are linked to any remaining air quality concerns with respect to the 1997 ozone standard for which the states were regulated in CSAPR.

Accordingly, in order to address the Court's remand with respect to these two states' interstate transport responsibility under the 1997 ozone standard, the EPA proposes to remove these states from the CSAPR ozone-season trading program beginning in 2017 when the phase 2 ozone-season emissions budgets were scheduled to be implemented.

The EPA notes that because the proposed rule modeling was performed prior to the D.C. Circuit's issuance of *EME Homer City II,* that modeling assumed in its baseline for all states the emission reductions associated with the CSAPR phase 2 ozone-season budgets. In the final rule modeling, the EPA will make any additional changes to the emissions inventories or modeling platform as may be justified based on comments received on the modeling performed for the proposed rule. In the event that air quality modeling conducted for the final rule demonstrates that either Florida or South Carolina are projected to significantly (*e.g.,* greater than or equal to 1% of the NAAQS) contribute to an air quality problem with respect to the 2008 ozone standard in the absence of a CSAPR-related emissions budget in place for those states, the EPA instead proposes to finalize revised budgets (presented with this rulemaking for comment) for whichever of those states may be identified as linked to such air quality problems rather than remove those states from the CSAPR ozone-season trading program. The EPA has calculated emissions budgets for Florida and South Carolina that we are proposing to apply to those states if, and only if, the final rule air quality modeling identifies a linkage as just described. These proposed budgets are developed using the same methods applied to the 23 states that the EPA proposed to regulate in this action. These methods are described in section VI of this proposal and the methods and resulting emissions budgets are provided in the Ozone Transport Policy Analysis TSD.

The EPA seeks comment on this approach with respect to addressing the remand as to Florida and South Carolina, including the proposed budgets that would apply to those states if a linkage is identified, which are available in the docket.

Additionally, the EPA notes Florida and South Carolina may be relying upon emissions reductions that result from now-remanded emissions budgets in Florida and South Carolina to satisfy statutory obligations other than the interstate transport requirements. However, Florida and South Carolina may have an interest in submitting SIPs to continue their participation in the CSAPR NO_X ozone-season trading program in order to meet other Clean Air Act requirements. Likewise, to the extent that the final modeling indicates that other states included in the remand of the CSAPR phase 2 NO_X ozone-season emissions budgets are not linked to any identified downwind nonattainment or maintenance receptors with respect to the 2008 ozone standard, they would not be included in the final FIPs but they may be interested in continuing to participate in the CSAPR NO_X ozone-season trading program in order to meet other Clean Air Act requirements. The EPA seeks comment on whether to allow Florida, South Carolina, and other similarly situated states (if any) to continue their participation in the CSAPR NO_X ozone-season program through voluntary SIPs that would retain the CSAPR NO_X ozone-season emissions budgets, contingent upon review and approval by the EPA.

The D.C. Circuit also remanded without vacatur the CSAPR SO_2 annual emissions budgets for four states (Alabama, Georgia, South Carolina, and Texas) for reconsideration. 795 F.3d at 129, 138. This proposal does not address the remand of these CSAPR phase 2 SO_2 annual emissions budgets. The EPA intends to address the remand of the phase 2 SO_2 annual emissions budgets separately. The existing CSAPR annual emissions budgets and implementation programs (CSAPR SO_2 annual and NO_X annual requirements), which address interstate transport for the 1997 and 2006 $PM_{2.5}$ NAAQS, continue to apply at this time.

D. Addressing Outstanding Transport Obligations for the 1997 Ozone NAAQS

In the original CSAPR, the EPA noted that the reductions for 11 states may not be sufficient to fully eliminate all significant contribution to nonattainment or interference with maintenance for certain downwind areas with respect to the 1997 ozone NAAQS.[43] The 11 states are: Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Tennessee, and Texas.[44] In the original CSAPR, the EPA's analysis projected continued nonattainment and maintenance problems at downwind receptors to which these upwind states were linked after implementation of the CSAPR trading programs. Specifically, the persistent ozone problems were expected in Baton Rouge, Louisiana; Houston, Texas; and Allegan, Michigan according to the remedy case modeling conducted for the final rule. At that time the EPA did not address whether additional ozone season NO_X emission reductions would be needed in these states to fully resolve the good neighbor obligation under the CAA with respect to the 1997 ozone NAAQS beyond the EGU requirements promulgated in CSAPR.

To evaluate whether additional emission reductions would be needed in these 11 states to address the states' full good neighbor obligation for the 1997 ozone NAAQS, the EPA reviewed the 2017 baseline air quality modeling conducted for this proposal, which includes emission reductions associated with the CSAPR phase 2 ozone-season budgets.

The updated 2017 air quality modeling shows that the predicted average DVs and maximum DVs for 2017 are below the level of the 1997 ozone NAAQS for the downwind receptors of concern that the 11 states were linked to in the original CSAPR for the 1997 ozone NAAQS. Further, the 2017 air quality modeling shows that there are no other nonattainment or

[43] *See* CSAPR Final Rule, 76 FR at 48220, and the CSAPR Supplemental Rule, 76 FR at 80760, December 27, 2011.

[44] The EPA acknowledges that, despite its conclusion in CSAPR that the air quality problems to which Texas was linked in the original CSAPR were not fully resolved, the court concluded in *EME Homer City II* that the NO_X ozone-season emissions budget finalized for Texas resulted in over-control as to the ozone air quality problems to which the state was linked. 795 F.3d at 129–30. As discussed below in section V, this rule proposes to respond to the remand of Texas's NO_X ozone-season emissions budget by promulgating a new budget to address the 2008 ozone NAAQS. The EPA has also evaluated Texas's contribution to any remaining air quality problems with respect to the 1997 ozone NAAQS. [Text may be revised to reflect ongoing litigation.]

maintenance receptors to which these areas would be linked with respect to the 1997 ozone NAAQS. This conclusion demonstrates that no further emission reductions are required to address the interstate transport obligations of these states with respect to the 1997 ozone NAAQS, and therefore EPA finds that the original CSAPR emissions budgets satisfy these states' full obligation to address interstate ozone transport under the good neighbor provision of the CAA as to that NAAQS. Therefore, we propose to find that the original CSAPR FIPs fully satisfy those 11 states' good neighbor CAA obligations regarding the emissions that contribute significantly to nonattainment or interfere with maintenance of the 1997 ozone NAAQS in other states.

IV. Legal Authority

A. EPA's Authority for the Proposed Rule

1. Statutory Authority

The statutory authority for this proposed action is provided by the CAA as amended (42 U.S.C. 7401 *et seq.*). Specifically, sections 110 and 301 of the CAA provide the primary statutory bases for this proposal. The most relevant portions of section 110 are subsections 110(a)(1), 110(a)(2), and 110(a)(2)(D)(i)(I), and 110(c)(1).

Section 110(a)(1) provides that states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and that these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS.[45] The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon the EPA taking any action other than promulgating a new or revised NAAQS.[46]

The EPA has historically referred to SIP submissions made for the purpose of satisfying the applicable requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required content of these submissions. It includes a list of specific elements that ''[e]ach such plan'' submission must address.[47] All states, regardless of whether the state includes areas designated as nonattainment for the relevant NAAQS, must have SIPs that meet the applicable requirements of section 110(a)(2), including provisions of section 110(a)(2)(D)(i)(I) described further below and which are the focus of this proposal.

Section 110(c)(1) requires the Administrator to promulgate a FIP at any time within 2 years after the Administrator: (1) Finds that a state has failed to make a required SIP submission, (2) finds a SIP submission to be incomplete pursuant to CAA section 110(k)(1)(C), or (3) disapproves a SIP submission, unless the state corrects the deficiency through a SIP revision that the Administrator approves before the FIP is promulgated.[48]

Section 110(a)(2)(D)(i)(I), also known as the ''good neighbor provision,'' provides the basis for this proposed action. It requires that each state SIP shall include provisions sufficient to ''prohibit[] . . . any source or other type of emissions activity within the State from emitting any air pollutants in amounts which will—(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any [NAAQS].'' [49]

The EPA has previously issued three rules interpreting and clarifying the requirements of section 110(a)(2)(D)(i)(I) for states in the eastern half of the United States. These rules, and the associated court decisions addressing these rules, provide important guidance regarding the requirements of section 110(a)(2)(D)(i)(I).

The NO_X SIP Call, promulgated in 1998, addressed the good neighbor provision for the 1979 1-hour ozone NAAQS and the 1997 8-hour ozone NAAQS.[50] The rule required 22 states and the District of Columbia to amend their SIPs and limit NO_X emissions that contribute to ozone nonattainment. The EPA set a NO_X ozone-season budget for each affected state, essentially a cap on ozone season NO_X emissions in the state. Sources in the affected states were given the option to participate in a regional cap-and-trade program, known as the NO_X Budget Trading Program (NBP). The NO_X SIP Call was largely upheld by the D.C. Circuit in *Michigan* v. *EPA,* 213 F.3d 663 (D.C. Cir. 2000), *cert. denied,* 532 U.S. 904 (2001).

The Clean Air Interstate Rule (CAIR), promulgated in 2005, addressed both the 1997 $PM_{2.5}$ and ozone standards under the good neighbor provision.[51] CAIR required SIP revisions in 28 states and the District of Columbia to ensure that certain emissions of sulfur dioxide (SO_2) and/or NO_X—important precursors of regionally transported $PM_{2.5}$ (SO_2 and NO_X) and ozone (NO_X)—were prohibited. Like the NO_X SIP Call, states were given the option to participate in a regional cap-and-trade program to satisfy their SIP obligations. When the EPA promulgated the final CAIR in May 2005, the EPA also issued a national rule finding that states had failed to submit SIPs to address the requirements of CAA section 110(a)(2)(D)(i) with respect to the 1997 ozone and $PM_{2.5}$ NAAQS, given that states were required by the CAA to have submitted section 110(a)(2)(D)(i)(I) SIPs for those standards by July 2000.[52] This finding of failure to submit triggered a 2-year clock for the EPA to issue FIPs to address interstate transport, and on March 15, 2006, the EPA promulgated FIPs to ensure that the emission reductions required by CAIR would be achieved on schedule.[53] CAIR was remanded to EPA by the D.C. Circuit in *North Carolina,* 531 F.3d 896 (D.C. Cir. 2008), *modified on reh'g,* 550 F.3d 1176. For more information on the legal considerations of CAIR and the D.C. Circuit holding in *North Carolina,* refer to the preamble of the final CSAPR rule.[54]

In 2011, the EPA promulgated CSAPR to address the issues raised by the remand of CAIR and additionally to address the good neighbor provision for the 2006 $PM_{2.5}$ NAAQS.[55] CSAPR requires 28 states to reduce SO_2 emissions, annual NO_X emissions, and/or ozone season NO_X emissions that significantly contribute to other states' nonattainment or interfere with other states' abilities to maintain these air quality standards. To accomplish implementation aligned with the applicable attainment deadlines, the EPA promulgated FIPs for each of the 28 states covered by CSAPR. The FIPs implement regional cap-and-trade programs to achieve the necessary reductions. States can submit good

[45] 42 U.S.C. 7410(a)(1).

[46] *See EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584, 1601 (2014).

[47] EPA's general approach to infrastructure SIP submissions is explained in greater detail in individual notices acting or proposing to act on state infrastructure SIP submissions and in guidance. *See, e.g.,* Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2) (Sept. 2013).

[48] 42 U.S.C. 7410(c)(1).

[49] 42 U.S.C. 7410(a)(2)(D)(i)(I).

[50] 63 FR 57356 (Oct. 27, 1998).

[51] 70 FR 25162 (May 12, 2005).

[52] 70 FR 21147 (May 12, 2005).

[53] 71 FR 25328 (April 28, 2006).

[54] 76 FR 48208, 48217 (Aug. 8, 2011).

[55] 76 FR 48208.

neighbor SIPs at any time that, if approved by the EPA, would replace the CSAPR FIP for that state. As discussed below, CSAPR was the subject of decisions by both the D.C. Circuit and the Supreme Court, which largely upheld the rule.

On August 21, 2012, the D.C. Circuit issued a decision in *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012), vacating CSAPR and holding, among other things, that states had no obligation to submit good neighbor SIPs until the EPA had first quantified each state's good neighbor obligation.[56] The implication of this decision was that the EPA did not have authority to promulgate FIPs as a result of states' failure to submit or EPA's disapproval of such SIPs. The EPA sought review, first with the D.C. Circuit *en banc* and then with the Supreme Court. While the D.C. Circuit declined to consider the EPA's appeal *en banc,*[57] on January 23, 2013, the Supreme Court granted the EPA's petition for certiorari.[58]

On April 29, 2014, the Supreme Court issued a decision reversing the D.C. Circuit's *EME Homer City* opinion on CSAPR and held, among other things, that under the plain language of the CAA, states must submit SIPs addressing the good neighbor provision within 3 years of promulgation of a new or revised NAAQS, regardless of whether the EPA first provides guidance, technical data or rulemaking to quantify the state's obligation.[59] Thus, the Supreme Court affirmed that states have an obligation in the first instance to address the good neighbor provision after promulgation of a new or revised NAAQS, a holding that also applies to states' obligation to address interstate transport for the 2008 ozone NAAQS. The Supreme Court remanded the litigation to the D.C. Circuit for further proceedings.

Finally, on July 28, 2015, the D.C. Circuit issued its opinion on CSAPR regarding the remaining legal issues raised by the Petitioners on remand from the Supreme Court, *EME Homer City II,* 795 F.3d 118. This decision largely upheld EPA's approach to addressing interstate transport in CSAPR, leaving the rule in place and affirming EPA's interpretation of various statutory provisions and EPA's technical decisions. The decision also remands the rule without vacatur for reconsideration of EPA's emissions budgets for certain states. In particular and as discussed in more detail in section III, the court declared invalid the CSAPR phase 2 NO_X ozone-season emissions budgets of 11 states, holding that those budgets over-control with respect to the downwind air quality problems to which those states were linked for the 1997 ozone NAAQS. The court's decision explicitly applies to 11 states: Florida, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Virginia, and West Virginia. *Id.* at 129–30, 138. The court also remanded without vacatur the SO_2 annual emissions budgets for four states (Alabama, Georgia, South Carolina, and Texas) for reconsideration. *Id.* at 129, 138. The court instructed the EPA to act ''promptly'' in addressing these issues on remand. *Id.* at 132.

Section 301(a)(1) of the CAA also gives the Administrator of the EPA general authority to prescribe such regulations as are necessary to carry out her functions under the Act.[60] Pursuant to this section, the EPA has authority to clarify the applicability of CAA requirements. In this action, among other things, the EPA is clarifying the applicability of section 110(a)(2)(D)(i)(I) by identifying NO_X emissions in certain states that must be prohibited pursuant to this section with respect to the 8-hour ozone NAAQS promulgated in 2008.

In particular, the EPA is proposing to use its authority under sections 110 and 301 to promulgate FIPs that establish or revise EGU NO_X ozone-season emissions budgets for 23 eastern states to mitigate their significant contribution to nonattainment or interference with maintenance in another state. As described in more detail later in this notice, generally the EPA is proposing to update each affected state's FIP, including revising the existing CSAPR budgets.[61] The EPA is also proposing to respond to the court's remand in *EME Homer City II* with respect to the remanded NO_X ozone-season emissions budgets.

2. FIP Authority for Each State Covered by the Proposed Rule

a. Status of State Good Neighbor SIPs for the 2008 Ozone NAAQS

As discussed above, all states have an obligation to submit SIPs that address the requirements of CAA section 110(a)(2) within 3 years of promulgation of a new or revised NAAQS. With respect to the 2008 ozone NAAQS, states were required to submit SIPs addressing the good neighbor provision by March 12, 2011. If the EPA finds that a state has failed to submit a SIP to meet its statutory obligation to address section 110(a)(2)(D)(i)(I) or if EPA disapproves a good neighbor SIP, then the EPA has not only the authority but the obligation, pursuant to section 110(c)(1), to promulgate a FIP to address the CAA requirement within 2 years of the finding or disapproval.

On July 13, 2015, the EPA published a rule finding that 24 states failed to make complete submissions that address the requirements of section 110(a)(2)(D)(i)(I) related to the interstate transport of pollution as to the 2008 ozone NAAQS. See 80 FR 39961 (July 13, 2015) (effective August 12, 2015). The finding action triggered a 2-year deadline for the EPA to issue FIPs to address the good neighbor provision for these states by August 12, 2017. The states included in this finding of failure to submit are: Alabama, Arkansas, California, Florida, Georgia, Iowa, Illinois, Kansas, Massachusetts, Maine, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Mexico, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

Since the EPA issued the findings notice, EPA has received a SIP submission addressing the good neighbor provision for the 2008 ozone NAAQS from the state of Maine on which the EPA has not yet proposed action.

Several additional states—Connecticut, Nebraska, North Dakota, Rhode Island, South Dakota, New York, Delaware, Maryland, Indiana, Kentucky, Louisiana, New Jersey, Ohio, Texas, Wisconsin, and the District of Columbia—have previously submitted SIPs to address the requirements of section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. To the extent that the EPA has not finalized action on these submitted SIPs, these states can evaluate their submissions in light of this proposal and the actions we are taking to reduce interstate ozone transport for the 2008 ozone NAAQS. Pursuant to a judgment issued on May 15, 2015, the

[56] *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 31 (D.C. Cir. 2012).

[57] *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. January 24, 2013), ECF No. 1417012 (denying the EPA's motion for rehearing en banc).

[58] *EPA* v. *EME Homer City Generation, L.P.,* 133 S. Ct. 2857 (2013) (granting the EPA's and other parties' petitions for certiorari).

[59] *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584, 1600–01 (2014).

[60] 42 U.S.C. 7601(a)(1).

[61] One state, Kansas, would have a new CSAPR ozone season requirement under this proposal. The remaining 22 states were included in the original CSAPR ozone-season program as to the 1997 ozone NAAQS.

EPA is required to take final action on the interstate transport SIPs for Nebraska and North Dakota by January 29, 2016, and for Maryland, Texas, Ohio and Indiana by June 7, 2016.[62] In the event that the EPA finalizes disapproval or partial disapproval of any of these SIPs, that action would trigger the EPA's FIP authority to implement the requirements of the good neighbor provision for those states. Alternatively, if any of these states withdraws its 2008 ozone interstate transport SIP submittal, the EPA plans to issue a separate notice of finding of failure to submit for these states and will finalize FIPs as appropriate.

On March 7, 2013, the EPA finalized action on the State of Kentucky's SIP submission addressing, among other things, the good neighbor provision requirements for the 2008 ozone NAAQS.[63] The EPA disapproved the submission as to the good neighbor requirements. In the notice, the EPA explained that the disapproval of the good neighbor portion of the state's infrastructure SIP submission did not trigger a mandatory duty for the EPA to promulgate a FIP to address these requirements.[64] Citing the D.C. Circuit's decision *EME Homer City Generation* v. *EPA,* 696 F.3d 7 (2012), the EPA explained that the court concluded states have no obligation to make a SIP submission to address the good neighbor provision for a new or revised NAAQS until the EPA first defines a state's obligations pursuant to that section.[65] Therefore, because a good neighbor SIP addressing the 2008 ozone standard was not at that time required, the EPA indicated that its disapproval action would not trigger an obligation for the EPA to promulgate a FIP to address the interstate transport requirements.[66]

On April 30, 2013, the Sierra Club filed a petition for review of the EPA's action based on the Agency's conclusion that the FIP clock was not triggered by the disapproval of Kentucky's good neighbor SIP.[67] As described above, on April 29, 2014, the Supreme Court issued a decision reversing and vacating the D.C. Circuit's decision in *EME Homer City.* Following the Supreme Court decision, the EPA requested, and the court granted, vacatur and remand of the portion of the EPA's final action that determined that the FIP obligation was not triggered by the disapproval.[68]

In this notice, the EPA is proposing to correct the portion of the disapproval notice indicating that the FIP clock would not be triggered by the SIP disapproval. The EPA believes that the EPA's obligation to develop a FIP was triggered on the date of the judgment issued by the Supreme Court in *EPA* v. *EME Homer City,* June 2, 2014, and the EPA is obligated to issue a FIP at any time within two years of that date. The EPA does not believe that the FIP obligation was triggered as of the date of the SIP disapproval because the controlling law as of that date was the D.C. Circuit decision in *EME Homer City,* which held that states had no obligation to submit a SIP and the EPA had no authority to issue a FIP until the EPA first quantified each state's emission reduction obligation under the good neighbor provision. Accordingly, the most reasonable conclusion is that the EPA's FIP obligation was triggered when the Supreme Court clarified the state and federal obligations with respect to the good neighbor provision. Thus, the EPA proposes to find that the FIP obligation was triggered as of June 2, 2014, and that the EPA is obligated to promulgate a FIP that corrects the deficiency by June 2, 2016.

b. States Submitting Transport SIPs Before FIP Is Finalized

The EPA recognizes that some states are currently developing SIP submissions or revising their submitted SIPs to address the good neighbor provision of the CAA for the 2008 ozone standard. The EPA encourages SIP development and will continue to assist states in developing transport SIPs. As noted above, the EPA is subject to a court order requiring final action on certain state SIPs by January 29, and June 7, 2016.

The fact that the EPA is proposing a FIP for any state does not suggest that the EPA has determined that the state's submittal is not approvable. If EPA finalizes approval of a state's good neighbor SIP before the FIP is applied, the FIP that is now being proposed for that state would no longer be necessary.

Further, the EPA notes that the remedy being proposed in this notice are not the only means a state has to mitigate interstate ozone transport under the good neighbor provision. States could submit measures that strengthen their current SIPs and achieve reductions that are similar to, or more efficacious in eliminating significant transport than, those that would be achieved by the FIPs proposed in this action. The EPA strongly encourages such strengthening actions. If a state submits a SIP that is approved (in whole or in part) by the EPA via notice-and-comment rulemaking and that achieves ozone season NO_X emission reductions and/or establishes EGU NO_X ozone emissions budgets approximately equivalent to those identified by EPA as achievable by 2017, the EPA does not anticipate subjecting the state to the EPA's partial remedy in this FIP action.

V. Analyzing Downwind Air Quality and Upwind-State Contributions

In this section, we describe the air quality modeling performed to (1) identify locations where we expect there to be nonattainment or maintenance problems for 8-hour ozone for the 2017 analytic year chosen for this proposal, and (2) quantify the contributions from anthropogenic emissions from upwind states to downwind ozone concentrations at monitoring sites projected to be in nonattainment or have maintenance problems in 2017 for the 2008 ozone NAAQS. Air quality modeling to assess the health and welfare benefits of the emissions reductions expected to result from this proposal is described in section VIII.

This section includes information on the air quality modeling platform used in support of the proposed rule with a focus on the base year and future base case emission inventories. We also provide the projection of 2017 ozone concentrations and the interstate contributions for 8-hour ozone. The Air Quality Modeling Technical Support Document (AQM TSD) in the docket for this proposed rule contains more detailed information on the air quality modeling aspects of this rulemaking.

On August 4, 2015, the EPA published a Notice of Data Availability (80 FR 46271) requesting comment on the air quality modeling platform and air quality modeling results that are being used for this proposed rule. Specifically, in the NODA, the EPA requested comment on the data and methodologies related to the 2011 and 2017 emissions and the air quality modeling to project 2017 concentrations and contributions. Comments received on that data via the NODA will be considered for the final rule.

A. Overview of Air Quality Modeling Platform

The EPA performed air quality modeling for three emissions scenarios: A 2011 base year, a 2017 baseline, and a 2017 illustrative control case that

[62] *See* Judgment, *Sierra Club* v. *McCarthy*, Case 4:14–cv–05091–YGR (N.D. Cal. May 15, 2015).

[63] 78 FR 14681 (March 7, 2013).

[64] *Id.* at 14683.

[65] *Id.*

[66] *Id.*

[67] *Sierra Club* v. *EPA,* Case No. 13–3546 (6th Cir., filed Apr. 30, 2013).

[68] Order, *Sierra Club* v. *EPA,* Case No. 13–3546, Document No. 74–1 (Mar. 13, 2015).

reflects the emission reductions expected from the proposed rule.[69] We selected 2011 as the base year to reflect the most recent National Emissions Inventory (NEI). In addition, the meteorological conditions during the summer of 2011 were generally conducive for ozone formation across much of the U.S., particularly the eastern U.S. For example, as described in the AQM TSD, an analysis of meteorological-adjusted trends in seasonal mean ozone for the period 2000 through 2012 indicates that, on a regional basis, the summer of 2011 was typical, in terms of the presence of conditions conducive to ozone formation, of high ozone years in the eastern U.S. Additional analyses of meteorological conditions during the summer of 2011 in comparison to conditions during several other recent years can be found in the AQM TSD. The use of meteorological data representing conditions that are conducive for ozone formation is consistent with the EPA's modeling guidance for attainment demonstrations.[70] As noted above, we selected 2017 as the projected analysis year to coincide with the attainment date for moderate areas under the 2008 ozone NAAQS. We used the 2017 baseline emissions in our air quality modeling to identify future nonattainment and maintenance locations and to quantify the contributions of emissions from upwind states to 8-hour ozone concentrations at downwind locations. We used the air quality modeling of the 2017 baseline and 2017 illustrative control case emissions to estimate the air quality impacts and health benefits of this proposal.

The EPA used the Comprehensive Air Quality Model with Extensions (CAMx) version 6.11 [71] to simulate pollutant concentrations for the 2011 base year and the 2017 future year scenarios. CAMx is a grid cell-based, multi-pollutant photochemical model that simulates the formation and fate of ozone and fine particles in the atmosphere. The CAMx model contains certain probing tools including source apportionment techniques that are designed to quantify the contribution of emissions from various sources and areas to ozone in other downwind locations. The CAMx model applications were performed for a modeling region (*i.e.,* modeling domain) that covers the contiguous 48 states, the District of Columbia, and adjacent portions of Canada and Mexico using a horizontal resolution of 12 x 12 km. A map of the air quality modeling domain is provided in the AQM TSD.

The 2011-based air quality modeling platform includes 2011 base year emissions and future year projections of these emissions and 2011 meteorology for air quality modeling with CAMx. In the remainder of this section, we provide an overview of (1) the 2011 and 2017 emissions inventories, (2) the methods for projecting future nonattainment and maintenance along with a list of 2017 baseline nonattainment and maintenance receptors in the eastern U.S., (3) the approach to developing metrics to measure interstate contributions to 8-hour ozone, and (4) the predicted interstate contributions to downwind nonattainment and maintenance in the eastern U.S. We also identify which predicted interstate contributions are at or above the CSAPR screening threshold, which we are proposing to apply for regulation of interstate transport of ozone for purposes of the 2008 ozone standard.

B. Emission Inventories

The EPA developed emission inventories for this proposal including emission estimates for EGUs, non-EGU point sources, stationary nonpoint sources, onroad mobile sources, nonroad mobile sources, wild fires, prescribed fires, and for biogenic emissions that are not the result of human activities. The EPA's air quality modeling relies on this comprehensive set of emission inventories because emissions from multiple source categories are needed to model ambient air quality and to facilitate comparison of model outputs with ambient measurements.

To prepare the emission inventories for air quality modeling, the EPA processed the emission inventories using the Sparse Matrix Operator Kernel Emissions (SMOKE) Modeling System version 3.6.5 to produce the gridded, hourly, speciated, model-ready emissions for input to the CAMx air quality model. Additional information on the development of the emission inventories and on data sets used during the emissions modeling process are provided in the TSD ''Preparation of Emissions Inventories for the Version 6.2, 2011 Emissions Modeling Platform,'' hereafter known as the ''Emissions Modeling TSD.'' This TSD is available in the docket for this proposed rule and at *http://www.epa.gov/ttn/chief/emch/index.html#2011*.

The EPA published **Federal Register** notices on November 27, 2013 (78 FR 70935), and January 14, 2014 (79 FR 2437), to take comment on the 2011 and 2018 [72] emission modeling platforms, including data and documentation on the methods used to prepare the emission inventories for air quality modeling. Comments were collected for the 2011 and 2018 emissions modeling platforms under the dockets EPA–HQ–OAR–2013–0743 and EPA–HQ–OAR–2013–0809, respectively. Comments from those notices that were accepted by the EPA have been incorporated into the emission modeling data and procedures for this proposal as documented in the Emissions Modeling TSD. As indicated above, the updated emission inventories, methodologies, and data were provided in a Notice of Data Availability published in the **Federal Register** on August 4, 2015 (80 FR 46271). Comments received on the proposal data will be considered for the final rule.

1. Foundation Emission Inventory Data Sets

The EPA developed emission data representing the year 2011 to support air quality modeling of a base year from which future air quality could be forecasted. The EPA used the 2011 National Emission Inventory (NEI) version 2 (2011NEIv2), released in March 2015, as the primary basis for the U.S. inventories supporting the 2011 air quality modeling. Documentation on the 2011NEIv2 is available in the 2011 National Emissions Inventory, version 2 TSD available in the docket for this proposed rule and at *http://www.epa.gov/ttn/chief/net/2011inventory.html#inventorydoc*. The future base case scenario modeled for

[69] The 2017 illustrative control case is relevant to the EPA's policy analysis discussed in section VI and to the benefits and costs assessment discussed in section VIII of this preamble. It is not used to identify nonattainment or maintenance receptors or quantify the contributions from upwind states to these receptors.

[70] ''Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze'' U.S. Environmental Protection Agency, Research Triangle Park, NC. December 2014. *http://www.epa.gov/ttn/scram/guidance/guide/Draft_O3-PM-RH_Modeling_Guidance-2014.pdf*.

[71] Comprehensive Air Quality Model with Extensions Version 6.11 User's Guide. Environ International Corporation. Novato, CA. December, 2014.

[72] During the 2013 and 2014 pre-proposal comment periods for the modeling platforms, the attainment deadline for the downwind areas was established by regulation as December 2018. The 2008 Ozone NAAQS SIP Requirements Rule revised the attainment deadline for ozone nonattainment areas currently designated as Moderate from December 2018 to July 2018, which means attainment determinations have to be based on design values calculated using 2015 through 2017 ozone season data. Therefore, in its July 2015 NODA and in this proposal, the EPA has adjusted the future year modeling to be for the year 2017 rather than 2018.

2017 includes a representation of changes in activity data and of predicted emission reductions from on-the-books actions, including planned emission control installations and promulgated federal measures that affect anthropogenic emissions.[73]

2. Development of Emission Inventories for EGUs

Annual NO_X and SO_2 emissions for EGUs in the 2011NEIv2 are based primarily on data from continuous emission monitoring systems (CEMS), with other EGU pollutants estimated using emission factors and annual heat input data reported to the EPA. For EGUs without CEMS, the EPA used data submitted to the NEI by the states. For more information on the details of how the 2011 EGU emissions were developed and prepared for air quality modeling, see the Emissions Modeling TSD.

The EPA projected future 2017 baseline EGU emissions using version 5.14 of the Integrated Planning Model (IPM) (*http://www.epa.gov/powersectormodeling*). IPM, developed by ICF Consulting, is a state-of-the-art, peer-reviewed, multi-regional, dynamic, deterministic linear programming model of the contiguous U.S. electric power sector. It provides forecasts of least cost capacity expansion, electricity dispatch, and emission control strategies while meeting energy demand and environmental, transmission, dispatch, and reliability constraints. EPA has used IPM for over two decades to better understand power sector behavior under future business-as-usual conditions and to evaluate the economic and emission impacts of prospective environmental policies. The model is designed to reflect electricity markets as accurately as possible. The EPA uses the best available information from utilities, industry experts, gas and coal market experts, financial institutions, and government statistics as the basis for the detailed power sector modeling in IPM. The model documentation provides additional information on the assumptions discussed here as well as all other model assumptions and inputs.[74]

The IPM version 5.14 base case accounts for comments received as a result of the NODAs released in 2013 and 2014 (including control configuration) as well as updated environmental regulations. This projected base case accounts for the effects of the finalized MATS [75] and CSAPR rules, New Source Review settlements, and on-the-books state rules through 2014 [76] impacting SO_2, NO_X, directly emitted particulate matter, and CO_2, and final actions the EPA has taken to implement the Regional Haze Rule. The EPA's IPM base case also includes two federal non-air rules affecting EGUs: The Cooling Water Intake Structure (Clean Water Act section 316(b)) rule and the Coal Combustion Residuals (CCR) rule. Documentation of IPM version 5.14 is in the docket and available online at *www.epa.gov/powersectormodeling*.

After the receptor and contribution analyses for this proposal were underway, the EPA released an updated IPM base case, version 5.15, and the final Clean Power Plan (CPP).[77] In order to reflect all on-the-books policies as well as the most current power sector modeling data, the EPA performed an assessment, described in section V–D below, to reflect inclusion of IPM 5.15 with the CPP in the base case for this proposal. The EPA plans to use this base case, including the final CPP, for its modeling analysis for the final rule. However, EPA's analysis for the final rule may include updated or different assumptions about the inclusion of the CPP and the CSAPR phase 2 NO_X ozone-season or SO_2 annual emissions budgets for those states with budgets that were declared invalid and remanded to the EPA by the D.C. Circuit's decision in *EME Homer City II.*

In projecting future 2017 baseline EGU emissions, the EPA adjusted the 2018 IPM version 5.14 base case results to account for three categories of differences between 2017 and 2018. The categories are: (1) Adjusting NO_X emissions for units with SCRs in 2018 but that are assumed not to operate or be installed in 2017; (2) adding NO_X emissions for units that are retiring in 2018 but are projected to operate in 2017; and (3) adjusting NO_X emissions for coal-fired units that are projected to convert to natural gas (*i.e.,* ''coal-to-gas'') in 2018, but are still projected to burn coal in 2017. These adjustments were only made to the air quality flat file outputs of IPM and are discussed in greater detail in the IPM documentation found in the docket for this proposed rule.

3. Development of Emission Inventories for Non-EGU Point Sources

The 2011 non-EGU point sources in the 2011 base case inventory match those in the 2011NEIv2. Details on the development of the 2011 emission inventories can be found in the 2011NEIv2 TSD. Prior to air quality modeling, the emission inventories must be processed into a format that is appropriate for the air quality model to use. Details on the processing of the emissions for 2011 and on the development of the 2017 non-EGU emission inventories are available in the Emissions Modeling TSD. Projection factors and percent reductions in this proposal reflect comments received as a result of the NODAs in 2013 and 2014, along with emission reductions due to national and local rules, control programs, plant closures, consent decrees and settlements. Reductions from several Maximum Achievable Control Technology (MACT) and National Emission Standards for Hazardous Air Pollutants (NESHAP) standards are included. Projection approaches for corn ethanol and biodiesel plants, refineries and upstream impacts represent requirements pursuant to the Energy Independence and Security Act of 2007 (EISA).

For aircraft emissions at airports, the EPA developed projection factors based on activity growth projected by the Federal Aviation Administration Terminal Area Forecast (TAF) system, published in March 2013.

Point source and nonpoint oil and gas emissions are projected to 2018 using regional projection factors by product type using Annual Energy Outlook (AEO) 2014 projections to year 2017. NO_X and VOC reductions that are co-benefits to the NESHAP and New Source Performance Standards (NSPS) for Stationary Reciprocating Internal Combustion Engines (RICE) are reflected for select source categories. In addition, Natural Gas Turbines and Process Heaters NSPS NO_X controls and NSPS Oil and Gas VOC controls are reflected for select source categories.

[73] Biogenic emissions and emissions from wild fires and prescribed fires were held constant between 2011 and 2017 since (1) these emissions are tied to the 2011 meteorological conditions and (2) the focus of this rule is on the contribution from anthropogenic emissions to projected ozone nonattainment and maintenance.

[74] Detailed information and documentation of EPA's Base Case, including all the underlying assumptions, data sources, and architecture parameters can be found on EPA's Web site at: *www.epa.gov/airmarkets/powersectormodeling.*

[75] In *Michigan* v. *EPA,* the Supreme Court reversed on narrow grounds a portion of the D.C. Circuit decision upholding the MATS rule, finding that EPA erred by not considering cost when determining that regulation of EGUs was ''appropriate'' pursuant to CAA section 112(n)(1). 135 S.Ct. 192 (2015). The case was remanded to the D.C. Circuit for further proceedings, and the MATS rule currently remains in place.

[76] For any specific version of IPM there is a cutoff date after which it is no longer possible to incorporate updates into the input databases. For version 5.14, that cutoff date was November 2014.

[77] Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 80 FR 64662 (Oct. 23, 2015).

4. Development of Emission Inventories for Onroad Mobile Sources

The EPA developed the onroad mobile source emissions for states other than California using the EPA's Motor Vehicle Emissions Simulator (MOVES) 2014. We computed the emissions within SMOKE by multiplying emission factors developed using MOVES with the appropriate activity data. We also used MOVES emission factors to estimate emissions from refueling. The 2011 onroad mobile source emissions used in the inventory for this rule are similar but not identical to the 2011NEIv2 emissions due to a more detailed treatment of E–85 emissions in the 2011 emission modeling platform used for this rule. Additional information on the approach for generating the onroad mobile source emissions is available in the Emissions Modeling TSD. Onroad mobile source emissions for California are consistent with the emissions submitted by the state as reflected in the 2011NEIv2.

In the future-year modeling for mobile sources, we included all national measures known at the time of modeling. The future scenarios for mobile sources reflect projected changes to fuel usage and onroad mobile control programs finalized as of the date of the model run. Finalized rules that are incorporated into the mobile source emissions include: Tier 3 Standards (March 2014), the Light-Duty Greenhouse Gas Rule (March 2013), Heavy (and Medium)-Duty Greenhouse Gas Rule (August 2011), the Renewable Fuel Standard (February 2010), the Light Duty Greenhouse Gas Rule (April 2010), the Corporate-Average Fuel Economy standards for 2008–2011 (April 2010), the 2007 Onroad Heavy-Duty Rule (February 2009), and the Final Mobile Source Air Toxics Rule (MSAT2) (February 2007). Impacts of rules that were in effect in 2011 are reflected in the 2011 base year emissions at a level that corresponds to the extent to which each rule had penetrated into the fleet and fuel supply by the year 2011. Local control programs such as the California LEV III program are included in the onroad mobile source emissions. Activity data for onroad mobile sources was projected using AEO 2014. Because EPA changed the model year from 2018 to 2017 between its pre-proposal modeling and the modeling conducted for this proposal (see footnote 64), and due to the substantial amount of lead time required to generate emission factors with MOVES, the EPA was unable to directly generate emission factors for 2017 prior to the modeling used to support this proposed rule. Therefore, for this proposal, future year onroad mobile source emissions were computed for 2018 and adjusted to 2017 levels using adjustment factors derived from national MOVES runs for 2017 and 2018. Emission factors will be generated directly for 2017 prior to air quality modeling for the final rule.

5. Development of Emission Inventories for Commercial Marine Category 3 (Vessel)

The commercial marine category 3 vessel (''C3 marine'') emissions in the 2011 base case emission inventory for this proposed rule are consistent with those in the 2011NEIv2. These emissions reflect reductions associated with the Emissions Control Area proposal to the International Maritime Organization control strategy (EPA–420–F–10–041, August 2010); reductions of NO_X, VOC, and CO emissions for new C3 engines that went into effect in 2011; and fuel sulfur limits that went into effect as early as 2010. The cumulative impacts of these rules through 2017 are incorporated in the 2017 projected emissions for C3 marine sources.

6. Development of Emission Inventories for Other Nonroad Mobile Sources

To develop the nonroad mobile source emission inventories other than C3 marine for the modeling platform, the EPA used monthly, county, and process level emissions output from the National Mobile Inventory Model (NMIM) (see *http://www.epa.gov/otaq/nmim.htm*). State-submitted emissions data for nonroad sources were used for Texas and California. These emissions are consistent with those in the 2011NEIv2.

The EPA also used NMIM to project nonroad mobile emissions for future years. Development of the future year nonroad emissions require a substantial amount of lead time and the emissions were prepared for the year 2018 before the model year was changed to 2017 when the attainment date was revised in the 2008 Ozone NAAQS SIP Requirements Rule. To develop a 2017 nonroad emissions inventory for this proposal that accounted for the difference between 2017 and 2018 emissions levels, we calculated the nonroad emissions for 2018, and then adjusted those emissions to 2017 levels using national adjustment factors derived from national NMIM runs for 2017 and 2018. Emissions specific to 2017 will be developed for the modeling that will support the final rule. The nonroad mobile emission control programs include reductions to locomotives, diesel engines and marine engines, along with standards for fuel sulfur content and evaporative emissions. A comprehensive list of control programs included for mobile sources is available in the Emissions Modeling TSD.

7. Development of Emission Inventories for Nonpoint Sources

The emissions for stationary nonpoint sources in our 2011 base case emission inventory are largely consistent with those in the 2011NEIv2. For more information on the nonpoint sources in the 2011 base case inventory, see the Emissions Modeling TSD and the 2011NEIv2 TSD.

Where states provided EPA with information about projected control measures or changes in nonpoint source emissions, the EPA incorporated those inputs in its projections. We included adjustments for state fuel sulfur content rules for fuel oil in the Northeast. Projected emissions for portable fuel containers reflect the impact of projection factors required by the final Mobile Source Air Toxics (MSAT2) rule and the EISA, including updates to cellulosic ethanol plants, ethanol transport working losses, and ethanol distribution vapor losses.

The EPA developed regional projection factors for nonpoint oil and gas sources by product type based on Annual Energy Outlook (AEO) 2014 projections to year 2018. We reflected criteria air pollutant (CAP) co-benefit reductions resulting from the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines (RICE) and NSPS rules and Oil and Gas NSPS VOC controls for select source categories. Additional details on the projections are available in the Emissions Modeling TSD.

C. Air Quality Modeling To Identify Nonattainment and Maintenance Receptors

In this section, we describe the air quality modeling performed to identify locations where we expect there to be nonattainment or maintenance problems for the 2008 8-hour ozone NAAQS in the 2017 analytic future year chosen for this proposal. We then describe how we factored current monitored data into the identification of sites as having either nonattainment or maintenance concerns for the purposes of this rulemaking. These sites are used as the ''receptors'' for quantifying the contributions of emissions in upwind states to nonattainment and maintenance concerns in downwind locations.

In this proposed rule, the EPA is relying on CSAPR's approach to identify separate nonattainment and maintenance receptors in order to give independent effect to both the ''contribute significantly to nonattainment'' and the ''interfere with maintenance'' prongs of section 110(a)(2)(D)(i)(I), consistent with the D.C. Circuit's direction in *North Carolina*.[78] In its decision on remand from the Supreme Court, the D.C. Circuit confirmed that EPA's approach to identifying maintenance receptors in CSAPR comported with the court's prior instruction to give independent meaning to the ''interfere with maintenance'' prong in the good neighbor provision. *EME Homer City II,* 795 F.3d at 136.

In CSAPR, the EPA identified nonattainment receptors as those monitoring sites that are projected to have average design values that exceed the NAAQS. The EPA separately identified maintenance receptors as those receptors that would have difficulty maintaining the relevant NAAQS in a scenario that takes into account historical variability in air quality at that receptor. The CSAPR approach for identifying nonattainment and maintenance receptors relied only upon air quality model projections of measured design values. In CSAPR, if the average design value in the analysis year was projected to exceed the NAAQS, then the monitoring site is identified as a nonattainment receptor without consideration of whether the monitoring site is currently measuring ''clean data'' (*i.e.,* design values below the NAAQS based on the most recent three years of measured data). In prior transport rulemakings, such as the NO_X SIP Call and CAIR, the EPA defined nonattainment receptors as those areas that both currently monitor nonattainment and that the EPA projects will be in nonattainment in the future compliance year.[79] We explained that we had the most confidence in our projections of nonattainment for those counties that also measure nonattainment for the most recent period of available ambient data. In CSAPR, we were compelled to deviate from this practice of incorporating monitored data into EPA's evaluation of projected nonattainment receptors because the most recent monitoring data then available reflected large emission reductions from CAIR, which CSAPR was designed to replace. As recently affirmed by the D.C. Circuit, it was therefore reasonable for the EPA to decide not to compare monitored data reflecting CAIR emissions reductions to its modeling projections that instead excluded CAIR from its baseline.[80]

As the EPA is not replacing an existing transport program in this rulemaking proposal, we are proposing to consider current monitored data as part of the process for identifying projected nonattainment receptors for this rulemaking. Accordingly, in this rulemaking, the EPA is proposing to return to our prior practice of comparing our modeled nonattainment projections to current monitored air quality. For the purposes of this rulemaking, the EPA proposes to identify as nonattainment receptors those monitors that both currently measure nonattainment and that the EPA projects will be in nonattainment in 2017.

As noted above, in CSAPR the EPA identified maintenance receptors as those receptors that would have difficulty maintaining the relevant NAAQS in a scenario that takes into account historical variability in air quality at that receptor. The variability in air quality was determined by evaluating the ''maximum'' future design value at each receptor based on a projection of the maximum measured design value over the relevant period.

The EPA interprets the projected maximum future design value to be a potential future air quality outcome consistent with the meteorology that yielded maximum measured concentrations in the ambient data set analyzed for that receptor. The EPA also recognizes that previously experienced meteorological conditions (*e.g.,* dominant wind direction, temperatures, air mass patterns) promoting ozone formation that led to maximum concentrations in the measured data may reoccur in the future. The maximum design value gives a reasonable projection of future air quality at the receptor under a scenario in which such conditions do, in fact, reoccur. The projected maximum design value is used to identify upwind emissions that, under those circumstances, could interfere with the downwind area's ability to maintain the NAAQS. Therefore, the EPA assesses the magnitude of the maximum projected design value for 2017 at each receptor in relation to the 2008 ozone NAAQS and, where such a value exceeds the NAAQS, EPA determines that receptor to be a ''maintenance'' receptor for purposes of defining interference with maintenance in this proposal, consistent with the method used in CSAPR and upheld by the D.C. Circuit in *EME Homer City II.*[81] That is, monitoring sites with a maximum design value that exceeds the NAAQS are projected to have a maintenance problem in 2017.

Consistent with the CSAPR methodology, monitoring sites with a projected maximum design value that exceeds the NAAQS, but with a projected average design value that is below the NAAQS, are identified as maintenance-only receptors. In addition, those sites that are currently measuring clean data, but are projected to be nonattainment based on the average design value and that, by definition, are projected to have a maximum design value above the standard are also identified as maintenance-only receptors. We are not proposing that monitored data have any effect on the EPA's determination of maintenance receptors using the CSAPR method since even those receptor sites that are not currently monitoring violations are still subject to conditions that may allow violations to reoccur and therefore have future maintenance concerns.

The following is a brief summary of the procedures for projecting future-year 8-hour ozone average and maximum design values to 2017. Consistent with the EPA's modeling guidance we use the air quality modeling results in a ''relative'' sense to project future concentrations. That is, the ratios of future year model predictions to base year model predictions are used to adjust ambient ozone design values[82] up or down depending on the relative (percent) change in model predictions for each location. The modeling guidance recommends using measured ozone concentrations for the 5-year period centered on the base year as the air quality data starting point for future year projections. This average design value is used to dampen the effects of inter-annual variability in meteorology on ozone concentrations and to provide a reasonable projection of future air quality at the receptor under ''average'' conditions. Because the base year for this proposal is 2011, we are using the base period 2009–2013 ambient ozone design value data in order to project

[78] 531 F.3d at 910–911 (holding that the EPA must give ''independent significance'' to each prong of CAA section 110(a)(2)(D)(i)(I)).

[79] 63 FR at 57375, 57377 (Oct. 27, 1998); 70 FR at 25241 (May 12, 2005). *See also North Carolina,* 531 F.3d at 913–914 (affirming as reasonable EPA's approach to defining nonattainment in CAIR).

[80] *EME Homer City II,* 795 F.3d at 135–36; *see also* 76 FR 48208 at 48230–31 (August 8, 2011).

[81] *See* 795 F.3d at 136.

[82] The ozone design value at a particular monitoring site is the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentration at that site.

2017 average design values in a manner consistent with the modeling guidance.

The approach for projecting future ozone design values involved the projection of an average of up to 3 design value periods, which include the years 2009–2013 (design values for 2009–2011, 2010–2012, and 2011–2013). The 2009–2011, 2010–2012, and 2011–2013 design values are accessible at *www.epa.gov/airtrends/values.html*. The average of the 3 design values creates a ''5-year weighted average'' value. The 5-year weighted average values were then projected to 2017. To project 8-hour ozone design values we used the 2011 base year and 2017 future base-case model-predicted ozone concentrations to calculate relative reduction factors (RRFs) for the location of each monitoring site. The RRFs were applied to the 2009–2013 average ozone design values and the individual design values for 2009–2011, 2010–2012, and 2011–2013 through the following steps:

Step 1: For each monitoring site, we calculate the average concentration across the 10 days with the 10 highest 8-hour daily maximum ozone predictions in the 2017 baseline [83] using the predictions in the nine grid cells that include or surround the location of the monitoring site. The RRF for a site is the ratio of the mean prediction in the future year to the mean prediction in the 2011 base year. The RRFs were calculated on a site-by-site basis.[84]

Step 2: The RRF for each site is then multiplied by the 2009–2013 5-year weighted average ambient design value for that site, yielding an estimate of the future average design value at that particular monitoring location.

Step 3: We calculate the maximum future design value by multiplying the RRF for each site by the three base periods (2009–2011, 2010–2012, and 2011–2013) separately. The highest of the three future values is the projected maximum design value. Consistent with the truncation and rounding procedures for the 8-hour ozone NAAQS, the projected design values are truncated to integers in units of ppb.[85]

Projected design values that are greater than or equal to 76 ppb are considered to be violating the NAAQS in 2017. For those sites that are projected to be violating the NAAQS based on the average design values in 2017, we examined measured design values for the period 2012–2014, which is the most recent available measured design values at the time of this proposal. As noted above, we are proposing to identify nonattainment receptors in this rulemaking as those sites that are violating the NAAQS based on current measured air quality and also have projected average design values of 76 ppb or greater. Maintenance-only receptors therefore include both (1) those sites with projected average design values above the NAAQS that are currently measuring clean data and (2) those sites with projected average design values below the level of the NAAQS, but with projected maximum design values of 76 ppb or greater. In addition to the maintenance-only receptors, the 2017 ozone nonattainment receptors are also maintenance receptors because the maximum design values for each of these sites is always greater than or equal to the average design value. The monitoring sites that we project to be nonattainment and maintenance receptors for the ozone NAAQS in the 2017 baseline are used for assessing the contribution of emissions in upwind states to downwind nonattainment and maintenance of ozone NAAQS as part of this proposal.

Table V.C–1 contains the 2009–2013 base period average and maximum 8-hour ozone design values, the 2017 baseline average and maximum design values, and the 2012–2014 design values for the 8 sites in the eastern U.S. projected to be 2017 nonattainment receptors. Table V.C–2 contains this same information for the 6 maintenance-only sites in the eastern U.S. that are projected nonattainment but currently measuring clean data. Table V.C–3 contains this same information for the 23 maintenance-only sites in the eastern U.S. that are projected to have average design values below the NAAQS, but maximum design values above the NAAQS. The design values for all monitoring sites in the U.S. are provided in docket item EPA–HQ–OAR–2015–0500–0006. Additional details on the approach for projecting average and maximum design values are provided in the modeling guidance, Model Attainment Test Software [86] documentation, and the AQM TSD. The EPA is seeking comment on the proposed methods for determining projected nonattainment and maintenance receptors.

TABLE V.C–1—AVERAGE AND MAXIMUM 2009–2013 AND 2017 BASELINE 8-HOUR OZONE DESIGN VALUES AND 2012–2014 DESIGN VALUES (ppb) AT PROJECTED NONATTAINMENT SITES IN THE EASTERN U.S.

[Nonattainment receptors]

Monitor ID	State	County	Average design value 2009–2013	Maximum design value 2009–2013	Average design value 2017	Maximum design value 2017	2012–2014 design value
90013007	Connecticut	Fairfield	84.3	89.0	77.1	81.4	84.0
90019003	Connecticut	Fairfield	83.7	87.0	78.0	81.1	85.0
90099002	Connecticut	New Haven	85.7	89.0	77.2	80.2	81.0
480391004	Texas	Brazoria	88.0	89.0	81.4	82.3	80.0
481210034	Texas	Denton	84.3	87.0	76.9	79.4	81.0
484392003	Texas	Tarrant	87.3	90.0	79.6	82.1	77.0
484393009	Texas	Tarrant	86.0	86.0	78.6	78.6	80.0
551170006	Wisconsin	Sheboygan	84.3	87.0	77.0	79.4	81.0

[83] As specified in the attainment demonstration modeling guidance, if there are fewer than 10 modeled days greater than or equal to (>=) 70 ppb, then the threshold is lowered in 1 ppb increments (to as low as 60 ppb) until there are 10 days. If there are fewer than 5 days >= 60 ppb, then an RRF calculation is not completed for that site.

[84] Sites with insufficient valid design values were not included in the calculation. In addition, sites with fewer than 5 days with predicted 8-hour ozone >= 60 ppb in 2018 were dropped from the analysis.

[85] 40 CFR part 50, Appendix P to Part 50—Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone.

[86] Abt Associates, 2014. User's Guide: Modeled Attainment Test Software. *http://www.epa.gov/scram001/modelingapps_mats.htm.*

TABLE V.C–2—AVERAGE AND MAXIMUM 2009–2013 AND 2017 BASELINE 8-HOUR OZONE DESIGN VALUES AND 2012–2014 DESIGN VALUES (ppb) AT SITES IN THE EASTERN U.S. THAT ARE PROJECTED NONATTAINMENT BUT CURRENTLY MEASURING CLEAN DATA

[Maintenance-only receptors]

Monitor ID	State	County	Average design value 2009–2013	Maximum design value 2009–2013	Average design value 2017	Maximum design value 2017	2012–2014 design value
240251001	Maryland	Harford	90.0	93.0	81.3	84.0	75.0
360850067	New York	Richmond	81.3	83.0	76.3	77.8	73.0
361030002	New York	Suffolk	83.3	85.0	79.2	80.8	73.0
390610006	Ohio	Hamilton	82.0	85.0	76.3	79.1	75.0
482011034	Texas	Harris	81.0	82.0	76.8	77.8	72.0
482011039	Texas	Harris	82.0	84.0	78.2	80.2	72.0

TABLE V.C–3—AVERAGE AND MAXIMUM 2009–2013 AND 2017 BASELINE 8-HOUR OZONE DESIGN VALUES AND 2012–2014 DESIGN VALUES (ppb) AT PROJECTED MAINTENANCE SITES IN THE EASTERN U.S. BASED ON THE CSAPR METHODOLOGY

[Maintenance-only receptors]

Monitor ID	State	County	Average design value 2009–2013	Maximum design value 2009–2013	Average design value 2017	Maximum design value 2017	2012–2014 design value
90010017	Connecticut	Fairfield	80.3	83.0	75.8	78.4	82.0
211110067	Kentucky	Jefferson	82.0	85.0	75.8	78.6	Incomplete Data
211850004	Kentucky	Oldham	82.0	86.0	73.7	77.3	74.0
240053001	Maryland	Baltimore	80.7	84.0	73.2	76.2	72.0
260050003	Michigan	Allegan	82.7	86.0	75.5	78.5	83.0
261630019	Michigan	Wayne	78.7	81.0	74.0	76.2	74.0
340071001	New Jersey	Camden	82.7	87.0	74.2	78.1	76.0
340150002	New Jersey	Gloucester	84.3	87.0	75.1	77.5	76.0
340230011	New Jersey	Middlesex	81.3	85.0	73.0	76.3	74.0
340290006	New Jersey	Ocean	82.0	85.0	73.9	76.6	75.0
360810124	New York	Queens	78.0	80.0	75.7	77.6	72.0
420031005	Pennsylvania	Allegheny	80.7	82.0	75.3	76.5	77.0
421010024	Pennsylvania	Philadelphia	83.3	87.0	75.1	78.4	75.0
480850005	Texas	Collin	82.7	84.0	74.9	76.0	78.0
481130069	Texas	Dallas	79.7	84.0	74.0	78.0	78.0
481130075	Texas	Dallas	82.0	83.0	75.8	76.7	77.0
481211032	Texas	Denton	82.7	84.0	75.1	76.3	79.0
482010024	Texas	Harris	80.3	83.0	75.9	78.5	72.0
482010026	Texas	Harris	77.3	80.0	73.5	76.1	67.0
482010055	Texas	Harris	81.3	83.0	75.4	77.0	75.0
482011050	Texas	Harris	78.3	80.0	74.6	76.2	72.0
484390075	Texas	Tarrant	82.0	83.0	75.5	76.4	79.0
484393011	Texas	Tarrant	80.7	83.0	74.5	76.6	75.0

D. Pollutant Transport From Upwind States

1. Air Quality Modeling To Quantify Upwind State Contributions

This section documents the procedures the EPA used to quantify the impact of emissions from specific upwind states on 2017 8-hour design values for identified downwind nonattainment and maintenance receptors. The EPA used CAMx photochemical source apportionment modeling to quantify the impact of emissions in specific upwind states on downwind nonattainment and maintenance receptors for 8-hour ozone. CAMx employs enhanced source apportionment techniques that track the formation and transport of ozone from specific emissions sources and calculates the contribution of sources and precursors to ozone for individual receptor locations. The strength of the photochemical model source apportionment technique is that all modeled ozone at a given receptor location in the modeling domain is tracked back to specific sources of emissions and boundary conditions to fully characterize culpable sources.

The EPA performed nationwide, state-level ozone source apportionment modeling using the CAMx Ozone Source Apportionment Technology/Anthropogenic Precursor Culpability Analysis (OSAT/APCA) technique [87] to quantify the contribution of 2017 baseline NO_X and VOC emissions from all sources in each state to projected 2017 ozone concentrations at air quality monitoring sites. In the source apportionment model run, we tracked the ozone formed from each of the following contribution categories (*i.e.,* ''tags''):

- States—anthropogenic NO_X and VOC emissions from each state tracked individually (emissions from all anthropogenic sectors in a given state were combined);
- Biogenics—biogenic NO_X and VOC emissions domain-wide (*i.e.,* not by state);
- Boundary Concentrations—concentrations transported into the modeling domain;

[87] As part of this technique, ozone formed from reactions between biogenic VOC and NO_X with anthropogenic NO_X and VOC are assigned to the anthropogenic emissions.

• Tribes—the emissions from those tribal lands for which we have point source inventory data in the 2011 NEI (we did not model the contributions from individual tribes);

• Canada and Mexico—anthropogenic emissions from sources in the portions of Canada and Mexico included in the modeling domain (we did not model the contributions from Canada and Mexico separately);

• Fires—combined emissions from wild and prescribed fires domain-wide (*i.e.,* not by state); and

• Offshore—combined emissions from offshore marine vessels and offshore drilling platforms.

The contribution modeling provided contributions to ozone from anthropogenic NO_X and VOC emissions in each state, individually. The contributions to ozone from chemical reactions between biogenic NO_X and VOC emissions were modeled and assigned to the ''biogenic'' category. The contributions from wild fire and prescribed fire NO_X and VOC emissions were modeled and assigned to the ''fires'' category. That is, the contributions from the ''biogenic'' and ''fires'' categories are not assigned to individual states nor are they included in the state contributions.

The CAMx OSAT/APCA model run was performed for the period May 1 through September 30 using the projected 2017 baseline emissions and 2011 meteorology for this time period. The hourly contributions [88] from each tag were processed to obtain the 8-hour average contributions corresponding to the time period of the 8-hour daily maximum concentration on each day in the 2017 model simulation. This step was performed for those model grid cells containing monitoring sites in order to obtain 8-hour average contributions for each day at the location of each site. The model-predicted contributions were then applied in a relative sense to quantify the contributions to the 2017 average design value at each site. The resulting 2017 contributions from each tag to each monitoring site in the eastern and western U.S. along with additional details on the source apportionment modeling and the procedures for calculating contributions can be found in the AQM TSD. The EPA is seeking comment on the methodologies for calculating ozone contributions.

The average contribution metric is intended to provide a reasonable representation of the contribution from individual states to the projected 2017 design value, based on modeled transport patterns and other meteorological conditions generally associated with modeled high ozone concentrations at the receptor. An average contribution metric constructed in this manner is beneficial since the magnitude of the contributions is directly related to the magnitude of the design value at each site.

The largest contribution from each state in the East to 8-hour ozone nonattainment receptors in downwind states is provided in Table V.D–1. The largest contribution from each state in the East to 8-hour ozone maintenance-only receptors in downwind states is also provided in Table V.D–1.

TABLE V.D–1—LARGEST CONTRIBUTION TO DOWNWIND 8-HOUR OZONE NONATTAINMENT AND MAINTENANCE RECEPTORS FOR EACH STATE IN THE EASTERN U.S.

Upwind state	Largest downwind contribution to nonattainment receptors for ozone (ppb)	Largest downwind contribution to maintenance receptors for ozone (ppb)
AL	0.79	1.28
AR	0.98	2.15
CT	0.00	0.46
DE	0.37	2.23
DC	0.06	0.73
FL	0.54	0.72
GA	0.47	0.58
IL	17.48	23.17
IN	6.24	14.95
IA	0.61	0.85
KS	0.80	1.03
KY	0.75	11.17
LA	3.09	4.23
ME	0.00	0.08
MD	2.07	7.11
MA	0.10	0.37
MI	2.69	1.79
MN	0.40	0.47
MS	0.78	1.48
MO	1.63	3.69
NE	0.24	0.36
NH	0.02	0.07
NJ	8.84	12.38
NY	16.96	17.21
NC	0.55	0.93
ND	0.11	0.28
OH	2.18	7.92
OK	1.70	2.46
PA	9.39	15.93
RI	0.02	0.08
SC	0.16	0.21

[88] Contributions from anthropogenic emissions under ''NO_X-limited'' and ''VOC-limited'' chemical regimes were combined to obtain the net contribution from NO_X and VOC anthropogenic emissions in each state.

TABLE V.D–1—LARGEST CONTRIBUTION TO DOWNWIND 8-HOUR OZONE NONATTAINMENT AND MAINTENANCE RECEPTORS FOR EACH STATE IN THE EASTERN U.S.—Continued

Upwind state	Largest downwind contribution to nonattainment receptors for ozone (ppb)	Largest downwind contribution to maintenance receptors for ozone (ppb)
SD	0.08	0.12
TN	0.51	1.67
TX	2.44	2.95
VT	0.01	0.05
VA	1.87	5.29
WV	0.95	3.11
WI	0.34	2.59

2. Application of Screening Threshold

The EPA then evaluated the magnitude of the contributions from each upwind state to downwind nonattainment and maintenance receptors. In this proposal, the EPA uses an air quality screening threshold to identify upwind states that contribute to downwind ozone concentrations in amounts sufficient to ''link'' them to these to downwind nonattainment and maintenance receptors.

As discussed above in section III, the EPA is proposing to establish the air quality screening threshold calculated as one percent of the NAAQS. Specifically for this rule, we propose calculating an 8-hour ozone value for this air quality threshold of 0.75 ppb as the quantification of one percent of the 2008 ozone NAAQS.

States in the East [89] whose contributions to a specific receptor meet or exceed the screening threshold are considered linked to that receptor; those states' ozone contributions and emissions (and available emission reductions) are analyzed further, as described in section VI, to determine whether and what emissions reductions might be required from each state.

States in the East whose contributions are below the threshold are not included in the proposed rule and are considered to make insignificant contributions to projected downwind air quality problems. However, for eastern states for which the EPA is not proposing FIPs in this action, the EPA notes that updates to the modeling for the final rule could change the analysis as to which states have contributions that meet or exceed the screening threshold. In the event that air quality modeling conducted for the final rule demonstrates that states that contribute amounts below the threshold in the proposal are projected to contribute amounts greater than or equal to the threshold in the final rule modeling, the EPA instead proposes to finalize revised budgets (presented with this rulemaking for comment) for whichever of those states may be identified as linked to such air quality problems. The EPA has calculated emissions budgets for all eastern states that we are proposing to apply to those states if, and only if, the final rule air quality modeling identifies a linkage as just described. These budgets are available in the Ozone Transport Policy Analysis TSD.

Based on the maximum downwind contributions in Table V.D–1, the following states contribute at or above the 0.75 ppb threshold to downwind nonattainment receptors: Alabama, Arkansas, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, Virginia, and West Virginia. Based on the maximum downwind contributions in Table V.D–1, the following states contribute at or above the 0.75 ppb threshold to downwind maintenance-only receptors: Alabama, Arkansas, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. The linkages between each upwind state and downwind nonattainment receptors and maintenance-only receptors in the eastern U.S. are provided in Table V.D–2 and Table V.D–3, respectively.

TABLE V.D–2—LINKAGES BETWEEN EACH UPWIND STATE AND DOWNWIND NONATTAINMENT RECEPTORS IN THE EASTERN U.S.

Upwind state	Downwind nonattainment receptors
AL	Tarrant Co., TX (484392003).
AR	Brazoria Co., TX (480391004); Tarrant Co., TX (484392003); Tarrant Co., TX (484393009).
IL	Brazoria Co., TX (480391004); Sheboygan Co., WI (551170006).
IN	Fairfield Co., CT (90013007); Fairfield Co., CT (90019003); Sheboygan Co., WI (551170006).
KS	Sheboygan Co., WI (551170006).
KY	Sheboygan Co., WI (551170006).
LA	Brazoria Co., TX (480391004); Denton Co., TX (481210034); Tarrant Co., TX (484392003); Tarrant Co., TX (484393009); Sheboygan Co., WI (551170006).
MD	Fairfield Co., CT (90013007); Fairfield Co., CT (90019003); New Haven Co., CT (90099002).
MI	Fairfield Co., CT (90013007); Fairfield Co., CT (90019003); New Haven Co., CT (90099002); Sheboygan Co., WI (551170006).
MS	Brazoria Co., TX (480391004).

[89] As discussed in section III this assessment shows that there are problem receptors in the West where western states contribute amounts greater than or equal to the screening threshold used to evaluate eastern states (*i.e.,* 1 percent of the NAAQS). However, there may be additional criteria to evaluate regarding transported air pollution in the West and upwind state obligations. The EPA proposes to focus this rulemaking on eastern states, but seeks comment on whether to include western states in this rule.

TABLE V.D–2—LINKAGES BETWEEN EACH UPWIND STATE AND DOWNWIND NONATTAINMENT RECEPTORS IN THE EASTERN U.S.—Continued

Upwind state	Downwind nonattainment receptors
MO	Brazoria Co., TX (480391004); Sheboygan Co., WI (551170006).
NJ	Fairfield Co., CT (90013007); Fairfield Co., CT (90019003); New Haven Co., CT (90099002).
NY	Fairfield Co., CT (90013007); Fairfield Co., CT (90019003); New Haven Co., CT (90099002).
OH	Fairfield Co., CT (90013007); Fairfield Co., CT (90019003); New Haven Co., CT (90099002); Sheboygan Co., WI (551170006).
OK	Denton Co., TX (481210034); Tarrant Co., TX (484392003); Tarrant Co., TX (484393009); Sheboygan Co., WI (551170006).
PA	Fairfield Co., CT (90013007); Fairfield Co., CT (90019003); New Haven Co., CT (90099002).
TX	Sheboygan Co., WI (551170006).
VA	Fairfield Co., CT (90013007); Fairfield Co., CT (90019003); New Haven Co., CT (90099002).
WV	Fairfield Co., CT (90013007); Fairfield Co., CT (90019003).

TABLE V.D–3—LINKAGES BETWEEN EACH UPWIND STATES AND DOWNWIND MAINTENANCE-ONLY RECEPTORS IN THE EASTERN U.S.

Upwind state	Downwind maintenance receptors
AL	Hamilton Co., OH (390610006); Harris Co., TX (482010055).
AR	Oldham Co., KY (211850004); Allegan Co., MI (260050003); Dallas Co., TX (481130069); Dallas Co., TX (481130075); Harris Co., TX (482010026); Harris Co., TX (482010055); Harris Co., TX (482011039); Harris Co., TX (482011050); Tarrant Co., TX (484390075); Tarrant Co., TX (484393011).
DE	Camden Co., NJ (340071001); Gloucester Co., NJ (340150002); Ocean Co., NJ (340290006); Philadelphia Co., PA (421010024).
IL	Jefferson Co., KY (211110067); Oldham Co., KY (211850004); Allegan Co., MI (260050003); Wayne Co., MI (261630019); Camden Co., NJ (340071001); Gloucester Co., NJ (340150002); Ocean Co., NJ (340290006); Queens Co., NY (360810124); Suffolk Co., NY (361030002); Hamilton Co., OH (390610006); Allegheny Co., PA (420031005); Harris Co., TX (482010026); Harris Co., TX (482011039).
IN	Jefferson Co., KY (211110067); Oldham Co., KY (211850004); Baltimore Co., MD (240053001); Harford Co., MD (240251001); Allegan Co., MI (260050003); Wayne Co., MI (261630019); Camden Co., NJ (340071001); Gloucester Co., NJ (340150002); Middlesex Co., NJ (340230011); Ocean Co., NJ (340290006); Queens Co., NY (360810124); Richmond Co., NY (360850067); Suffolk Co., NY (361030002); Hamilton Co., OH (390610006); Allegheny Co., PA (420031005); Philadelphia Co., PA (421010024).
IA	Allegan Co., MI (260050003).
KS	Allegan Co., MI (260050003); Tarrant Co., TX (484390075); Tarrant Co., TX (484393011).
KY	Baltimore Co., MD (240053001); Harford Co., MD (240251001); Camden Co., NJ (340071001); Gloucester Co., NJ (340150002); Middlesex Co., NJ (340230011); Ocean Co., NJ (340290006); Richmond Co., NY (360850067); Hamilton Co., OH (390610006); Allegheny Co., PA (420031005); Philadelphia Co., PA (421010024).
LA	Collin Co., TX (480850005); Dallas Co., TX (481130069); Dallas Co., TX (481130075); Denton Co., TX (481211032); Harris Co., TX (482010024); Harris Co., TX (482010026); Harris Co., TX (482010055); Harris Co., TX (482011034); Harris Co., TX (482011039); Harris Co., TX (482011050); Tarrant Co., TX (484390075); Tarrant Co., TX (484393011).
MD	Fairfield Co., CT (90010017); Gloucester Co., NJ (340150002); Middlesex Co., NJ (340230011); Ocean Co., NJ (340290006); Queens Co., NY (360810124); Richmond Co., NY (360850067); Suffolk Co., NY (361030002); Philadelphia Co., PA (421010024).
MI	Fairfield Co., CT (90010017); Jefferson Co., KY (211110067); Oldham Co., KY (211850004); Harford Co., MD (240251001); Camden Co., NJ (340071001); Gloucester Co., NJ (340150002); Ocean Co., NJ (340290006); Queens Co., NY (360810124); Richmond Co., NY (360850067); Suffolk Co., NY (361030002); Hamilton Co., OH (390610006); Allegheny Co., PA (420031005).
MS	Harris Co., TX (482010055); Harris Co., TX (482011039).
MO	Oldham Co., KY (211850004); Allegan Co., MI (260050003); Camden Co., NJ (340071001); Hamilton Co., OH (390610006); Harris Co., TX (482010026); Harris Co., TX (482010055); Harris Co., TX (482011039); Harris Co., TX (482011050).
NJ	Fairfield Co., CT (90010017); Queens Co., NY (360810124); Richmond Co., NY (360850067); Suffolk Co., NY (361030002); Philadelphia Co., PA (421010024).
NY	Fairfield Co., CT (90010017); Camden Co., NJ (340071001); Gloucester Co., NJ (340150002); Middlesex Co., NJ (340230011); Ocean Co., NJ (340290006).
NC	Baltimore Co., MD (240053001).
OH	Fairfield Co., CT (90010017); Jefferson Co., KY (211110067); Oldham Co., KY (211850004); Baltimore Co., MD (240053001); Harford Co., MD (240251001); Wayne Co., MI (261630019); Camden Co., NJ (340071001); Gloucester Co., NJ (340150002); Middlesex Co., NJ (340230011); Ocean Co., NJ (340290006); Queens Co., NY (360810124); Richmond Co., NY (360850067); Suffolk Co., NY (361030002); Allegheny Co., PA (420031005); Philadelphia Co., PA (421010024).
OK	Allegan Co., MI (260050003); Hamilton Co., OH (390610006); Dallas Co., TX (481130069); Dallas Co., TX (481130075); Denton Co., TX (481211032); Harris Co., TX (482010026); Harris Co., TX (482011034); Harris Co., TX (482011039); Tarrant Co., TX (484390075); Tarrant Co., TX (484393011).
PA	Fairfield Co., CT (90010017); Baltimore Co., MD (240053001); Harford Co., MD (240251001); Camden Co., NJ (340071001); Gloucester Co., NJ (340150002); Middlesex Co., NJ (340230011); Ocean Co., NJ (340290006); Queens Co., NY (360810124); Richmond Co., NY (360850067); Suffolk Co., NY (361030002).
TN	Hamilton Co., OH (390610006); Philadelphia Co., PA (421010024).

TABLE V.D–3—LINKAGES BETWEEN EACH UPWIND STATES AND DOWNWIND MAINTENANCE-ONLY RECEPTORS IN THE EASTERN U.S.—Continued

Upwind state	Downwind maintenance receptors
TX	Baltimore Co., MD (240053001); Harford Co., MD (240251001); Allegan Co., MI (260050003); Camden Co., NJ (340071001); Gloucester Co., NJ (340150002); Ocean Co., NJ (340290006); Queens Co., NY (360810124); Richmond Co., NY (360850067); Suffolk Co., NY (361030002); Hamilton Co., OH (390610006); Allegheny Co., PA (420031005); Philadelphia Co., PA (421010024).
VA	Fairfield Co., CT (90010017); Baltimore Co., MD (240053001); Harford Co., MD (240251001); Gloucester Co., NJ (340150002); Middlesex Co., NJ (340230011); Ocean Co., NJ (340290006); Queens Co., NY (360810124); Richmond Co., NY (360850067); Suffolk Co., NY (361030002); Philadelphia Co., PA (421010024).
WV	Baltimore Co., MD (240053001); Harford Co., MD (240251001); Camden Co., NJ (340071001); Gloucester Co., NJ (340150002); Middlesex Co., NJ (340230011); Ocean Co., NJ (340290006); Queens Co., NY (360810124); Richmond Co., NY (360850067); Suffolk Co., NY (361030002); Hamilton Co., OH (390610006); Allegheny Co., PA (420031005); Philadelphia Co., PA (421010024).
WI	Allegan Co., MI (260050003); Wayne Co., MI (261630019).

As discussed previously, after the receptor and contribution analyses for this proposal were underway, the EPA released an updated IPM base case, version 5.15, and the final CPP. In order to reflect all on-the-books policies as well as the most current power sector modeling data, the EPA performed an assessment to reflect inclusion of IPM 5.15 with the CPP in an ''adjusted'' base case for this proposal. All references below to the ''adjusted base case'' refer to the 2017 air quality modeling base case which has been adjusted to account for the revised IPM 5.15 with CPP emissions. This assessment method relied on the EPA's air quality modeling contribution data as well as projected ozone concentrations from an illustrative EGU NO_X mitigation scenario. For more information about these methods, refer to the Ozone Transport Policy Analysis Technical Support Document.

This assessment shows that two receptors—Hamilton County Ohio (390610006) and Richmond County New York (360850067)—that were projected to have average design values exceeding the NAAQS in the modeled 2017 baseline, are expected to have average design values below the NAAQS with the adjusted base case. However, these receptors are still expected to have maximum design values exceeding the NAAQS with the adjusted base case. Because both of these receptors are also considered maintenance receptors for the purposes of this proposal, their status as identified air quality concerns and the status of states linked to these receptors is unchanged by the adjusted base case.

This assessment also shows that four receptors—Allegheny County Pennsylvania (420031005), Collin County Texas (480850005), Wayne County Michigan (261630019), and Middlesex County New Jersey (340230011)—that were projected to have maximum design values exceeding the NAAQS in the modeled base case, are expected to have maximum design values below the NAAQS with the adjusted base case. With the adjusted base case, these sites would not be considered nonattainment or maintenance receptors for the purposes of this proposal. However, because no state is linked solely to any one of these sites, changing the status of these receptors does not impact the scope of states linked to downwind nonattainment or maintenance receptors for this proposal.

In addition to evaluating the status of downwind receptors identified for this proposal, the EPA evaluated whether the adjusted base case would reduce ozone contributions from upwind states to the extent that a previously linked state would have a maximum contribution less than the 1% threshold. This assessment shows that in the adjusted base case, all states are expected to remain linked (*i.e.,* contribute greater than or equal to 1% of the NAAQS) to at least one downwind nonattainment or maintenance receptor. Therefore, using the adjusted base case for this proposal does not impact the scope of states linked to downwind nonattainment or maintenance receptors relative to the modeled base case.

The analyses that EPA uses in section VI to quantify EGU NO_X ozone-season emissions budgets for this proposal also rely on the adjusted base case.

The EPA seeks comment on its assessment of the impacts of relying on the adjusted base case for these purposes, and on EPA's intention to rely on full air quality and IPM modeling of the adjusted base case to identify nonattainment and maintenance receptors and to inform the analysis of interstate ozone transport for the 2008 ozone NAAQS.

VI. Quantifying Upwind-State EGU NO_X Reduction Potential To Reduce Interstate Ozone Transport for the 2008 NAAQS

A. Introduction

This section describes the EPA's proposed quantification of near-term EGU NO_X reductions that are necessary to fulfill (at least in part) the Clean Air Act requirement to address interstate ozone transport for the 2008 NAAQS. This section also describes the EPA's proposal to translate these reductions into EGU NO_X ozone-season emissions budgets. Section VII describes the EPA's proposal to implement these proposed emissions budgets via updates to the existing CSAPR NO_X ozone-season trading program.

As described in section V, the EPA separately identified nonattainment receptors and maintenance receptors. The EPA proposes to apply a single approach for quantifying an upwind state's ozone transport obligation to both nonattainment and maintenance receptors. It is reasonable to apply the same approach to quantify upwind-state reduction requirements with respect to both nonattainment and maintenance because the structure of the problems is the same—emissions from sources in upwind states contributing to downwind ozone concentrations that put the downwind receptor at risk of nonattainment with respect to the EPA's clean air standards. Moreover, as all nonattainment receptors are also maintenance receptors because the maximum design value will always be equal to or exceed the average design value, it is reasonable to control all sites consistent with the level of control necessary to reduce maintenance concerns.

As described in section III of this preamble, due to the impending July 2018 moderate area attainment date, the EPA is proposing, as a first step, to

quantify near-term EGU NO_X ozone-season emission reductions to reduce interstate ozone transport for the 2008 ozone NAAQS. For this section, this means that the EPA is proposing to quantify ozone season EGU NO_X reductions achievable for the 2017 ozone season (*i.e.,* the last full ozone season prior to the July 2018 attainment date).

The EPA's assessment of upwind state obligations in this proposal reflects application of a multi-factor test that considers cost, available emission reductions, and air quality. This is the same multi-factor test used in the original CSAPR. This multi-factor test considers increasing levels of uniform control stringency, where each level is represented by cost, to determine the appropriate magnitude of pollution reduction that would reduce the impacts of interstate transport on downwind states and to apportion that reduction responsibility among collectively-contributing upwind states. This approach to quantifying upwind state emission reduction obligations was reviewed by the Supreme Court in *EPA* v. *EME Homer City Generation,* which held that using such an approach to apportion reduction responsibilities among upwind states that are collectively responsible for downwind air quality impacts ''is an efficient and equitable solution to the allocation problem the Good Neighbor Provision requires the Agency to address.'' 134 S.Ct. at 1607.

There are three steps in developing and applying the multi-factor test to quantify upwind state emission reductions as to the 2008 ozone NAAQS: (1) Identify NO_X mitigation strategies, focusing on those that can be in place for the 2017 ozone season; (2) develop uniform EGU NO_X cost thresholds based on these NOx mitigation strategies; (3) assess EGU NO_X mitigation potential that is achievable for 2017 and assess corresponding air quality improvements resulting from the application of each uniform cost threshold, including to check for over-control. This multi-factor evaluation informs the EPA's determination of appropriate ozone season EGU NO_X reductions necessary to reduce significant contribution to nonattainment and interference with maintenance of the 2008 ozone NAAQS for the proposed 2017 compliance year. These steps are discussed in further detail in the following sections.

This proposal evaluates a range of uniform EGU NO_X costs from $500 per ton to $10,000 per ton. This range, and the intermediate uniform NO_X cost thresholds evaluated within that range, were selected based on the cost thresholds at which various EGU NO_X control technologies are widely available, the use of certain EGU NO_X cost thresholds in previous rules to address ozone transport, and EGU NO_X cost thresholds incorporated into state requirements to address ozone nonattainment.

In this proposal, the EPA evaluated the emission reduction potential in each upwind state at each uniform NO_X cost threshold using the adjusted IPM base case 5.15. In this case, the EPA limited IPM's evaluation of NO_X mitigation strategies to those that can be implemented for the 2017 ozone season, which is the proposed compliance timing for this rulemaking, as described in section VI.B below.

B. NO_X Mitigation Strategies

The following sub-sections describe the EPA's assessment of EGU and non-EGU point source NO_X mitigation strategies. For more details on these assessments, refer to the EGU NO_X Mitigation Strategies TSD and the Update to Non-EGU Emission Reductions Cost and Potential for States with Potentially Significant Contributions under the 2008 Ozone Standard TSD in the docket for this proposed rule.

1. EGU NO_X Mitigation Strategies

In developing this proposed rule, the EPA considered all widely used EGU NO_X control strategies: Fully operating existing Selective Catalytic Reduction (SCR) and Selective Non-Catalytic Reduction (SNCR)—including optimizing NO_X removal by existing, operational SCRs and SNCRs and turning on and optimizing existing idled SCRs and SNCRs; installation of (or upgrading to) state-of-the-art NO_X combustion controls; shifting generation to units with lower NO_X emission rates within the same state; and installing new SCRs and SNCRs. Although this proposal does not require or impose any specific technology standards to demonstrate compliance, EPA determined that certain technologies would be available by the 2017 timeframe when assessing potential reductions in the region.

For the reasons explained below, the EPA determined that the power sector could implement all of these NO_X mitigation strategies, except installation of new SCRs or SNCRs, between finalization of this proposal in summer of 2016 and the 2017 ozone season. As to the installation of new SCRs or SNCRs, the amount of time from contract award through commissioning for retrofit with new SCR or SNCR exceeds 18 and 12 months, respectively. For both technologies, conceptual design, permitting, financing, and bid review require additional time. It would therefore not be feasible to retrofit new SCR or SNCR to achieve EGU NO_X reductions in the 2017 ozone season. *See* EGU NO_X Mitigation Strategies TSD for discussion of feasibility of EGU NO_X controls for the 2017 ozone season. Therefore, the EPA analyzed the remaining strategies for purposes of quantifying upwind state obligations in this rule. Exclusion of new SCR and SNCR installation from this analysis reflects a determination only that these strategies are infeasible by 2017, not a determination that they are infeasible or inappropriate for consideration of cost-effective NO_X reduction potential over a longer timeframe. The EPA requests comment on what EGU NO_X mitigation strategies are feasible for the 2017 ozone season.

a. Fully Operating Existing SCRs and SNCRs

Fully operating existing SCR and SNCRs can significantly reduce EGU NO_X emissions quickly, using investments that have already been made. SCRs can achieve up to 90 percent reduction in EGU NO_X (with sufficient installed catalyst), while SNCRs can achieve 20–30 percent reduction in EGU NO_X, beyond the reductions from combustion controls. These controls are in widespread use across the U.S. power sector. In the east, approximately 64 percent of coal-fired EGU capacity and 75 percent of natural gas combined cycle (NGCC) EGU capacity is equipped with SCR or SNCR. Recent power sector data reveal that some SCR and SNCR controls are being underused.[90] In some cases, controls are not fully operating (*i.e.,* the controls could be operated at a higher NO_X removal rate). In other cases, controls have been idled for years. Fully operating existing SCR and SNCR would be a cost-effective and readily available approach for EGUs to reduce NO_X emissions and the EPA evaluated this NO_X mitigation strategy in quantifying EGU NO_X obligations for this proposal.

For existing SCRs and SNCRs that are operating to some extent, but not at their full pollution control capability, the EPA's analysis determined that $500 per ton represents the costs reflective of fully operating these systems. Because the SCR or SNCR is already installed and is at least to some extent operating, the EPA assumes that additional reagent (*i.e.,* ammonia or urea) is the only

[90] This assessment is available in the EGU NO_X Mitigation Strategies TSD.

significant cost required for full operation. We observe that urea can cost on the order of $300 per metric ton. The cost for anhydrous ammonia is around $750 per ton.[91] In our assessment, we assume that a 50 percent solution is used in removing an equivalent amount of NO_X. Thus, we estimate that sufficient reagent could be purchased at a cost of $500 per ton of NO_X removed to achieve full operation for most SCRs and SNCRs. For more details on this assessment, refer to the EGU NO_X Mitigation Strategies TSD in the docket for this proposed rule. The proposal seeks comment on this assessment.

The operational difference between not fully operating and fully operating existing SCRs and SNCRs is increasing reagent (*i.e.,* ammonia or urea) flow rate and ensuring sufficient reagent exists to sustain higher flow operations. Therefore, increasing NO_X removal from these controls can be implemented by procuring more reagent. Stocking-up additional reagent for sustaining increased NO_X removal could be done in a one or two weeks.[92]

For existing SCRs and SNCRs that have been idled for years, unit operators may need to restart payment of some fixed and variable costs associated with that control. Fixed and variable costs include labor, maintenance and repair, reagent, parasitic load, and ammonia or urea. As further detailed in the EGU NO_X Mitigation Strategies TSD, which is found in the docket for this proposed rule, the EPA performed an in-depth cost assessment for all coal-fired units with SCRs, finding that 90 percent of the units had total SCR operation costs of $1,300 per ton of NO_X removed, or less.

Based on this assessment, the EPA proposes that turning on and fully operating idled SCRs is widely available at a uniform cost of $1,300 per ton of NO_X removed. For more details on this assessment, refer to the EGU NO_X Mitigation Strategies TSD in the docket for this proposed rule. The proposal seeks comment on this assessment.

The EPA performed a similar assessment for fully operating existing idled SNCR systems, finding that the majority of the total fixed and variable operating cost for SNCR is related to the cost of the reagent used (*e.g.,* ammonia or urea) and that the resulting cost per ton of NO_X reduction is sensitive to the NO_X rate of the unit prior to SNCR operation. Based on the results of this analysis, and in order to represent a broad range of unit-level NO_X rates before SNCR operation, the EPA proposes that turning on and fully operating idled SNCRs is widely available at a uniform cost of $3,400 per ton of NO_X removed. For more details on this assessment, refer to the EGU NO_X Mitigation Strategies TSD in the docket for this proposed rule. The proposal seeks comment on this assessment and on higher cost thresholds that would require some installation of new SCRs/SNCRs and the appropriate timetable or phase-in needed to accommodate those technologies.

The EPA also evaluated the feasibility of turning on idled SCR and SNCR for the 2017 ozone season. Based on past practice and the possible effort to restart the controls (*e.g.,* stockpiling reagent, bringing the system out of protective lay-up, performing inspections, etc.), returning these idled controls to operation should be available in equal to or less than 3 months.[93] The proposal seeks comment on this assessment.

b. State-of-the-Art NO_X Combustion Controls

State-of-the-art combustion controls such as low-NO_X burners (LNB) and/or over-fire air (OFA) are cost-effective, can be installed quickly, and can significantly reduce EGU NO_X emissions. Ninety-nine percent of coal-fired EGU capacity in the East is equipped with some form of combustion control. Combustion controls alone can achieve NO_X emission rates of 0.15 to 0.50 lb/mmBtu. Once installed, combustion controls reduce NO_X emissions at all times of EGU operation. State-of-the-art combustion controls would be a cost-effective, timely, and readily available approach for EGUs to reduce NO_X emissions and the EPA included this NO_X mitigation strategy in quantifying EGU NO_X reductions for this proposal.

The cost of state-of-the-art combustion controls per ton of NO_X reduced is dependent on the combustion control type and unit type. We estimate the cost per ton of state-of-the-art combustion controls to be $500 per ton to $1,200 per ton of NO_X removed. To be conservative, the EPA proposes that installation of (or upgrading to) state-of-the-art NO_X combustion controls is widely available at $1,300 per ton of NO_X removed.

As described in CSAPR the EPA has observed that upgrade, replacement, or installation of combustion controls has been demonstrated to be achievable within the timeframe provided for by this rulemaking and its compliance dates.[94] The EPA revisited this analysis with data specific to this proposal and proposes that a 2017 compliance timeframe is feasible for this EGU NO_X mitigation strategy. These controls are fully proven, widely used, and with a reasonable effort can be procured, designed, installed, tested and be in operation on any coal-steam EGU consistent with the compliance timeframe provided for this rulemaking. The EPA proposes that this will be feasible for the 2017 ozone season. The proposal seeks comment on additional EGU NOx mitigation strategies that may be feasible for the 2017 ozone season.

For more details on this assessment, refer to the EGU NO_X Mitigation Strategies TSD in the docket for this proposed rule. The proposal seeks comment on this assessment.

c. Shifting Generation to Lower NO_X-Emitting EGUs

Shifting generation to lower NO_X-emitting EGUs, similar to operating existing post-combustion controls, uses investments that have already been made, can be done quickly, and can significantly reduce EGU NO_X emissions.

Since CSAPR was promulgated, electricity generation has trended toward lower NO_X-emitting generation due to market conditions (*e.g.,* low natural gas prices) and state and federal environmental policies. For example, new NGCC facilities, which represented 45% of new 2014 capacity, can achieve NO_X emission rates of 0.0095 lb/mmBtu, compared to existing coal steam facilities, which emitted at an average rate across the 23 states included in this proposal of 0.18 lbs/mmBtu of NO_X in 2014. This substantial difference in NO_X emission performance between existing coal steam and new NGCC generation is due both to higher nitrogen content in coal compared to natural gas, as well as to the substantially lower generating efficiency of steam combustion technology compared to combined cycle combustion technology. Shifting generation to lower NO_X-emitting EGUs would be a cost-effective, timely, and readily available approach for EGUs to reduce NO_X emissions and the EPA

[91] Schnitkey, G. ''Nitrogen Fertilizer Prices and 2015 Planting Decisions.'' *farmdoc daily* (4):195, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, October 9, 2014.

Permalink URL *http://farmdocvdaily.illinois.edu/2014/10/nitrogen-fertilizer-prices-and-2015-planting-decisions.html.*

[92] This assessment is available in the EGU NO_X Mitigation Strategies TSD.

[93] This assessment is available in the EGU NO_X Mitigation Strategies TSD.

[94] ''Installation Timing for Low NO_X Burners (LNB)'', Docket ID No. EPA–HQ–OAR–2009–0491–0051.

included this NO_X mitigation strategy in quantifying EGU NO_X obligations for this proposal.

Shifting generation to lower NO_X-emitting EGUs occurs on a continuum in response to economic factors such as fuel costs and uniform NO_X cost thresholds, including those evaluated for this proposal (*i.e.,* relatively lower uniform NO_X cost thresholds incentivize relatively fewer EGU NO_X reductions resulting from shifting generation, while relatively higher uniform NO_X cost thresholds encourage more EGU NO_X reductions driven by shifting generation). As a result, the EPA quantified reduction potential from this EGU NO_X mitigation strategy at each cost level identified that represents the availability of other pollution control measures evaluated in our assessment of uniform NO_X cost thresholds described in section VI.C.

In this analysis, the EPA assumed shifting generation to units with lower NO_X emission rates could occur within the same state by the near-term 2017 implementation timing for this proposed rule when assessing state emission reduction potential for emissions budget purposes. This conservative approach does not capture emission reductions that would occur if generation was shifted more broadly among units in different states, which the EPA believes is feasible over time but which may be subject to out-of-merit order dispatch constraints in the near term. Limiting such generation shifting potential to units within each state is not a reflection of how generation shifting works in practice (given that the grid crosses state boundaries); instead, it is an analytic proxy designed to respect the feasibility of near-term generation shifting in light of these potential near-term out-of-merit order dispatch constraints. The EPA seeks comment on this assessment and on this limitation in quantifying EGU NO_X reduction potential for the 2017 ozone season.

2. Non-EGU NO_X Mitigation Strategies

The EPA is not proposing to address non-EGU emission reductions in its efforts to reduce interstate ozone transport for the 2008 ozone NAAQS at this time. Compared to EGUs, there are relatively more non-EGU point sources and these sources on average are smaller than EGUs. The implication of these fleet characteristics is that there are more individual sources to control and there are relatively fewer emission reductions available from each source. Given the proposed 2017 implementation timing for this rulemaking, we are uncertain that significant aggregate NO_X mitigation is achievable from non-EGU point sources for 2017. Moreover, there is greater uncertainty in the EPA's assessment of non-EGU point-source NO_X mitigation potential (see below). The EPA requests comment on these issues, including how non-EGU reductions should be addressed and considered in fulfilling upwind states' good neighbor obligations under the 2008 ozone standard in the future, as the control of non-EGUs may be a necessary part of addressing states' full transport obligation. States can always choose to reduce non-EGU emissions via good neighbor SIPs.

The EPA has evaluated the potential for ozone season NO_X reductions from non-EGU sources. A detailed discussion of this assessment is provided in the Non-EGU NO_X Mitigation Potential TSD, located in the docket for this proposed rule. This TSD discusses non-EGU source category emissions, EPA tools for estimating emission reductions from non-EGU categories, and efforts, to date, to review and refine our estimates for certain states. In addition, the TSD contains brief discussions of available controls, costs, and potential emission reductions for a few specific source categories. The EPA views this non-EGU assessment as an initial step in future efforts to evaluate non-EGU categories that may be necessary to fully quantify upwind states' significant contribution to nonattainment and interference with maintenance. The EPA seeks comment on its assessment that non-EGU controls are not feasible by the 2017 ozone-season. It also seeks comment on its broader non-EGU NO_X mitigation assessment and the availability of non-EGU NO_X emission reductions to mitigate interstate ozone transport in years following 2017.

Although EPA did not find non-EGU reductions feasible by 2017 in this proposal, it is taking comment on that assessment. Future EPA rulemakings or guidance could revisit the potential for reductions from non-EGU sources. Under such a scenario, EPA could use a similar approach of identifying appropriate cost thresholds for non-EGUs and EGUs alike, and then identify potential emission reductions and corresponding emission budgets. Under this scenario, an emission budget could be established for all covered sources (*e.g.,* EGUs and non-EGUs alike) with fungible allowances. EPA is taking comment on the potential to combine EGUs and non-EGUs into a single trading program to resolve the remaining non-attainment and maintenance issues at a later date.

C. Uniform EGU Cost Thresholds for Assessment

As discussed above, the multi-factor test used here considers increasing levels of uniform control stringency, where each level is represented by cost, in combination with consideration of NO_X reduction potential and corresponding air quality improvements. To determine which cost thresholds to use to assess upwind state NO_X mitigation potential, the EPA evaluated EGU NO_X control costs that represent the thresholds at which various control technologies are widely available (described previously in section VI.B), the use of certain cost thresholds in previous rules to address ozone transport, and cost thresholds incorporated into state requirements to address ozone nonattainment.

The EPA began by determining the appropriate range of costs to evaluate. The lower end of the range is informed by a confluence of considerations. In CSAPR, $500 per ton was the EGU NO_X cost threshold relied upon to partially address ozone transport for the less stringent 1997 standard. It is also the lowest marginal cost where EPA expects NO_X reduction to be cost effective, based on our assessment of EGU NO_X mitigation strategies (see section B). Specifically, the cost of this approach to NO_X reduction is the marginal cost of running currently operating SCR and SNCR systems at higher levels of NO_X removal than they are currently achieving. The EPA has not identified a discrete NO_X pollution control measure that would achieve sufficient emission reductions to address relevant air quality impacts at an estimated cost of less than $500 per ton; as a result, the EPA has not included a representation of such a cost level in this proposal's analyses.[95]

The EPA then evaluated EGU NO_X cost thresholds to determine an appropriate upper bound for our assessment. The EPA identified $10,000 per ton as an upper bound, exceeding the costs of operating existing or installing new EGU NO_X controls.

The EPA seeks comment on whether $500 per ton is an appropriate minimum and $10,000 per ton is an appropriate maximum uniform cost threshold to evaluate for the purpose of quantifying EGU NO_X reductions to reduce interstate ozone transport for the 2008 ozone NAAQS.

[95] Additionally, the EPA notes that, as discussed in more detail below, no identified air quality problems were resolved at the $500 per ton cost threshold. Accordingly, it would not be practical for the EPA to evaluate emission reductions achieved at cost thresholds below $500 per ton.

The EPA then determined appropriate EGU NO_X cost thresholds to evaluate within the range of $500 per ton to $10,000 per ton. As described above, these cost thresholds are informed by our assessment of the costs at which EGU NO_X control strategies are widely available. While the EPA could evaluate additional cost thresholds in between those selected, this would not yield meaningful insights as to NO_X reduction potential. The EPA has identified cost thresholds where control technologies are widely available and thereby where the most significant incremental emission reduction potential is expected. Analyzing costs between these cost thresholds is not expected to reveal significant incremental emission reduction potential that isn't already anticipated at the analyzed cost thresholds. Table VI.C–1 lists the EGU NO_X cost thresholds evaluated and the NO_X reduction strategy or policy used to identify each cost threshold.

TABLE VI.C–1

EGU NO_X cost threshold	
$500/ton	CSAPR ozone season NO_X cost threshold; fully operating post-combustion controls that are already running.
$1,300/ton	Widespread availability of restarting idled SCRs and state of the art combustion controls.
$3,400/ton	NO_X SIP Call ozone season NO_X cost threshold, adjusted to 2014$; Widespread availability of restarting idled SNCRs.
$5,000/ton	Widespread availability of new SCRs.[96]
$6,400/ton	Widespread availability of new SNCRs.[97]
$10,000/ton	Upper bound.

The EPA proposes that this range and selection of interim uniform cost thresholds are appropriate to evaluate potential EGU NO_X reduction obligations to address interstate ozone transport for the 2008 ozone NAAQS. Because these cost thresholds are linked to costs at which EGU NO_X mitigation strategies become widely available in each state, the cost thresholds represent the break points at which the most significant step-changes in EGU NO_X mitigation are expected. The EPA seeks comment on the appropriateness of evaluating these uniform cost thresholds for the purpose of quantifying EGU NO_X reductions to reduce interstate ozone transport for the 2008 ozone NAAQS.

D. Assessing Cost, EGU NO_X Reductions, and Air Quality

The EPA analyzed ozone season NO_X emission reductions available from the power sector in each state using IPM.[98] The agency analyzed levels of uniform control stringency, where each level is represented by uniform EGU NO_X cost thresholds listed in Table VI.C–1 above and repeated here: $500 per ton; $1,300 per ton; $3,400 per ton; $5,000 per ton; $6,400 per ton; and $10,000 per ton. The EPA limited IPM's NO_X mitigation strategies to those that could be implemented for 2017, as described in section VI.B.

The analysis applied these uniform EGU NO_X cost thresholds to EGUs in the 48 contiguous United States and the District of Columbia, starting in 2017. The analysis covered EGUs with a capacity (electrical output) greater than 25 MW to make the analysis similar to previous analyses done for interstate transport purposes. The EGU Emission Reduction Cost Analysis TSD, which is in the docket for this proposed rule, provides further details of EPA's analysis of ozone season NO_X emission reductions occurring at the representative EGU NO_X cost thresholds analyzed for the 2017 ozone season.

Table VI.D—1 shows the 2017 baseline EGU emissions and ozone season NO_X reduction potential in each state corresponding to the uniform cost levels.

TABLE VI.D–1—EGU OZONE SEASON NO_X EMISSION REDUCTIONS (TONS)

State	2017 emissions (short tons)	Reduction potential (short tons) at various representative marginal costs per ton (in 2011$)		
	Base case	$500/ton	$1,300/ton	$3,400/ton
Alabama	13,289	1,729	3,582	3,670
Arkansas	6,224	13	104	859
Illinois	10,021	395	472	546
Indiana	41,748	6,611	12,173	12,989
Iowa	7,911	186	423	717
Kansas	11,332	428	438	465
Kentucky	27,141	3,608	11,896	12,382
Louisiana	10,897	64	117	400
Maryland	6,470	1,028	1,026	1,164
Michigan	20,049	403	3,033	3,528
Mississippi	7,871	82	297	893
Missouri	17,050	934	996	1,152
New Jersey	3,302	370	372	378
New York	4,948	115	284	359
North Carolina	14,435	1,922	1,922	3,526

[96] The cost assessment for new SCR is available in the EGU NO_X Mitigation Strategies TSD. While chosen to define a cost-threshold, new SCRs were not considered a feasible control on the compliance timeframe being proposed for this rule.

[97] The cost assessment for new SNCR is available in the EGU NO_X Mitigation Strategies TSD. While chosen to define a cost-threshold, new SNCRs were not considered a feasible control on the compliance timeframe being proposed for this rule.

[98] IPM version 5.14 is discussed in preamble section IV.B, and as noted in preamble section V, for purposes of this quantification analysis EPA used an adjusted base case reflecting IPM version 5.15, including the Clean Power Plan. IPM documentation is in the docket and available at *www.epa.gov/powersectormodeling*.

TABLE VI.D–1—EGU OZONE SEASON NO_X EMISSION REDUCTIONS (TONS)—Continued

State	2017 emissions (short tons)	Reduction potential (short tons) at various representative marginal costs per ton (in 2011$)		
	Base case	$500/ton	$1,300/ton	$3,400/ton
Ohio	27,795	5,746	9,646	9,666
Oklahoma	19,593	703	2,170	3,169
Pennsylvania	41,533	2,210	26,759	26,791
Tennessee	5,554	74	113	146
Texas	58,199	685	3,610	5,810
Virginia	7,196	423	539	1,587
West Virginia	25,384	592	10,908	12,014
Wisconsin	5,257	5	36	107
Total	393,198	28,325	90,916	102,318

TABLE VI.D–1 (CONTINUED)—EGU OZONE SEASON NO_X EMISSION REDUCTIONS (TONS)

State	Reduction potential (short tons) at various representative marginal costs per ton (in 2011$)		
	$5,000/ton	$6,400/ton	$10,000/ton
Alabama	4,780	5,418	5,840
Arkansas	1,147	1,242	1,935
Illinois	622	640	761
Indiana	13,770	13,437	17,109
Iowa	717	717	1,317
Kansas	677	838	1,150
Kentucky	12,473	13,456	14,503
Louisiana	461	467	706
Maryland	1,176	1,369	1,369
Michigan	3,756	3,889	4,411
Mississippi	1,165	1,479	2,208
Missouri	1,298	1,930	2,775
New Jersey	381	384	465
New York	370	661	906
North Carolina	3,626	4,415	4,643
Ohio	9,773	10,078	10,231
Oklahoma	3,821	5,702	6,609
Pennsylvania	26,913	26,932	27,091
Tennessee	224	241	285
Texas	6,940	7,772	8,380
Virginia	3,104	3,560	3,610
West Virginia	12,211	12,243	12,243
Wisconsin	131	276	618
Total	109,535	117,145	129,166

Next, the EPA performed a combined multi-factor assessment of costs (*i.e.,* the uniform cost thresholds evaluated), EGU NO_X reductions (*i.e.,* the reductions in Table VI.D–1), and corresponding improvements in downwind ozone concentrations. For this assessment, the EPA used simplifying assumptions regarding the relationship between EGU NO_X emissions and corresponding ozone concentrations at nonattainment and maintenance receptors of concern. For more information about how this assessment was performed, refer to the Ozone Transport Policy Analysis Technical Support Document.

For each nonattainment or maintenance receptor identified for this proposal, the EPA evaluated the air quality improvement at that receptor that is expected from progressively more stringent upwind EGU NO_X reductions in states that are linked to that receptor. For example, the EPA evaluated the Harford County Maryland receptor with all linked states controlling their emissions at $500 per ton. This assessment showed a 0.35 ppb reduction in expected ozone design values at $500 per ton. The residual design values at this site are still expected to exceed the 2008 ozone NAAQS with an average design value of 81.2 ppb and a maximum design value of 83.9 ppb. Next, the EPA evaluated this receptor with all linked states controlling their emissions at $1,300 per ton. This assessment showed a 0.94 ppb reduction in expected ozone design values. At a cost threshold of $1,300 per ton, the residual design values at this site are expected to continue to exceed the 2008 ozone NAAQS with an average design value of 80.6 ppb and a maximum design value of 83.3 ppb. With respect to this receptor, the EPA then evaluated each progressively more stringent uniform control stringency (*i.e.* $3,400 per ton; $5,000 per ton; $6,400 per ton; and $10,000 per ton). Generally, the EPA evaluated the air quality improvements at each monitoring site for each progressively more stringent uniform EGU NO_X control level. This information is available in the Ozone Transport Policy Analysis TSD.

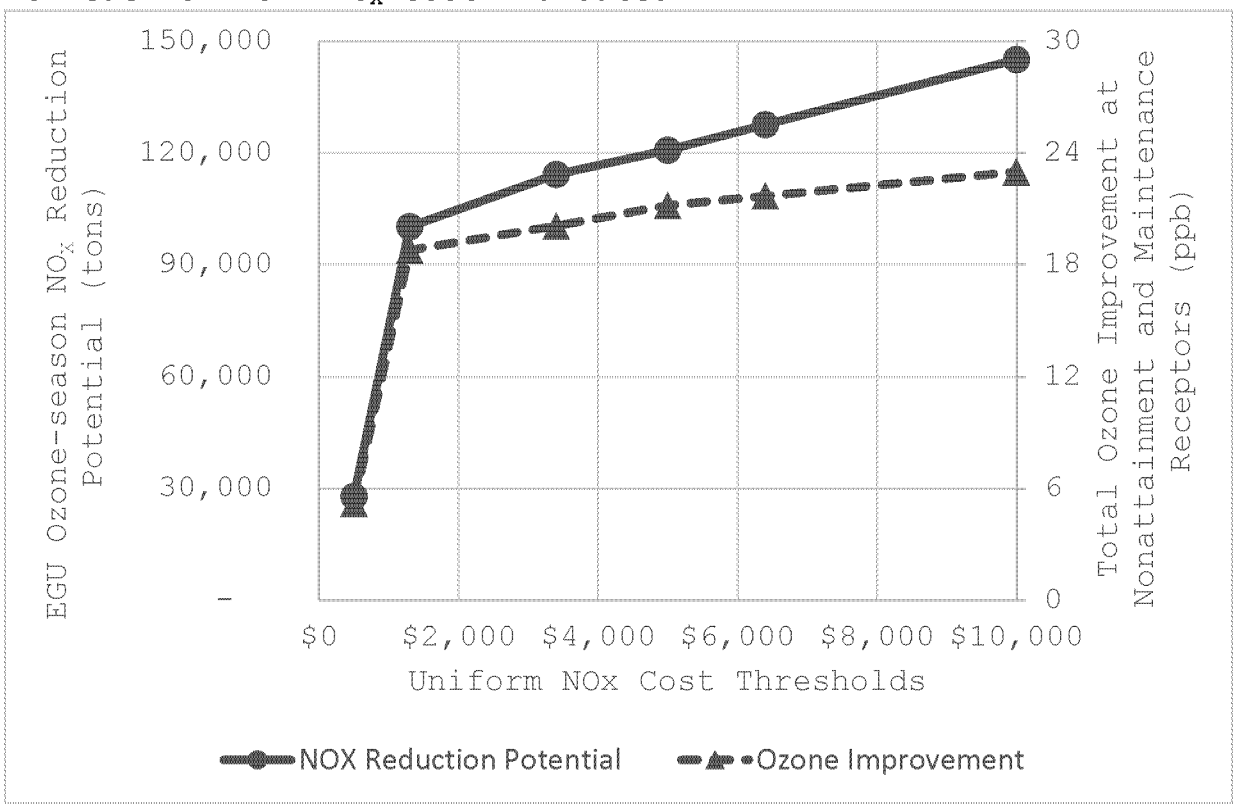
This approach evaluates interstate ozone transport for each receptor independently. Also, by evaluating the downwind ozone impact of upwind

reductions that are made in all linked states at the same uniform control stringency, this approach provides equitable treatment of all upwind states as to their contribution to each downwind receptor to which they are linked.

The EPA aggregates the relevant data (*i.e.,* cost of control, EGU NO_X reduction potential, and downwind ozone reduction metrics) in a multi-factor test that allows the EPA to evaluate the cost-effectiveness of various levels of emission reductions and the resulting improvements in downwind ozone concentrations.

This evaluation shows that meaningful EGU NO_X reductions are available at reasonable cost and that these reductions can provide meaningful improvements in downwind ozone concentrations at the identified nonattainment and maintenance receptors for this proposal. For example, the combined downwind ozone improvement across nonattainment and maintenance receptors is approximately 19 ppb at the $1,300 per ton level. See Figure VI.1.

Figure VI.1. EGU Ozone season NO_X Reduction Potential in 24 linked states and Corresponding Total Reduction in Downwind Ozone Concentrations at Nonattainment and Maintenance Receptors for each Uniform NO_X Cost Evaluated



Combining costs, EGU NO_X reductions, and corresponding improvements in downwind ozone concentrations results in a ''knee in the curve'' at $1,300 per ton. This uniform cost of reduction represents the threshold at which EGU NO_X reduction potential and corresponding downwind ozone air quality improvements are maximized with respect to marginal cost. That is, the ratio of emission reductions to marginal cost and the ratio of ozone improvements to marginal cost are maximized relative to the other uniform cost thresholds evaluated. Further, at higher cost thresholds, as a result of this analysis we do not anticipate significant additional reductions that would justify these higher costs.

As part of this analysis, the EPA evaluates potential over-control with respect to whether (1) the expected ozone improvements would be sufficient or greater than necessary to resolve the downwind ozone pollution problem (*i.e.,* resolving nonattainment or maintenance problems) or (2) the expected ozone improvements would reduce upwind state ozone contributions to below the screening threshold (*i.e.,* 1% of the NAAQS).

In *EME Homer City,* the Supreme Court held that EPA cannot ''require[ ] an upwind State to reduce emissions by more than the amount necessary to achieve attainment in *every* downwind State to which it is linked.'' 134 S.Ct. at 1608. On remand from the Supreme Court, the D.C. Circuit held that this means that EPA might overstep its authority ''when those downwind locations would achieve attainment even if less stringent emissions limits were imposed on the upwind States linked to those locations.'' *EME Homer City II,* 795 F.3d at 127. The D.C. Circuit qualified this statement by noting that this ''does not mean that every such upwind State would then be entitled to less stringent emission limits. Some of those upwind States may still be subject to the more stringent emissions limits so as not to cause *other* downwind locations to which those States are linked to fall into nonattainment.'' *Id.* at 14–15.

Consistent with these instructions from the Supreme Court and the D.C. Circuit, the EPA evaluated whether reductions quantified under the evaluated cost thresholds can be anticipated to resolve any downwind nonattainment or maintenance problems (as defined in section V) and by how much.

The EPA's assessment shows that the uniform control stringency represented by $500 per ton would resolve the maintenance problem at two downwind maintenance receptors—Ocean County, New Jersey (maximum design value of 75.9 ppb) and Oldham County, Kentucky (maximum design value of 75.8 ppb). Because no state is linked solely to one of these maintenance receptors, resolving these downwind air quality impact does not fully address any individual upwind state's good neighbor obligation.

This assessment shows that the uniform control stringency represented by $1,300 per ton would resolve maintenance problems at three additional downwind maintenance receptors—Baltimore County, Maryland (maximum design value of 75.6 ppb), Hamilton County, Ohio (maximum design value of 75.1 ppb), and Gloucester County, New Jersey (maximum design value of 75.8 ppb). The EPA's assessment shows that this control level does resolve the only identified nonattainment or maintenance problem to which North Carolina is linked for this proposal—the Baltimore County, Maryland maintenance receptor. The EPA therefore proposes that this EGU control level would fully address North Carolina's good neighbor obligation with respect to the 2008 ozone NAAQS. The EPA seeks comment on this determination.

The EPA also proposes that, based on the information supporting this proposal, this level of EGU NO_X control for North Carolina would not constitute over-control as to the Baltimore County receptor. The level of the 2008 ozone standard NAAQS is 75 ppb. At the uniform $1,300 per ton cost threshold, EPA's assessment demonstrates that the receptor would just be maintaining the standard, with a maximum design value of 75.6 ppb. Therefore, the emissions reductions that would be achieved at the $1,300 per ton cost threshold would not result in air quality improvements at the Baltimore County receptor significantly better than the standard such the emission reductions might constitute over-control as to that receptor. On the contrary, the emission reductions achieved in upwind states at the $1,300 per ton cost threshold are necessary to bring the maximum design value at the Baltimore County receptor into alignment with the standard. The EPA also seeks comment on this determination.

For the remainder of the states for which the EPA is proposing FIPs in this action, none of these states are linked solely to one of these maintenance receptors with air quality resolved at the $1,300 per ton cost threshold. Therefore, resolving these downwind air quality impacts does not fully address any other individual upwind state's good neighbor obligation.

As noted above the EPA is proposing that the $1,300 per ton EGU control level would fully address North Carolina's good neighbor obligation with respect to the 2008 ozone NAAQS. As such, based on the data supporting this proposal, North Carolina was excluded from assessment of air quality improvements at more stringent uniform EGU NO_X control levels.

The EPA's assessment shows that the uniform control stringency represented by $3,400 per ton would resolve the maintenance problem at two additional downwind maintenance receptors—Denton County, Texas (481211032) (maximum design value of 75.9 ppb) and Harris County, Texas (482011050) (maximum design value of 75.9 ppb). Because no state is linked solely to one of these maintenance receptors, resolving these downwind air quality impacts does not fully address any individual upwind state's good neighbor obligation.

The EPA provides this summary of the evaluation for the $500 per ton; $1,300 per ton; and $3,400 per ton uniform cost thresholds because, as described below, the EPA is proposing to use the $1,300 per ton level and is taking comment on using the $500 per ton level or $3,400 per ton level to quantify ozone season EGU NO_X requirements to reduce interstate ozone transport for the 2008 ozone NAAQS. Further information on the EPA's evaluation of these cost thresholds as well as additional cost thresholds ($5,000 per ton; $6,400 per ton; and $10,000 per ton) are provided in the Ozone Transport Policy Analysis Technical Support Document. Additionally, Table VI.D–2 provides a summary of the expected number of nonattainment and maintenance-only receptors at the adjusted base case and cost thresholds.

TABLE VI.D–2—NUMBER OF NONATTAINMENT OR MAINTENANCE RECEPTORS AFTER EGU NO_X MITIGATION

Cost threshold	Nonattainment receptors	Maintenance-only receptors
Base Case (IPM 5.15 w/CPP)	12	21
$500 per ton	12	19
$1,300 per ton	12	14
$3,400 per ton	12	13
$5,000 per ton	12	13
$6,400 per ton	12	13
$10,000 per ton	12	12

In *EME Homer City,* the Supreme Court also held that ''EPA cannot require a State to reduce its output of pollution . . . at odds with the one-percent threshold the Agency has set.'' 134 S.Ct. at 1608. The Court explained that ''EPA cannot demand reductions that would drive an upwind State's contribution to every downwind State to which it is linked below one percent of the relevant NAAQS.'' *Id.* Accordingly, the EPA also evaluated the potential for over-control with respect to the 1% threshold proposed to be applied in this rulemaking at each relevant cost threshold. Specifically, the EPA evaluated whether the uniform cost thresholds would reduce upwind EGU emissions to a level where the contribution from each upwind state would be below the 1% threshold that linked the upwind state to the downwind receptors. If the EPA found that any state's reduction obligation at the applied cost threshold decreased its contribution to every downwind receptor to which it is linked below the 1% threshold, we would need to adjust the state's reduction obligation accordingly. The EPA's assessment

reveals that there is not over-control with respect to the 1% threshold at any of the evaluated uniform costs in any upwind state; in fact, even at the highest uniform cost threshold evaluated (*e.g.,* $10,000 per ton), all upwind states that contributed greater than or equal to the 1% threshold in the base case continued to contribute greater than or equal to 1% of the NAAQS to at least one downwind nonattainment or maintenance receptor.[99] Therefore, the EPA does not expect any of the uniform cost thresholds evaluated to result in over-control relative to the 1% threshold. For more information about this assessment, refer to the Ozone Transport Policy Analysis Technical Support Document.

The EPA proposes to determine ozone season EGU NO_X control requirements for upwind states to reduce interstate ozone transport for the 2008 ozone NAAQS based on the reduction potential quantified from pollution control measures that are cost-effective at the $1,300 per ton level. The EPA seeks comment on potentially basing these ozone season NO_X control requirements on uniform cost levels that are less stringent ($500 per ton) or more stringent ($3,400 per ton), including comments on the proposed approach to addressing a state like North Carolina in such a situation, which is explained below.

The EPA notes that the evaluation of cost, NO_X reductions, and ozone improvements for the final rule could show different results for different states. For example, one or more states could fully address their good neighbor obligation based on ozone season NO_X control requirements represented by one cost level while one or more other states would not fully address their good neighbor obligation at that level and would have ozone season NO_X control requirements based on a more stringent cost level in order to fully address or make further progress toward partially addressing their good neighbor obligation. In this situation, the EPA proposes that it would quantify requirements for these different groups of states based on different uniform control stringencies. This could be similar to EPA's establishing two different SO_2 groups under the original CSAPR as to addressing $PM_{2.5}$ transport. The EPA seeks comment on this proposed approach for quantifying requirements.

The EPA also seeks comment on implementation of the resulting emissions budgets. The EPA proposes that if there are groups of states with ozone season NO_X control requirements based on different cost levels, we would nevertheless finalize FIPs for the states in these groups of states that incorporate participation in a trading program that allows them to trade allowances with each other subject to limitations described in section VII of this proposal.

By way of example and as noted above, the EPA is also seeking comment on potentially basing ozone season NO_X control requirements on the $3,400 per ton uniform cost levels. If the EPA were to finalize ozone season NO_X control requirements based on this level, given the specific data informing this proposal, then the EPA would set North Carolina's requirements based on the less stringent $1,300 per ton level because, as discussed above, the sole receptor to which North Carolina is linked for this proposal is resolved at the $1,300 per ton level with a maximum design value of 75.6 ppb. Therefore, because the $1,300 per ton level fully addresses North Carolina's good neighbor obligation, if EPA were to determine ozone season NO_X control requirements based on the $3,400 per ton level for the remainder of states, the EPA would finalize good neighbor requirements for these two groups of states using different uniform control stringencies. The EPA proposes that it would finalize FIPs for the states that incorporate participation in a trading program that allows them to trade allowances with each other subject to limitations described in section VII of this proposal.

The EPA's selection of reductions for this proposed rule is specific to, and appropriate for, defining near-term achievable upwind obligations with respect to the 2008 ozone NAAQS in states where a FIP is necessary. We do not intend—nor do we believe we would be justified in doing so in any event—that the cost-level-based determinations in this proposed rule impose a constraint for selection of cost levels in addressing transported pollution with respect to future NAAQS and/or any revisions to these FIPs for any other future transport rules that the EPA may develop to address any potential remaining obligation as to the current NAAQS, for which different cost levels may be appropriate.

As described above, the EPA is proposing that the NO_X emission reductions associated with uniform control stringency represented by $1,300 per ton would not result in over-control at any of the identified non-attainment or maintenance receptors and it is reasonable to require such reductions from upwind states.

The EPA requests comment on its proposal to quantify ozone season EGU NO_X reductions to reduce interstate transport with respect to the 2008 ozone NAAQS using the $1,300 per ton uniform cost threshold.

Note that our assessment of EGU NO_X reduction potential shows zero reductions available in Delaware in 2017 at any evaluated cost threshold. At this time, because the assessment shows no EGU NO_X reduction potential within Delaware up to $10,000 per ton and because Delaware does not currently participate in the original CSAPR NO_X ozone-season allowance trading program, the EPA is not proposing to promulgate a FIP for Delaware to be included in this rule. However, as this assessment has only considered reductions available at EGUs by 2017, the EPA cannot at this time conclude that Delaware does not have reductions available on a longer timeframe or from other emission sectors. Accordingly, the EPA cannot conclude at this time that Delaware does not significantly contribute to nonattainment or interfere with maintenance at downwind receptors to which it is linked. The EPA will evaluate additional reduction potential from Delaware in a future rulemaking to address the 2008 ozone standard. The EPA seeks comment on not including Delaware in the proposed FIPs.

The EPA's EGU NO_X reduction assessment also shows nearly zero reductions available in Wisconsin in 2017 at the proposed $1,300 per ton cost threshold. However, Wisconsin currently participates in the original CSAPR NO_X ozone-season emissions trading program and Wisconsin's original CSAPR NO_X ozone emissions budget is greater than its projected base case emissions. The EPA proposes to update Wisconsin's emissions budgets because not doing so would mean that Wisconsin, which is found to contribute above 1% to downwind ozone problems, could increase emissions above its base case level. The EPA proposes to determine ozone season NO_X control requirements for Wisconsin to reduce interstate ozone transport for the 2008 ozone NAAQS based on the reduction potential quantified from pollution control measures that are cost-effective at the $1,300 per ton level. For Wisconsin, based on modeling for this proposal, this level is similar to its projected base-case level. The EPA seeks

[99] As discussed above, North Carolina would not be regulated at any level higher than $1300/ton and at that level, there's no over-control as to the 1% threshold. In fact, while the receptor to which North Carolina is linked resolves its maintenance problem at the $1,300/ton level, North Carolina would continue to contribute equal to or greater than 1% to that air quality monitor.

comment on the proposed FIP for Wisconsin.

The EPA also requests comment as to whether the EPA should treat Delaware and Wisconsin in the same manner with respect to their inclusion or exclusion from the ozone-season trading program with respect to the 2008 ozone NAAQS. For example, the EPA requests comment as to whether both Delaware and Wisconsin should be included in the ozone-season trading program with budgets on the reduction potential quantified from pollution control measures that are cost-effective at $1,300 per ton,. EPA also requests comment as to whether both states should instead be excluded from the ozone-season trading program.

E. Quantifying State Emissions Budgets

The proposed emissions budgets reflect remaining EGU emissions after upwind states achieve the emission reduction obligations defined in section VI of this proposal.

In the original CSAPR proposal, the EPA set proposed emissions budgets by using an approach that considered monitored state-level heat input and modeled state-level emissions rates. However, for the CSAPR final rule, the EPA set budgets using only the modeling results from CSAPR's uniform cost assessment. For this rule, the EPA proposes to set emissions budgets by considering monitored heat input and modeled emissions rates, similar to the original CSAPR proposal. The EPA seeks comment on all aspects of quantifying state emissions budgets reflecting upwind obligations, including alternative metrics to heat input, such as generation.

The EPA proposes to quantify state emissions budgets using the minimum of calculated EGU emissions budgets using the state-level EGU NO_X emission rates that correspond to the upwind state reductions identified above using a uniform cost threshold of $1,300 per ton or 2014 monitored historic emissions.

The proposed approach for translating this EGU NO_X reduction potential into emissions budgets is a four step process. First, the EPA would use the resulting 2018 state-level modeled EGU NO_X emissions rate (lbs/mmBtu) from the IPM $1,300 per ton uniform cost assessment. The state-level rate is calculated as the total emissions from affected sources within the state, divided by the total heat input from these sources. Second, the EPA proposes to multiply this modeled state-level emissions rate by 2014 monitored historic state-level heat input. Multiplying the projected state-level emissions rate by historical heat input yields state-specific ozone season EGU NO_X emissions for 2018. Third, the EPA proposes to add an adjustment to account for differences in unit availability between the IPM 2018 run year and 2017, yielding state-specific ozone season EGU NO_X emissions for 2017. Finally, the EPA then proposes EGU emissions budgets as the minimum of this calculated 2017 emission level or 2014 historic monitored emissions.

This proposed approach reflects the EGU NO_X reduction potential described above and grounds the EPA's quantification of emissions budgets in historical data. The proposed EGU NOx ozone-season emissions budgets calculated using this approach can be found in Table VI.E–1. Tables VI.E–2 and VI.E–3 provide the EGU NO_X ozone-season emissions budgets reflecting EGU NO_X mitigation available for 2017 at $500 per ton and $3,400 per ton, respectively.

TABLE VI.E–1—PROPOSED EGU NO_X OZONE-SEASON EMISSIONS BUDGETS, REFLECTING EGU NO_X MITIGATION AVAILABLE FOR 2017 AT $1,300 PER TON

State	2014 emissions (tons)	2018 $1,300/ton emission rate (lbs/MMBtu)	2014 Heat Input (MMBtu)	2017 adjustment (tons) [100]	2017 EGU NO_X Ozone-season emissions budget (tons)
Alabama	21,075	0.049	410,477,094	0	9,979
Arkansas	18,135	0.074	185,511,093	51	6,949
Illinois	17,520	0.062	388,382,456	9	12,078
Indiana	40,247	0.126	447,417,615	0	28,284
Iowa	13,857	0.11	151,989,571	0	8,351
Kansas	12,297	0.12	154,921,650	0	9,272
Kentucky	33,896	0.102	380,694,315	2,169	21,519
Louisiana	18,278	0.097	326,662,000	17	15,807
Maryland	4,026	0.05	86,239,563	2,669	4,026
Michigan	25,065	0.112	307,723,171	1,836	19,115
Mississippi	10,229	0.069	172,406,970	0	5,910
Missouri	31,235	0.086	330,006,788	1,210	15,323
New Jersey	2,746	0.036	112,887,439	0	2,015
New York	5,547	0.038	235,619,397	0	4,450
North Carolina	16,759	0.078	315,255,877	0	12,275
Ohio	32,181	0.073	457,251,027	0	16,660
Oklahoma	16,215	0.144	236,715,186	154	16,215
Pennsylvania	44,551	0.057	508,608,673	0	14,387
Tennessee	8,057	0.056	196,132,311	0	5,481
Texas	58,492	0.079	1,474,773,212	33	58,002
Virginia	9,695	0.076	179,324,728	0	6,818
West Virginia	29,420	0.084	317,087,558	0	13,390
Wisconsin	9,087	0.054	205,305,933	0	5,561
23 State Region	478,610	.....	7,581,393,627	.....	311,867

TABLE VI.E–2—PROPOSED EGU NO_X OZONE-SEASON EMISSIONS BUDGETS, REFLECTING EGU NO_X MITIGATION AVAILABLE FOR 2017 AT $500 PER TON

State	2014 emissions (tons)	2018 $500/ton emission rate (lbs/MMBtu)	2014 heat input (MMBtu)	2017 adjustment (tons) [101]	2017 EGU NO_X ozone-season emissions budget (tons)
Alabama	21,075	0.058	410,477,094	0	11,886
Arkansas	18,135	0.075	185,511,093	51	7,038
Illinois	17,520	0.062	388,382,456	23	12,144
Indiana	40,247	0.15	447,417,615	0	33,483
Iowa	13,857	0.113	151,989,571	0	8,614
Kansas	12,297	0.12	154,921,650	0	9,278
Kentucky	33,896	0.149	380,694,315	4,463	32,783
Louisiana	18,278	0.097	326,662,000	17	15,861
Maryland	4,026	0.05	86,239,563	2,672	4,026
Michigan	25,065	0.131	307,723,171	1,836	22,022
Mississippi	10,229	0.071	172,406,970	0	6,083
Missouri	31,235	0.086	330,006,788	1,123	15,380
New Jersey	2,746	0.036	112,887,439	0	2,016
New York	5,547	0.039	235,619,397	0	4,607
North Carolina	16,759	0.078	315,255,877	0	12,278
Ohio	32,181	0.088	457,251,027	0	20,194
Oklahoma	16,215	0.156	236,715,186	154	16,215
Pennsylvania	44,551	0.15	508,608,673	0	38,270
Tennessee	8,057	0.056	196,132,311	0	5,520
Texas	58,492	0.083	1,474,773,212	0	58,492
Virginia	9,695	0.078	179,324,728	0	6,955
West Virginia	29,420	0.145	317,087,558	0	22,932
Wisconsin	9,087	0.054	205,305,933	0	5,588
23 State Region	478,610	.....	7,581,393,627	.....	371,665

TABLE VI.E–3—PROPOSED EGU NO_X OZONE-SEASON EMISSIONS BUDGETS, REFLECTING EGU NO_X MITIGATION AVAILABLE FOR 2017 AT $3,400 PER TON

State	2014 emissions (tons)	2018 $3,400/ton emission rate (lbs/MMBtu)	2014 heat input (MMBtu)	2017 adjustment (tons) [102]	2017 EGU NO_X ozone-season emissions budget (tons)
Alabama	21,075	0.048	410,477,094	0	9,931
Arkansas	18,135	0.065	185,511,093	51	6,101
Illinois	17,520	0.062	388,382,456	0	11,992
Indiana	40,247	0.123	447,417,615	0	27,585
Iowa	13,857	0.107	151,989,571	0	8,118
Kansas	12,297	0.12	154,921,650	0	9,259
Kentucky	33,896	0.099	380,694,315	2,169	20,945
Louisiana	18,278	0.094	326,662,000	17	15,378
Maryland	4,026	0.05	86,239,563	2,523	4,026
Michigan	25,065	0.108	307,723,171	1,978	18,624
Mississippi	10,229	0.064	172,406,970	0	5,487
Missouri	31,235	0.083	330,006,788	1,500	15,240
New Jersey	2,746	0.036	112,887,439	0	2,011
New York	5,547	0.037	235,619,397	0	4,391
North Carolina	16,759	0.068	315,255,877	0	10,705
Ohio	32,181	0.073	457,251,027	0	16,637
Oklahoma	16,215	0.137	236,715,186	146	16,215
Pennsylvania	44,551	0.056	508,608,673	0	14,358
Tennessee	8,057	0.056	196,132,311	0	5,449
Texas	58,492	0.076	1,474,773,212	100	55,864
Virginia	9,695	0.065	179,324,728	0	5,834
West Virginia	29,420	0.078	317,087,558	0	12,367
Wisconsin	9,087	0.054	205,305,933	0	5,511
23 State Region	478,610	.....	7,581,393,627	.....	302,028

VII. Implementation Using the Existing CSAPR NO_X Ozone-Season Allowance Trading Program and Relationship to Other Rules

A. Background

This section describes implementing and enforcing the budgets quantified in section VI. In the 4-step CSAPR methodology previously described, once emission reduction potential is quantified into emissions budgets, the remaining step is to identify an approach for ensuring that such reductions occur and are enforceable. As discussed previously, EPA is proposing implement the budgets to address the 2008 ozone NAAQS using the existing CSAPR trading program that allows limited interstate trading among states participating in the ozone-season trading program. The EPA proposes to revise the existing budgets, developed to address transport as to the 1997 ozone NAAQS, where necessary to reflect the additional reductions that the EPA identified as necessary to address transport as to the 2008 NAAQS. The EPA will implement the trading program in each affected state through the issuance of a FIP.

In electing to propose to implement these near-term EGU reductions for the 2008 ozone standard using the existing CSAPR trading infrastructure, the EPA considered the many significant advantages of continuing to use the existing CSAPR program, including the ease of transition to the new budgets, the economic and administrative efficiency of trading approaches, and the flexibility afforded to sources regarding compliance.

The EPA also considered views expressed by some stakeholders that a complementary short-term (*e.g.,* 30-day) rate-based limit would ensure that control measures adopted to meet the revised budgets continue to operate over time. Some stakeholders have observed, for example, that some existing SCR and SNCR units may not have operated in recent years because CAIR allowance prices are below the operating costs of the controls. The EPA notes that in such cases, the CAIR emissions budgets that states were required to meet to address significant contribution for the 1997 NAAQS were in fact still being met. The EPA will also evaluate power sector behavior for 2015, the first year of CSAPR implementation, and provide that assessment for the final rule. The EPA expects that certain aspects of this proposal will alleviate some of these concerns. In particular, this proposal is aimed at establishing new, lower emissions budgets that are calculated based on a uniform cost that is reflective of, among other things, operating those controls. Furthermore, as described later in this notice, we are proposing adjustments to the CSAPR regulations that, if adopted, would address the role that the banked allowances may play in allowance prices. For these reasons, the EPA does not believe that including a short-term complementary rate-based limit in the proposed FIPs is necessary. Nevertheless, we invite comment on the need for such an approach and, from commenters arguing that it is needed, we invite suggestions for calculating it.

As explained in greater detail in section IV, under CAA sections 110(a)(1) and 110(a)(2), each state is required to submit a SIP that provides for the implementation, maintenance, and enforcement of each primary or secondary NAAQS. According to section 110(a)(2)(D)(i)(I), the SIP for each state, regardless of a state's designation status for the relevant NAAQS, must prohibit sources or other types of emissions activity from emitting any air pollutant in amounts that will ''contribute significantly to nonattainment'' of the standard in a downwind state or ''interfere with maintenance'' of the standard in a downwind state. Section IV also explains in detail that the EPA is obligated to promulgate FIPs when we find that a state fails to submit a complete SIP or the EPA disapproves a SIP submittal.

The EPA recognizes that several states included in this proposal have submitted transport SIPs to address the 2008 ozone standard that the EPA is reviewing, and it is possible that additional states may submit SIPs in the future. As explained in section IV above, the EPA may only finalize FIPs for states where FIP authority exists; that is, for states where either the EPA found that the state failed to submit a complete transport SIP or where the EPA has disapproved a transport SIP submittal for that state. The EPA intends to finalize these proposed FIPs together in a single action and, to the greatest extent possible, the EPA intends to take final action on SIP submittals currently before the agency prior to finalizing this proposal. In the event that a state plans to revise its SIP or submit a SIP prior to any final rule, contact your regional office to alert the EPA.

By this action, the EPA is proposing federal implementation plans with respect to the 2008 ozone NAAQS for each state potentially covered by this rule. Section VI above describes the EPA's approach to defining state-level EGU emissions budgets that represent the EGU emissions remaining after reducing that state's significant contribution to downwind nonattainment and/or interference with maintenance. The EPA is proposing to implement these EGU emissions budgets in the FIPs through the CSAPR EGU NO_X ozone-season trading program.

When the EPA finalized CSAPR in 2011 under the good neighbor provision of the CAA to reduce emissions of SO_2 and NO_X from power plants in eastern states, the rule put in place regional trading programs to quickly and cost-effectively address pollution that affects air quality in downwind states. The EPA envisioned that the methodology could be used to address transport concerns under other existing NAAQS and future NAAQS revisions. See 76 FR 48211 and 48246, August 8, 2011. Accordingly, the EPA proposes to use the CSAPR ozone-season trading program and related provisions as codified under 40 CFR part 97, subpart BBBBB and section 52.38, as amended in this proposal, to implement the proposed EGU NO_X ozone-season emissions budgets for the 2008 ozone NAAQS. This program will be initially implemented in each state through a FIP.

In this notice, the EPA proposes that the first control period for the requirements is the 2017 ozone season. A covered state would be required to demonstrate compliance with FIP requirements for each subsequent ozone season until it submits, and the EPA approves, a SIP or the EPA promulgates another federal rule replacing the FIP.

The EPA notes that the compliance flexibility provided by the CSAPR NO_X ozone-season trading program allows sources to demonstrate compliance by holding allowances and does not prescribe unit-specific and technology-specific NO_X mitigation. In other words, while the EPA quantified EGU NO_X reductions resulting from mitigation strategies such as operating or installing (or upgrading to) state-of-the-art combustion controls, no particular reduction strategy is required for any specific unit because the Act only requires that an upwind state's aggregate emissions neither significantly contribute to nonattainment nor interfere with maintenance of the NAAQS in a downwind state.

[100] The entire 2017 Adjustment listed is not used in calculating for Maryland and Oklahoma because it would push their budget above their 2014 emissions.

[101] The entire 2017 Adjustment listed is not used in calculating for Maryland, Oklahoma, and Texas because it would push their budget above their 2014 emissions.

[102] The entire 2017 Adjustment listed is not used in calculating for Maryland and Oklahoma because it would push their budget above their 2014 emissions.

In practice, the EGU emissions budgets that the EPA is proposing in this action are achievable for each of the 23 states through operating existing SCR and SNCR controls, installing or upgrading to state-of-the-art combustion controls, or shifting generation to low-NO_X emitting units. The EPA believes that this proposed rule provides sufficient lead time to implement these control strategies by the 2017 ozone season. For the EPA's assessment of the feasibility of controls for 2017, refer to section VI above and the EGU NO_X Reduction TSD in the docket for this proposal.[103]

In this section of the preamble, the following topics are addressed: FIP requirements and key elements of the CSAPR trading programs; participation in the CSAPR NO_X ozone-season trading program with a new budget; source monitoring and reporting; replacing the FIP with a SIP; title V permitting; and the relationship of this proposed rule to existing programs (NO_X SIP Call, CSAPR trading programs, Clean Power Plan (CPP), and other ozone transport programs).

B. FIP Requirements and Key Elements of the CSAPR Trading Programs

The original CSAPR establishes an NO_X ozone-season allowance trading program that allows covered sources within each state to trade allowances with other sources within the same trading group. Pursuant to the CSAPR NO_X ozone-season trading program, sources are required to hold one allowance for each ton of NO_X emitted during the ozone season. We propose to use that same regional trading program, with adjusted budgets and certain additional revisions described below, as the compliance remedy for the proposed FIPs to address the 2008 ozone NAAQS. The first control period for this updated CSAPR NO_X ozone-season trading program is proposed to begin with the 2017 ozone season, on May 1, 2017.

In this section, the EPA is proposing to use the existing NO_X ozone-season allowance trading system that was established under CSAPR in 40 CFR part 97, subpart BBBBB, to implement the emission reductions identified and quantified in the FIPs for this action.

1. Applicability

In this proposed rule, the EPA would maintain the applicability provisions in the final CSAPR rule for the NO_X ozone-season trading program (see 40 CFR 97.504).

Under the general applicability provisions of the CSAPR final rule, a covered unit is any stationary fossil-fuel-fired boiler or combustion turbine serving at any time on or after January 1, 2005, a generator with nameplate capacity exceeding 25 MW producing electricity for sale, with the exception of certain cogeneration units and solid waste incineration units (see 76 FR 48273, August 8, 2011, for a discussion on applicability in the final CSAPR rule). The EPA is not proposing any changes to this provision.

2. State Budgets

This proposal includes revisions to 40 CFR 97.510 to reflect new budgets for states covered under this proposal as delineated in section VI above. This includes the NO_X ozone-season trading budgets, new unit set-asides, and Indian country new unit set-asides for 2017 and beyond, described in further detail below.

For states already covered by the original CSAPR ozone-season program, the EPA proposes to update CSAPR EGU NO_X ozone-season budgets to reflect obligations to reduce interstate transport to address the 2008 ozone standard. For states that are newly brought into the CSAPR ozone-season program because emissions from the states significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in a downwind state (*i.e.,* Kansas based on information used to develop this proposal), the proposal includes an EGU NO_X ozone-season emissions budget. For states currently in the CSAPR ozone-season trading program, but not identified as contributing to interstate ozone transport for the 2008 NAAQS (*i.e.,* Georgia based on information used to develop this proposal), participation in CSAPR would continue unchanged pursuant to their previously-defined obligation (budget) with respect to the 1997 ozone NAAQS.

The EPA proposes to establish reduced or new ozone-season emissions budgets for the 23 eastern states affected by the transport rule for the 2008 ozone NAAQS. The EPA proposes to implement these emissions budgets by allocating allowances to sources in those states equal to the proposed budgets for compliance starting in 2017. The EPA will establish allowance allocations for the existing units in each state through this rulemaking. Portions of the state budgets will be set aside for new units, and the EPA will use the existing processes set forth in the CSAPR regulations to annually allocate allowances to the new units in each state from the new unit set-asides. For states that are currently in the CSAPR ozone-season program, but are not affected under this proposed transport rule for the 2008 ozone NAAQS (*i.e.,* Georgia based on information used to develop this proposal), the EPA will maintain the state's budget as finalized in the original CSAPR rulemakings.

3. Allocations of Emission Allowances

Pursuant to the CSAPR trading program regulations, a covered source is required to hold sufficient allowances to cover the emissions from all covered units at the source during the control period for the NO_X ozone season. The EPA assesses compliance with these allowance-holding requirements at the source (*i.e.,* facility) level.

This section explains that the EPA proposes to allocate a state's budget to existing units and new units in that state by applying the same allocation approach as finalized in CSAPR, based on a unit's historical heat input and its maximum historical emissions (see 76 FR 48284, August 8, 2011). This section also describes allocation for Tribes, the new unit set-asides and Indian country new unit set-asides in each state, allocations to units that are not operating; and the recordation of allowance allocations in source compliance accounts.

A. Allocations for Existing Units

The EPA proposes to implement each state's EGU NO_X ozone-season emissions budget in the trading program by allocating the number of emission allowances to sources within that state, equivalent to the tonnage of that specific state budget, as shown in section VI. For these 23 states, the EPA would allocate allowances under each state's budget to covered units in that state. The portion of a state budget allocated to existing units in that state is the state budget minus the new unit set-aside and minus the Indian country new unit set-aside. The new unit set-asides are portions of each budget reserved for new units that might locate in each state or in Indian country in the future. For the existing source level allocations, see the TSD called, ''Existing Source Level Allocations for the 2008 NO_X Ozone-season Rule FIPs,'' in the docket for this rulemaking. The methodology used to allocate allowances to individual units in a particular state has no impact on that state's budget.

For the purpose of allocations, an ''existing unit'' in CSAPR is one that commenced commercial operation prior to January 1, 2010. For the 23 states included in this proposed rulemaking for the 2008 ozone NAAQS, the EPA proposes to identify an ''existing unit''

[103] The EPA notes that a state can instead require non-EGU NO_X emission reductions through a SIP, if they choose to do so.

as one that commenced commercial operation prior to January 1, 2015. EPA has updated information on affected units that have commenced commercial operation prior to January 1, 2015 (currently defined either as existing units or as new units pursuant to the current CSAPR regulations) that would allow these units to be considered existing units for purposes of allocations and would allow new unit set-asides to be fully reserved for any future new units in affected states or Indian country. The EPA is not proposing to change the January 1, 2010 date for states that remain in the original CSAPR and are not affected by the changes proposed here (*i.e.,* Georgia with respect to the CSAPR NO_X ozone-season allowances and all states with respect to CSAPR SO_2 or NO_X annual allowances); thus, the only allowance allocations that are proposed to be changed in this rulemaking for any units under any of the CSAPR trading programs are allocations of NO_X ozone-season allowances from budgets that are proposed to be revised in this proposed rule.

The EPA proposes to follow the original CSAPR methodology for distributing, or allocating, emission allowances to existing units based on the unit's share of the state's heat input, limited by the unit's maximum historical emissions. This approach uses the highest three of the last five years to establish the heat input baseline for each unit, and constrains the unit-level allocations so as not to exceed the maximum historical baseline emissions during 2007–2014. As discussed in the original CSAPR final rule (*see* 76 FR 48288–9, August 8, 2011), the EPA finds no advantage or disadvantage in this approach that would penalize those units that have already invested in cleaner fuels or other pollution reduction measures. The EPA considers this allocation approach to be fuel-neutral, control-neutral, transparent, based on reliable data, and similar to allocation methodologies previously used in the NO_X SIP Call and Acid Rain Program. The EPA requests comments on following the CSAPR approach for existing unit allocations in states covered by this proposed rule as to the 2008 ozone NAAQS.

For states that have EPA-approved abbreviated SIP revisions adopting a different allocation methodology for sources located within the state for CSAPR for the 2017 ozone season and beyond, those provisions would address the allocation of revised NO_X ozone-season emissions budgets established under this proposed rule, provided that the SIP revision includes not only specific allocations given the total state budget expected at the time of the SIP revision, but also a methodology for determining allocations from any given total state budget. For states that have EPA-approved full SIP revisions, the EPA proposes to use the EPA-approved allocation provisions of the state's SIP revision to allocate allowances to sources in that particular state using the revised emissions budget proposed to address interstate ozone transport for the 2008 NAAQS, again provided that the SIP includes not only specific allocations but a methodology for determining allocations from any given total state budget.

Further, where the state regulation approved as a full or abbreviated SIP revision does not contain an allocation methodology but the materials submitted by the state to support EPA's approval of that regulation as a SIP revision contain the state's allocation method, described in an unambiguous manner, the EPA seeks comment on using that state-approved methodology to determine the allocations of allowances to sources in the state under the FIPs established in this proposed rule. These possible approaches could prevent a state from needing to submit another SIP revision to implement the same allocation provisions under this proposed rule that the state has already implemented under CSAPR before adoption of this proposed rule.

For all other states, the EPA proposes to use the allocation method previously finalized in the final CSAPR rulemaking as discussed in this section. These provisions would not prevent any state (one with an EPA-approved SIP revision or without) from submitting an alternative allocation methodology under this proposed rule for later compliance years. EPA requests comment on this modified allocation approach for states with EPA-approved SIP revisions under the current rule.

b. Allocations for New Units

For the purpose of allocations, CSAPR identifies a ''new unit'' as one that commenced commercial operation on or after January 1, 2010, and provides a methodology for allocating emission allowances to new units from new unit set-asides in each state and to new units that locate in Indian country. See 76 FR 48290–48294 (Aug. 8, 2011), for more information. The FIPs that EPA is proposing will incorporate a trading program in which EPA is proposing to define a covered unit as a ''new unit'' if it commences commercial operation on or after January 1, 2015; if it becomes covered by meeting applicability criteria subsequent to January 1, 2015; if it relocates into a different state covered by this FIP; or if it was an ''existing'' covered unit that stopped operating for 2 consecutive years but resumes commercial operation at some point thereafter. To the extent that states seek approval of SIPs with different allocation provisions than EPA, these SIPs may seek to define new units differently.

The EPA further proposes that its trading program will make allocations to each state for new units (the new unit set-aside) equal to a basic minimum 2 percent of the total state budget, plus the projected amount of emissions from planned units in that state (for instance, if planned units in state A are projected to emit 3 percent of the state's NO_X ozone-season emissions budget, then the new unit set-aside for the state would be set at 5 percent, consisting of the basic minimum 2 percent plus an additional 3 percent for planned units). See 76 FR 48292. New units may receive allocations starting with the first year they are subject to the allowance-holding requirements of the rule. If unallocated to new units, set-asides are redistributed to unretired existing units before the compliance deadline. The EPA requests comments on following the CSAPR approach for new unit allocations under this proposal. (For more detail on the CSAPR new unit set-aside provisions, see 40 CFR 97.511(b) and 97.512.)

The EPA notes that applying the CSAPR approach using the data for this proposal results in a new-unit set-aside for New Jersey that is greater than 50% of the total proposed EGU NO_X ozone-season emissions budget for the state. This result is influenced by the EPA's projected emissions rates for new units that are anticipated to come online within states. The EPA seeks comment on these data, which are available in the IPM documentation in the docket for this proposal. Further, the EPA seeks comment on whether additional data should be considered—for example, reported NO_X emission rates of recently constructed new NGCC units in each state.

TABLE VII.B–1—PROPOSED EGU NO_X OZONE-SEASON NEW-UNIT SET-ASIDE AMOUNTS, REFLECTING PROPOSED EGU EMISSIONS BUDGETS (TONS)

State	Proposed EGU NO_X emissions budgets (tons)	New-unit set-aside amount (percent)	New-unit set-aside amount (tons)	Indian country set-aside amount (tons)
Alabama	9,979	2	205	
Arkansas	6,949	2	141	
Illinois	12,078	5	591	
Indiana	28,284	2	565	
Iowa	8,351	5	419	8
Kansas	9,272	3	281	9
Kentucky	21,519	3	647	
Louisiana	15,807	4	628	16
Maryland	4,026	12	485	
Michigan	19,115	2	382	19
Mississippi	5,910	10	590	6
Missouri	15,323	2	314	
New Jersey	2,015	57	1,151	
New York	4,450	2	93	4
North Carolina	12,275	2	248	12
Ohio	16,660	2	337	
Oklahoma	16,215	2	325	16
Pennsylvania	14,387	7	1,017	
Tennessee	5,481	2	109	
Texas	58,002	5	2,910	58
Virginia	6,818	27	1,844	
West Virginia	13,390	2	268	
Wisconsin	5,561	2	121	6
23 State Region	311,867	.....	13,671	154

c. Allocations for Tribes and New Units in Indian Country

Tribes are not required to submit tribal implementation plans. However, as explained in the EPA's regulations outlining Tribal Clean Air Act authority, the EPA is authorized to promulgate FIPs for Indian country as necessary or appropriate to protect air quality if a tribe does not submit and get EPA approval of a tribal implementation plan. *See* 40 CFR 49.11(a); see also 42 U.S.C. 7601(d)(4). For this proposed ozone rule, there are no existing affected units in Indian country in the states affected by this rule.

Under the current rule, allowances to possible future new units locating in Indian country are allocated by the EPA from an Indian country new unit set-aside established for each state with Indian country. (See 40 CFR 97.511(b)(2) and 97.512(b).) Because states generally have no SIP authority in reservation areas of Indian country and other areas of Indian country over which a tribe or EPA has demonstrated that a tribe has jurisdiction, the EPA continues to allocate such allowances to sources locating in such areas of Indian country within a state even if the state submits a SIP to replace the FIP. (40 CFR 52.38(b)(5)(v) and (vi) and 52.38(b)(6).) The EPA reserves 0.1 percent of the total state budget for new units in Indian country within that state (5 percent of the basic 2 percent new unit set-aside prior to any increase in a state's new unit set-aside amount for planned units). Unallocated allowances from a state's Indian country new unit set-aside are returned to the state's new unit set-aside and allocated according to the methodology described above. The EPA requests comment on following the CSAPR approach for new unit allocations in such areas of Indian country under the transport rule for the 2008 ozone NAAQS.

d. Units That Do Not Operate and the New Unit Set-Aside

The EPA proposes to continue to apply for purposes of this proposed rule the existing CSAPR provision under which a covered unit that does not operate for a period of two consecutive years will receive allowance allocations for a total of up to five years of non-operation. 40 CFR 97.511(a)(2). Starting in the fifth year after the first year of non-operation, allowances allocated to such units will instead be allocated to the new unit set-aside for the state in which the non-operating unit is located. This approach allows the new unit set-asides to grow over time. The EPA requests comment on retaining this timeline for allowance allocation for non-operating units or changing the allowance allocation for non-operating units to, for instance, two years or three years, in which case allowances would revert to the new unit set-aside in the second or third year after the first of two consecutive years of non-operation of a unit.

4. Variability Limits, Assurance Levels, and Penalties

In the original CSAPR, the EPA developed assurance provisions, including variability limits and assurance levels (with associated compliance penalties), to assure that each state will meet its pollution control obligations and to accommodate inherent year-to-year variability in state-level EGU operations.

The original CSAPR budgets, and the updated CSAPR emissions budgets proposed in this notice, reflect EGU operations in an ''average year.'' However, year-to-year variability in EGU operations occurs due to the interconnected nature of the power sector and from changing weather patterns, demand growth, or disruptions in electricity supply from other units or from the transmission grid. Recognizing this, the FIP includes variability limits, which define the amount by which state emissions may exceed the level of the budgets in a given year to account for this variability in EGU operations. A

state's budget plus its variability limit equals a state's assurance level, which acts as a cap on each state's NO_X emissions during a control period (that is, during the May-September ozone season in the case of this rule).

To establish the variability limits in the original CSAPR, the EPA analyzed historical state-level heat input variability as a proxy for emissions variability, assuming constant emission rates. (See 76 FR 48265, August 8, 2011.) The variability limits for ozone-season NO_X in the original CSAPR were calculated as 21 percent of each state's budget, and these variability limits were then codified in 40 CFR 97.510 along with the state budgets. Applying the CSAPR approach, the EPA proposes to set new variability limits applying the same 21 percent figure as determined in the original CSAPR to this proposed rule's budgets. The EPA proposes that the same 21% figure is appropriate to use because variability in state-level heat input across a multi-year period is expected to be relatively consistent around long-term trends. The EPA seeks comment on this approach. Table VII.B–2 shows the proposed EGU NO_X ozone-season emissions budgets, variability limits, and assurance levels for each state.

TABLE VII.B–2—PROPOSED EGU NO_X OZONE-SEASON EMISSIONS BUDGETS REFLECTING EGU NO_X MITIGATION AVAILABLE FOR 2017 AT $1,300 PER TON, VARIABILITY LIMITS, AND ASSURANCE LEVELS (TONS)

State	EGU NO_X ozone-season emissions budgets	Variability limits	EGU NO_X ozone-season assurance levels
Alabama	9,979	2,096	12,075
Arkansas	6,949	1,459	8,408
Illinois	12,078	2,536	14,614
Indiana	28,284	5,940	34,224
Iowa	8,351	1,754	10,105
Kansas	9,272	1,947	11,219
Kentucky	21,519	4,519	26,038
Louisiana	15,807	3,319	19,126
Maryland	4,026	845	4,871
Michigan	19,115	4,014	23,129
Mississippi	5,910	1,241	7,151
Missouri	15,323	3,218	18,541
New Jersey	2,015	423	2,438
New York	4,450	935	5,385
North Carolina	12,275	2,578	14,853
Ohio	16,660	3,499	20,159
Oklahoma	16,215	3,405	19,620
Pennsylvania	14,387	3,021	17,408
Tennessee	5,481	1,151	6,632
Texas	58,002	12,180	70,182
Virginia	6,818	1,432	8,250
West Virginia	13,390	2,812	16,202
Wisconsin	5,561	1,168	6,729
Region cap	311,867	65,493	.....

The assurance provisions include penalties that are triggered when the state emissions as a whole exceed its assurance level. The original CSAPR provided that a state that exceeds its assurance level in a given year is assessed a total of 3-to-1 allowance surrender on the excess tons. Each excess ton above the assurance level must be met with one allowance for normal compliance plus two additional allowances to satisfy the penalty. The penalty is designed to deter state-level emissions from exceeding assurance levels. This was referred to in the original CSAPR as air quality-assured trading that accounts for variability in the electricity sector but also ensures that the necessary emission reductions occur within each covered state. If a state does not exceed its assurance level, no penalties are incurred by any source. Establishing assurance levels with compliance penalties therefore responds to the court's holding in *North Carolina* requiring the EPA to assure that sources in each state were required to eliminate emissions that significantly contribute to nonattainment and interfere with maintenance of the NAAQS in another state.[104]

To assess the penalty under the assurance provisions, the EPA evaluates whether any state's total EGU emissions in a control period exceeded the state's assurance level, and if so, the EPA then determines which owners and operators of units in the state will be subject to an allowance surrender requirement based on each source's emissions as compared to its unit-level assurance level. Since a single designated representative (DR) often represents multiple sources, the EPA evaluates which groups of units at the common DR level had emissions exceeding the respective common DR's share of the state assurance level, regardless of whether the individual source had enough allowances to cover its emissions during the control period. This provision is triggered only if two criteria are met: (1) The group of sources and units with a common DR are located in a state where the total state EGU emissions for a control period exceed the state assurance level; and (2) that group with the common DR had emissions exceeding the respective DR's share of the state assurance level.

For more information on the CSAPR assurance provisions see 76 FR 48294 (August 8, 2011).

5. Implementation Approaches for Transitioning the Existing CSAPR NO_X Ozone-Season Program To Address Transport for a Newer NAAQS

Consistent with the original CSAPR approach, EPA proposes that in this updated rulemaking, EGUs would be

[104] 531 F.3d at 908.

able to trade NO_X ozone-season emission allowances among units within the state and across state boundaries, with emissions and use of allowances limited by the assurance provisions. The following sections describe approaches to transition the existing CSAPR program designed for the 1997 ozone NAAQS to address interstate ozone transport for the 2008 ozone NAAQS.

A primary focus of this section is the extent to which allowances created to address interstate transport with respect to the 1997 ozone NAAQS, reflecting emissions budgets at $500 per ton, are fungible with allowances created under this proposal to address interstate transport for the 2008 ozone NAAQS, reflecting emissions budgets at $1,300 per ton. The EPA proposes that these implementation tools are not presumptively equivalent, given that they were developed to address ozone transport under different NAAQS and using different cost thresholds. However, as further discussed below, the EPA is proposing approaches under which allowances allocated under budgets established to address the 1997 NAAQS could be used for compliance for addressing interstate transport for the 2008 NAAQS, subject to specific limitations. The EPA is also taking comment on several other approaches for addressing the transition from a program in which all budgets were established based on an integrated analysis using a single control cost threshold to address the 1997 NAAQS to a program with a mix of budgets established in independent analyses using different control cost thresholds, in some cases to address the 1997 NAAQS and in other cases to address the 2008 NAAQS.

a. Use of CSAPR Ozone-season Trading Program Bank in the Transport Rule for the 2008 Ozone NAAQS Trading Program

Since CSAPR was promulgated in 2011, the U.S. electric sector has undergone considerable transformation primarily due to economic and market forces precipitated by the natural gas boom. For example, Henry Hub natural gas prices reached below $2.00 per million BTU in 2012 and were in the $2.00–$3.00 range for most of 2012. These prices are below the level initially anticipated when establishing the phase 1 and 2 budgets, and have made the operation of lower emitting units more competitive, putting more downward pressure on emissions. There has also been turnover in the power generation fleet as newer, lower emitting sources replace older, higher emitting sources, putting further downward pressure on emissions. Approximately 28.5 GW of coal units retired from the fleet between 2012 and June of 2015. In addition, demand growth has slowed; a majority of U.S. states have implemented renewable portfolio standards and other energy efficiency programs; and high-efficiency building designs, residential energy conservation, roof-top solar, and other forms of distributed generation have grown. In combination, these factors have significantly reduced EGU NO_X emissions between 2012 and 2015.

As a result of protracted litigation, CSAPR implementation was delayed by three years, from 2012 to 2015. Due to this delay, combined with the market forces and changes that took place during that timeframe, expectations are that total banked allowances for the CSAPR ozone-season trading program could be in excess of 210,000 tons by the start of the 2017 ozone-season compliance period, which is more than twice the emission reduction potential estimated at the $1,300 per ton control level described in section VI above. This number was estimated by comparing recent measured emission levels to the original CSAPR NO_X ozone-season phase 1 emissions budgets, assuming EGU emissions in CSAPR NO_X ozone-season states for 2015 and 2016 would continue at 2014 levels.[105]

The use of allowance banks generally provide a glide path for sources required to meet more stringent emission limits in later years and accommodate year-to-year variability in operation. However, allowing unrestricted use of the large number of banked allowances for compliance with this proposed rule could result in regional 2017 ozone season NO_X emissions that exceed the collective state budgets quantified in this rulemaking to address transported air pollution with respect to the 2008 ozone standard. While the assurance provisions included in CSAPR do limit the ultimate amount of pollution that may occur in these states in 2017 (*i.e.,* no matter how large an allowance bank may exist, only a portion of that bank may be used in a state in any given year without exceeding the assurance levels and incurring penalties), unrestricted use of the bank in this situation could allow emissions to exceed the state budgets, up to the assurance level, year after year.

As described in CSAPR, the flexibility provided by the assurance provisions is not designed to be used repeatedly, year after year. Rather, the use of banked allowances is intended to be limited by binding emissions budgets such that drawing down the bank in one year is only possible because of actions taken to build up the bank in a previous year. Moreover, a relatively large allowance bank that enables emissions budgets to be exceeded year after year may encourage sources to postpone emission reductions that would be more timely in the 2017 timeframe in order to align reductions with the downwind area attainment dates for the 2008 ozone NAAQS.

The EPA is proposing and taking comment on a range of options for how to treat the use of banked 2015 and 2016 CSAPR NO_X ozone-season allowances by units in the 23 states with new or updated budgets in this proposal. The use of banked allowances by states that are not included in the proposed FIPs to address ozone transport under the 2008 NAAQS (*i.e.,* Georgia for CSAPR NO_X ozone-season program and all states for CSAPR SO_2 and NO_X annual programs) would not be affected by these options.

The EPA is proposing that allowances issued for compliance in 2015 and 2016 under CSAPR may be used for compliance under the updated CSAPR from 2017 forward in order to smooth implementation in the first few years under the new budgets. However, the EPA is proposing to impose certain limits on the use of these banked allowances starting in 2017. Specifically, the EPA is proposing that sources in the 23 states with new or updated budgets in this proposal may use all of their banked allowances, but at a tonnage authorization level significantly lower than one ton per allowance. This would be realized through a surrender ratio greater than one pre-2017 allowances (vintage 2015 or 2016) to cover one ton of NO_X emitted in 2017 and each year thereafter. The surrender ratio, such as four-for-one or two-for-one, would require more than one pre-2017 banked allowance to be used for each ton of ozone season NO_X emitted in 2017 and beyond. This would have the dual effect of carrying over the banked allowances into the new program to promote program continuity, while also recognizing the environmental objectives of the updated ozone NAAQS for 2008 and the corresponding new state emission budgets designed to help move air quality towards compliance with that NAAQS standard. A surrender ratio would respect the flexibility of sources to operate at their assurance levels in the program's early years, but would reduce the ability for the collective EGU fleet to repeatedly

[105] This data analysis relies on 40 CFR part 75 emissions reporting data as available in EPA Air Markets Program Data available at *http://ampd.epa.gov/ampd/*.

exceed the emissions budget year after year.

Finally, EPA believes a surrender ratio is appropriate as it reflects the fact that tighter budgets will put upward pressure on allowance value in the future. Therefore, fewer allowances will be needed to reach the same value of a current allowance holding, making a surrender ratio a natural complement to carrying over the value of the banked allowances in a program where more stringent emission budgets are replacing less stringent emission budgets.

EPA is proposing a surrender ratio greater than one-for-one, such as two-for-one or four-for-one. For analytic purposes in this rulemaking, it reflects the four-for-one surrender ratio to illustrate one potential surrender ratio. However, in the final rule, EPA would update this assumption to reflect the surrender ratio finalized.

This ratio of four or two banked allowances to one ton of emissions is derived from the ratio of the anticipated allowance bank in 2017 (approximately 210,000 allowances) to the ozone season variability limit (*i.e.,* the difference between the sum of the emissions budgets for all 23 states and the sum of the assurance levels for all 23 states; approximately 60,000 tons) or the ozone season variability limit multiplied by two (120,000 tons), rounded to the nearest whole number. The EPA identified this approach to limit the emissions impact of using banked allowances to the magnitude of all states emitting up to their assurance levels for one or two years. The variability limit respects the upper bound variation in emissions and load EPA would expect in any given year. Thus, the carryover of banked allowances equal to one or two years' worth of variability limits provides the affected fleet with the ability to accommodate potential variation from the mean in its load and emission patterns in the first years of the program, while balancing the need to ensure that emissions are reduced, on average, to the level of the budgets and within the assurance levels in subsequent years.

The EPA believes that a surrender ratio approach provides a means for the existing CSAPR EGU NO_X ozone-season allowances to retain some value, while appropriately mitigating the potential adverse impact of the allowance bank on the emission-reducing actions needed from affected units in states with obligations to address interstate transport for the 2008 ozone NAAQS. The EPA seeks comment on a surrender ratio approach and on the use of a ratio, such as two-for-one or four-for-one, and whether an alternative ratio would be appropriate.

The EPA is also soliciting comment on another approach that we believe could achieve these same goals (*i.e.,* valuing the anticipated CSAPR allowance bank while promoting near-term emission reductions). Under this alternative approach, the EPA would issue fewer allowances than the tons quantified in state budgets for the 23 states affected by this rulemaking in the first three years of program implementation (*i.e.* 2017, 2018, and 2019). This approach recognizes that 2015 and 2016 allowances are available to sources for compliance and would allow use of those banked CSAPR NO_X ozone allowances at a one-to-one turn-in ratio (*i.e.,* one allowance is surrendered for one ton of emissions). By reducing overall allocations for a period of time, the impact of states using those banked allowances on emission levels would be mitigated.

The EPA seeks comment on what percentage (below 100 percent) of allowances to issue, and over what number of years, under this alternative approach. As a specific example, the EPA seeks comment on implementing this approach in a manner such that the EPA would issue allowances to sources within each of the 23 states with updated budgets under this proposal at a level of 85 percent of the proposed emissions budgets for the first three years that the new budgets are effective. Using the proposed EGU NO_X ozone-season emissions budget of 9,979 tons for Alabama as an example, this would mean issuing approximately 8,482 allowances for each of the 2017 through 2019 (inclusive) control periods (and the full budget for each subsequent control period). Applying this approach to all 23 states with updated budgets under this proposal (which sum to 312,824 allowances) would mean that EPA would issue approximately 266,900 allowances across those states in each of the 2017, 2018, and 2019 control periods. EGUs in those states would be able to use allowances from the anticipated 210,000 allowance bank in addition to allowances issued for these years in order to comply with the updated CSAPR emission requirements. Allocating approximately 266,900 allowances for the first three years of the updated requirements would, based on current estimates, result in approximately 47,000 banked allowances used for compliance each year. This would leave approximately 70,000 banked allowances, which is roughly equivalent to the regional variability limit (*i.e.,* the difference between the states' collective emissions budgets and their collective assurance levels). As under the illustrative four-for-one surrender ratio option, the remaining amount of banked allowances that would remain after using this initial reduced allocation is approximately the amount of banked allowances that would allow all states to emit up to their assurance levels for one year.

The EPA also seeks comment on what other percentages of the budget and time-frames could be appropriately used to implement this alternative approach. As in the specific example above, the EPA would seek a combination of time and recordation percentage such that the ultimate influence of the anticipated allowance bank is limited to approximately the regional variability limit (*i.e.,* the difference between the collective emissions budgets and the collective assurance levels).

Under either approach, the EPA would conduct unit-level allowance allocations in the same manner as described above, such that each unit's share of its state's total allowances issued is determined by that allocation approach whether the EPA issues allowances in the full amount of the state budget with a surrender ratio for banked allowances or in a lesser amount to address the potential effect of the allowance bank (as entertained in this alternative on which we are inviting comment). In other words, the effect of this alternative approach would be to reduce unit-level allowance allocations in those years in a proportional manner (*e.g.,* all unit-level allowance allocations would decrease by the same percentage as the reduction in total allowances issued below that state's budget).

Additionally, the EPA is soliciting comment on less and more restrictive approaches to address use of the CSAPR EGU NO_X ozone allowance bank. Specifically, the EPA seeks comment on: (1) Allowing banked 2015 and 2016 CSAPR NO_X ozone allowances to be used for compliance with the proposed budgets for the 2008 ozone NAAQS starting in 2017 at a 1-to-1 ratio, or (2) completely disallowing the use of banked 2015 and 2016 CSAPR NO_X ozone allowances for compliance with the proposed budgets for the 2008 ozone NAAQS starting in 2017. The EPA is also soliciting comment on whether and how the assurance provision penalty might be increased, in conjunction with any of the above approaches, to address the relationship of the allowance bank to emissions occurring under this revised program from 2017 onward.

B. Use of CSAPR NO_X Ozone-Season Allowances From States Addressing the 1997 Ozone NAAQS for Compliance in States Addressing the 2008 Ozone NAAQS

Consistent with the original CSAPR, EGUs covered by the seasonal NO_X budget trading program that will be incorporated into these proposed FIPs are able to trade NO_X ozone-season emission allowances among units within the state and across state boundaries, with emissions and the use of allowances limited by the assurance provisions.

The EPA is considering how to transition allowance trading between the group of states that are in the CSAPR NO_X ozone-season program with respect to the 1997 ozone NAAQS but will not have updated emissions budgets proposed in this action (*e.g.,* Georgia based on this proposal) and the group of states for which the EPA is proposing to establish new or lower budgets to address the 2008 ozone NAAQS in this action.

The EPA believes that, where appropriate and feasible, continuity of programs is important, particularly for market-based and other power sector regulations, as this sector makes long-term investment and operational decisions. However, CSAPR allowances issued under budgets established to address the 1997 ozone NAAQS using a $500 per ton cost threshold in one state may not be appropriately valued to reduce interstate ozone transport in another state for the 2008 NAAQS under this proposal where budgets are being established using a $1,300 per ton cost threshold. In the original CSAPR rulemaking, the EPA discussed the concern that allowing unrestricted trading between groups of states whose budgets were established using different cost thresholds would impact whether the necessary emission reductions would be achieved within each state.[106] The assurance provisions used in CSAPR provide some assurance that emission reductions will occur within each state, but in the CSAPR rulemaking the EPA acknowledged concerns that the assurance provisions alone may not be sufficient. Consistent with those previously acknowledged concerns, the EPA is proposing in this rulemaking not to allow these two groups of states to trade without some additional assurances that the emission reductions will be appropriately achieved within each state.

However, because of the relatively small size of the group of states with budgets set using the $500 per ton cost threshold, the EPA is not proposing to prohibit altogether trading between the two groups in this instance. The EPA does not expect that a single state (*i.e.,* Georgia) would drastically influence emission reductions in the other 23 states covered by this proposed rule. EPA is instead proposing to permit trading between the two groups of ozone states subject to certain restrictions on trading. In particular, the EPA is proposing to require that sources in states addressing the 2008 ozone NAAQS under this proposal may use allowances issued in states only addressing the 1997 ozone NAAQS via the CSAPR trading programs (*e.g.,* Georgia) at a rate of 2.5 allowances for each ton of NO_X emitted. The EPA proposes a ratio of 2.5-to-1 in order to align with the ratio of the cost of ozone season EGU NO_X reduction promulgated in the original CSAPR (*i.e.,* $500 per ton) to the cost proposed for this rulemaking (*i.e.,* $1,300 per ton). The EPA proposes this restriction as sufficient, in conjunction with the assurance provisions, to protect the needed reductions in the 23 states addressing interstate transport for the 2008 ozone NAAQS. The EPA requests comments on this approach. The EPA also seeks comment on using a different ratio than 2.5-to-1, and on using the same ratio as the ratio for the use of banked allowances, whether that ratio is 4-to-1 as proposed or a different ratio.

The EPA is also seeking comment on allowing trading without distinction between the particular NAAQS (1997 ozone NAAQS or 2008 ozone NAAQS) for which an upwind state has obligations to reduce transported pollution, and subject only to the constraints of the CSAPR assurance provisions with no additional restrictions. The EPA is soliciting comment on whether and how the assurance provision penalty might be increased in conjunction with this approach.

Alternatively, the EPA is seeking comment on separating compliance between groups of upwind states under each NAAQS, whereby the use of NO_X ozone-season emission allowances from one group (*e.g.,* sources in states only covered for the 1997 ozone NAAQS) would be disallowed for compliance use by units in the other group (*e.g.,* sources in states covered for the 2008 ozone NAAQS), similar to the existing separation between the CSAPR SO_2 Group 1 and CSAPR SO_2 Group 2 programs.

C. Use of CSAPR NO_X Ozone-season Allowances Between States With Different Control Stringencies Addressing the 2008 Ozone NAAQS

As discussed in Section VI of this proposal, the EPA notes that the evaluation of EGU NO_X requirements for the final rule could show one or more states fully addressing their good neighbor obligation based on ozone season NO_X control requirements represented by one cost level while one or more other states have ozone season NO_X control requirements based on a more stringent cost level. In this situation, the EPA proposes that it would quantify requirements for these different groups of states based on different uniform control stringencies. However, CSAPR allowances issued under budgets established using a one cost threshold (*e.g.,* $1,300 per ton) in one state may not be appropriately valued to reduce interstate ozone transport in another state where budgets might be established using different cost threshold (*e.g.,* $3,400 per ton). Consistent with the previous discussion (regarding allowances issued in states continuing to address the 1997 ozone NAAQS under budgets established using $500 per ton threshold), the EPA is proposing to permit trading between these groups of states subject to certain restrictions on trading. In particular, the EPA is proposing to require that sources in states with emissions budgets established using the more stringent cost thresholds (*e.g.,* $3,400 per ton) may use allowances issued in states with emissions budgets established using the less stringent cost thresholds (*e.g.,* $1,300 per ton) at a rate of allowances for each ton of NO_X emitted based on the ratio of these cost thresholds. For example, states with emissions budgets established using $3,400 per ton could use allowances at a rate of approximately 2.5-to-1 in order to align with the ratio of the relevant cost thresholds. The EPA requests comments on allowing the states to trade with the proposed restrictions on the use of allowances by sources in states controlled using the more stringent cost threshold.

The EPA is also seeking comment on allowing trading without distinction between the particular cost thresholds for which an upwind state has obligations to reduce transported pollution, and subject only to the constraints of the CSAPR assurance provisions with no additional restrictions. The EPA is also soliciting comment on whether and how the assurance provision penalty might be

[106] 76 FR at 48263–64.

increased in conjunction with this approach.

Alternatively, the EPA is seeking comment on separating compliance between groups of upwind states under each cost threshold, whereby the use of NO_X ozone-season emission allowances from one group (*e.g.,* sources in states with allowances issued using the more stringent cost threshold) would be disallowed for compliance use by units in the other group, similar to the existing separation between the CSAPR SO_2 Group 1 and CSAPR SO_2 Group 2 programs.

D. Summary of Proposed Allowance Surrender Ratios

As discussed in sections a. and b. above, the EPA proposes that in this updated rulemaking, EGUs would be able to trade NO_X ozone-season emission allowances among units within the state and across state boundaries, with emissions and use of allowances limited by the assurance provisions. However, the EPA is proposing to impose certain additional limits on the use of allowances starting in 2017 for EGUs in the 23 states with updated budgets in this proposal. Table VII–2 summarizes the limits on the proposed use for CSAPR NO_X ozone-season allowances.[107]

Table VII.B-2. Proposed Use of CSAPR NO_X Ozone-Season Allowances for 2015, 2016, 2017, and Later Allowance Vintages (Tons)

		Compliance Period and Unit Location of Allowance Use		
		Used for 2015 or 2016 Compliance – any state	Used for 2017 or later compliance - unit in states with updated budget for 2008 ozone NAAQS	Used for 2017 or later compliance – states with original CSAPR emissions budget
Vintage Year and State of Allowance Issuance	2015 or 2016 vintage – any state	1 for 1	4 for 1	1 for 1
	2017 or later vintage – states with updated budget for 2008 ozone NAAQS	Not Applicable	1 for 1	1 for 1
	2017 or later vintage – states with original CSAPR emissions budget	Not Applicable	2.5 for 1	1 for 1

6. Compliance Deadlines

As discussed in sections II.A., III.B., and IV.A., the proposed rule would require NO_X reductions from sources starting May 1, 2017, to ensure that reductions are made as expeditiously as practicable to assist downwind states' attainment and maintenance of the 2008 ozone NAAQS. The compliance deadline is coordinated with the attainment deadline for the relevant NAAQS and the proposed rule includes provisions to assure that all necessary reductions occur at sources within each individual state.

In section VI above, the EPA explains that this is an adequate and reasonable time for sources to plan for compliance and operate necessary controls.

For states for which EPA has already established a FIP requiring their units to participate in the CSAPR NO_X ozone-season trading program because of transport obligations under the 1997 ozone NAAQS, no CFR changes are necessary to accommodate this

[107] In the regulatory text revisions for this proposal, the proposed limits discussed here are described in terms of the ''tonnage equivalent'' of an allowance. In the case of 2015 or 2016 vintage allowances used for compliance in a control period in 2017 or later, where 4 allowances would be needed for each ton of emissions, each such allowance would have a tonnage equivalent of 0.25 tons per allowance (¼ = 0.25). In the case of 2017 or later allowances from a state with an original CSAPR budget used for compliance by a unit in a state with an updated budget based on the 2008 ozone NAAQS, where 2.5 allowances would be needed for each ton of emissions, each such allowance would have a tonnage equivalent of 0.40 tons per allowance ($\frac{1}{2.5}$ = 0.40). In a case where one allowance is needed for each ton of emissions, such allowances would have a tonnage equivalent of one ton per allowance. See proposed 40 CFR 97.524(f) in the regulatory text for this proposal.

compliance deadline. The EPA proposes to amend the regulatory text in 40 CFR 97.506(c)(3) to reflect the 2017 start of compliance obligations for units in states that were not previously subject to the CSAPR NO_X ozone-season trading program (*e.g.,* Kansas). The EPA also proposes to amend various FIP provisions in 40 CFR part 52 to indicate the start and end of compliance obligations under the FIPs for sources in states added to the trading program under this proposed rule (*e.g.,* Kansas) or removed from the trading program in response to the D.C. Circuit's remand of certain NO_X ozone-season emissions budgets (*e.g.,* Florida and South Carolina).

7. Monitoring and Reporting and the Allowance Management System

Monitoring and reporting in accordance with the provisions of 40 CFR part 75 are required for all units subject to the CSAPR NO_X ozone-season trading programs and would also be required for all units covered under the proposed transport rule for the 2008 ozone NAAQS requirements. The EPA proposes that the monitoring certification deadline by which monitors are installed and certified for compliance use generally would be May 1, 2017, the beginning of the first compliance period proposed in this rule, with potentially later deadlines for units that commence commercial operation after July 1, 2016. Similarly, the EPA proposes that the first calendar quarter in which quarterly emission reporting is required would generally be the quarter including May 1, 2017. These deadlines are analogous to the current deadlines under CSAPR but are delayed by two years to reflect the fact that this rule's initial implementation year would be two years later than the existing CSAPR programs' initial implementation year.

Under part 75, a unit has several options for monitoring and reporting, namely the use of a CEMS; an excepted monitoring methodology based in part on fuel flow metering for certain gas- or oil-fired peaking units; low-mass emissions monitoring for certain non-coal-fired, low emitting units; or an alternative monitoring system approved by the Administrator through a petition process. In addition, sources can submit petitions to the Administrator for alternatives to specific CSAPR and part 75 monitoring, recordkeeping, and reporting requirements. Each CEMS must undergo rigorous initial certification testing and periodic quality assurance testing thereafter, including the use of relative accuracy test audits (RATAs) and 24-hour calibrations. In addition, when a monitoring system is not operating properly, standard substitute data procedures are applied and result in a conservative estimate of emissions for the period involved.

Further, part 75 requires electronic submission of a quarterly emissions report to the Administrator, and in a format prescribed by the Administrator. The report would contain all of the data required concerning ozone season NO_X emissions.

Units currently subject to CSAPR NO_X ozone-season or CSAPR NO_X annual trading program requirements monitor and report NO_X emissions in accordance with part 75, so most sources would not have to make any changes to monitoring and reporting practices. In fact, only units in Kansas currently subject to the CSAPR NO_X annual trading program but not the CSAPR NO_X ozone-season trading program would need to start newly reporting ozone season NO_X mass emissions. These emissions are already measured under the annual program, so the change would be a minor reporting modification. Units in the following states monitor and report NO_X emissions under the CSAPR NO_X ozone-season trading program and would continue to do so without change under the CSAPR ozone update for the 2008 NAAQS: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

8. Recordation of Allowances

The EPA proposes to update the deadlines by which EPA would record allowances for the CSAPR NO_X ozone-season trading program for the compliance periods in the years from 2017 through 2022. The proposed new dates would amend the recordation deadlines in 40 CFR 97.521 as shown in the proposed regulatory text amendments at the end of this proposal. The existing recordation provisions require EPA to record either FIP-based (*i.e.,* governed by part 97) or SIP-based allocations for 2017 and 2018 by July 1, 2016. The EPA proposes to delay this deadline to December 1, 2016. The extension would allow EPA to finalize any changes to the state budgets for the 2017 compliance period before recording 2017 allowances. This would prevent the need to take back allowances that were recorded under existing budgets in cases where state budgets are reduced. The extended deadline would still allow allocations to be recorded five months prior to the start of the 2017 compliance period, giving affected units time to make compliance plans. Compliance true-up for the 2017 ozone season occurs after December 1, 2017, so affected sources would have more than a year from the extended recordation deadline to ensure they hold enough allowances for 2017 ozone season compliance. The EPA is taking comment on this new deadline for 2017 and 2018 allowance allocation recordation. The EPA is also taking comment on whether the provision to delay 2017 and 2018 allocation recordation should be finalized ahead of final action on this full proposal if this proposal is not finalized before July 1, 2016.

The EPA is also proposing to extend the existing deadlines for recording CSAPR NO_X ozone-season allowances for the 2019 and 2020 compliance periods and for the 2021 and 2022 compliance periods each by one year, to July 1, 2018, and July 1, 2019, respectively. The purpose of these proposed deadline extensions is to provide time for states to submit SIP revisions to modify or replace the FIPs proposed in this rulemaking on schedules comparable to the schedules for the SIP revision options that the states have under the current CSAPR regulations. The EPA seeks comment on extending these recordation deadlines as discussed.

C. Submitting a SIP

As noted earlier in this section VIII, states may replace the FIP with a SIP at any time if approved by the EPA. ''Abbreviated'' and ''full'' SIP options continue to be available. An ''abbreviated SIP'' allows a state to submit a SIP that would modify allocation provisions in the NO_X budget trading program that is incorporated into FIP to allow the state to substitute its own allocation provisions. A second approach, referred to as a full SIP, allows a state to adopt a trading program meeting certain requirements that would allow sources in the state to continue to use the EPA-administered trading program through an approved SIP, rather than a FIP. In addition, as under CSAPR, EPA proposes to provide states with an opportunity to adopt state-determined allowance allocations for existing units for the second compliance period under this proposed rule—in this case, the 2018 compliance period—through streamlined SIP revisions. See 76 FR 48208 at 48326–48332 (August 8, 2011) for additional discussion on full and abbreviated SIP options and 40 CFR 52.38(b).

1. 2018 SIP Option

As under CSAPR, the EPA proposes to allow a state to submit a SIP revision establishing allowance allocations for existing units for the second year of the new requirements, 2018, to replace the FIP-based allocations. The process would be the same as under the current rule with deadlines shifted roughly 2 years—*i.e.,* a state would submit a letter to EPA by November 15, 2016 indicating its intent to submit a complete SIP revision by April 1, 2017. The SIP would provide in an EPA-prescribed format a list of existing units and their allocations for the 2018 control period. If a state does not submit a letter of intent to submit a SIP revision, FIP allocations would be recorded by December 1, 2016. If a state submits a timely letter of intent but fails to submit a SIP revision, FIP allocations would be recorded by April 1, 2017. If a state submits a timely letter of intent followed by a timely SIP revision that is approved, the approved SIP allocations would be recorded by October 1, 2017.

2. 2019 and Beyond SIP Option

For the 2019 control period and later, EPA proposes that the SIP submittal deadline be delayed one year, until December 1, 2017, from the current deadline. The deadline to then submit state allocations for 2019 and 2020 would be June 1, 2018 and the deadline to record those allocations would be July 1, 2018. Under the proposed new deadlines, a state could submit a SIP revision for 2021 and beyond control periods by December 1, 2018, with state allocations due June 1, 2019, and allocation recordation by July 1, 2019. For 2019 control period and later, SIPs can be full or abbreviated SIPs. An allocation methodology approved in an abbreviated SIP submitted for 2017 under the existing CSAPR regulations could also apply under the proposed new rule in 2017 and 2018. See section III of this preamble and 76 FR 48208 at 48326–48332 (August 8, 2011) for additional discussion on full and abbreviated SIP options and 40 CFR 52.38(b).

3. SIP Revisions That Do Not Use the CSAPR Trading Program

For a transport SIP revision that does not use the CSAPR NO_X ozone-season trading program, EPA would evaluate the transport SIP based on the particular control strategies selected and whether the strategies as a whole provide adequate and enforceable provisions ensuring that the emission reductions will be achieved. The SIP revision at a minimum should include the following general elements: (1) A comprehensive baseline 2017 statewide NO_X emission inventory (which includes growth and existing control requirements), which should be consistent with the 2017 emission inventory the EPA would use when finalizing this rulemaking to calculate the required state budget; (2) a list and description of control measures to satisfy the state emission reduction obligation and a demonstration showing when each measure would be in place to meet the 2017 compliance date; (3) fully-adopted state rules providing for such NO_X controls during the ozone season; (4) for EGUs greater than 25 MWe and large boilers and combustion turbines with a rated heat input capacity of 250 mmBtu per hour or greater, Part 75 monitoring, and for other units, monitoring and reporting procedures sufficient to demonstrate that sources are complying with the SIP; and (5) a projected inventory demonstrating that state measures along with federal measures will achieve the necessary emission reductions in time to meet the 2017 compliance deadline.[108] The SIPs must meet the requirements for public hearing, be adopted by the appropriate board or authority, and establish by a practically enforceable regulation or permit a schedule and date for each affected source or source category to achieve compliance. Once the state has made a SIP submission, the EPA will evaluate the submission(s) for completeness. The EPA's criteria for determining completeness of a SIP submission are codified at 40 CFR part 51, appendix V.

For further information on replacing a FIP with a SIP, see the discussion in the final CSAPR rulemaking (76 FR 48326, August 8, 2011). The EPA requests comment on what types of additional information and guidance would be helpful and stands ready to assist states in SIP development.

4. Submitting a SIP To Participate in CSAPR for States Not Included in This Proposal

The EPA believes that there could be circumstances where a state that is not obligated to reduce NO_X emissions in order to eliminate significant contribution to nonattainment or interference with maintenance of ozone standards in another state (such as Florida or South Carolina for purposes of this proposal) may wish to participate in the NO_X ozone-season trading program in order to serve a different regulatory purpose. For example, the state may have a pending request for redesignation of an area to attainment that relies on participation in the trading program as part of the state's demonstration that emissions will not exceed certain levels, or the state may wish to rely on participation in the trading program for purposes of a SIP revision to satisfy certain obligations under the Regional Haze Rule. The EPA seeks comment on whether the EPA should revise the CSAPR regulations to allow the EPA to approve a SIP revision in which a state seeks to participate in the NO_X ozone-season trading program for a purpose other than addressing ozone transport obligations.

Further, the EPA seeks comment on the conditions that should apply to any such approval in order to ensure that the state's participation is consistent with the trading program's ability to achieve the program's objectives with respect to interstate transport of ozone pollution. The EPA believes that the primary conditions for consideration in this circumstance would be the level of the state emissions budget and what, if any, limitations would be placed on the use of allowances issued to the sources in that state by sources in other states.

The EPA specifically seeks comment on whether a presumption of approvability of such a SIP revision should arise, without limitations on the use of corresponding allowances for compliance by sources within that state or in other states, if the state would adopt as part of the SIP revision a NO_X ozone-season emissions budget no higher than the emissions budgets that the EPA finalizes under this rule. For example, based on this proposal, an emissions budget that reflects EGU NO_X mitigation strategies represented by a uniform cost of $1,300 per ton. The EPA notes that such emissions budgets could be developed using the data and analysis used to establish the emissions budgets for this rule.

EPA also specifically seeks comment on whether a presumption of approvability of such a SIP revision should arise, with limitations on the use of allowances issued to the state's sources analogous to the limitations proposed for allowances issued to Georgia's units in this proposed rule, if the state would adopt as part of the SIP revision a NO_X ozone-season emissions budget no higher than the base case ozone season NO_X emissions that EPA projected for the state in the analysis used to establish the emissions budgets for this proposed rule.

The EPA also specifically seeks comment on whether, in the case of a state previously subject to the CSAPR NO_X ozone-season trading program (*e.g.,* Florida or South Carolina), a

[108] The EPA notes that the SIP is not required to include modeling.

presumption of approvability of such a SIP revision should arise at an emissions level higher than the state's base case emissions in the analysis used to establish the emissions budgets for this proposed rule—for example, an emissions level equal to the state's previously promulgated CSAPR budget—subject to the imposition of trading limitations on allowances issued to the state's units analogous to the limitations proposed for allowances issued to Georgia's units in this proposal.

Finally, the EPA also seeks comment on whether a state whose allowances would otherwise be subject to limitations on use analogous to the limitations proposed for allowances issued to Georgia's units in this proposed rule could avoid those limitations by adopting in a SIP revision a more stringent budget reflecting emission levels at higher dollar per ton emission reduction costs comparable to the dollar per ton emission reduction costs used to establish the budgets for other states in this proposed rule.

D. Title V Permitting

This proposed rule, like CSAPR, does not establish any permitting requirements independent of those under title V of the CAA and the regulations implementing title V, 40 CFR parts 70 and 71.[109] All major stationary sources of air pollution and certain other sources are required to apply for title V operating permits that include emission limitations and other conditions as necessary to assure compliance with the applicable requirements of the CAA, including the requirements of the applicable State Implementation Plan. CAA sections 502(a) and 504(a), 42 U.S.C. 7661a(a) and 7661c(a). The ''applicable requirements'' that must be addressed in title V permits are defined in the title V regulations (40 CFR 70.2 and 71.2 (definition of ''applicable requirement'')).

The EPA anticipates that, given the nature of the units subject to this transport rule and given that many of the units covered here are already subject to CSAPR, most of the sources at which the units are located are already subject to title V permitting requirements. For sources subject to title V, the interstate transport requirements for the 2008 ozone NAAQS that would be applicable to them under the final FIPs will be ''applicable requirements'' under title V and therefore will need to be addressed in the title V permits. For example, requirements concerning designated representatives, monitoring, reporting, and recordkeeping, the requirement to hold allowances covering emissions, the assurance provisions, and liability will be ''applicable requirements'' to be addressed in the permits.

Title V of the CAA establishes the basic requirements for state title V permitting programs, including, among other things, provisions governing permit applications, permit content, and permit revisions that address applicable requirements under final FIPs in a manner that provides the flexibility necessary to implement market-based programs such as the trading programs established by CSAPR and updated by this proposed ozone interstate transport rule. 42 U.S.C. 7661a(b).

In CSAPR, EPA established standard requirements governing how sources covered by the rule would comply with title V and its regulations.[110] 40 CFR 97.506(d). Under this proposed rule, EPA proposes that those same requirements would continue to apply to sources already in the CSAPR NO_X Ozone-season Trading Program and to any newly covered sources that have been added to address interstate transport of the 2008 ozone NAAQS. For example, the title V regulations provide that a permit issued under title V must include ''[a] provision stating that no permit revision shall be required under any approved . . . emissions trading and other similar programs or processes for changes that are provided for in the permit.'' 40 CFR 70.6(a)(8) and 71.6(a)(8). Consistent with these provisions in the title V regulations, in CSAPR, EPA included a provision stating that no permit revision is necessary for the allocation, holding, deduction, or transfer of allowances. 40 CFR 97.506(d)(1). This provision is also included in each title V permit for a covered source. The EPA proposes to maintain its approach under CSAPR that allowances can be traded (or allocated, held, or deducted) without a revision to the title V permit of any of the sources involved.

Similarly, the EPA is also proposing to maintain that sources in the CSAPR NO_X Ozone-season Trading Program can continue to use the title V minor modification procedure to change their approach for monitoring and reporting emissions, in certain circumstances. Specifically, sources may use the minor modification procedure so long as the new monitoring and reporting approach is one of the prior-approved approaches under CSAPR (*i.e.,* approaches using a continuous emission monitoring system, an excepted monitoring system under appendices D and E to part 75, a low mass emissions excepted monitoring methodology under 40 CFR 75.19, or an alternative monitoring system under subpart E of part 75), and the permit already includes a description of the new monitoring and reporting approach to be used. *See* 40 CFR 97.506(d)(2); 40 CFR 70.7(e)(2)(i)(B) and 40 CFR 71.7(e)(1)(i)(B). As described in our 2015 guidance, we suggest in our template that sources may comply with this requirement by including a table of all of the approved monitoring and reporting approaches under the rule, and the applicable requirements governing each of those approaches. Inclusion of the table in a source's title V permit therefore allows a covered unit that seeks to change or add to their chosen monitoring and recordkeeping approach to easily comply with the regulations governing the use of the title V minor modification procedure.

Under CSAPR, in order to employ a monitoring or reporting approach different from the prior-approved approaches discussed above, unit owners and operators must submit monitoring system certification applications to the EPA establishing the monitoring and reporting approach actually to be used by the unit, or, if the owners and operators choose to employ an alternative monitoring system, to submit petitions for that alternative to the EPA. These applications and petitions are subject to EPA review and approval to ensure consistency in monitoring and reporting among all trading program participants. The EPA's responses to any petitions for alternative monitoring systems or for alternatives to specific monitoring or reporting requirements are posted on the EPA's Web site.[111] EPA proposes to maintain the same approach in this proposed rule.

Consistent with the EPA's approach under CSAPR, the applicable requirements resulting from this proposed FIP would be incorporated into covered sources' existing title V permits either pursuant to the provisions for reopening for cause (40 CFR 70.7(f) and 40 CFR 71.7(f)) or the standard permit renewal provisions (40

[109] Part 70 addresses requirements for state title V programs, and part 71 governs the federal title V program.

[110] EPA also issued a guidance document and template that includes instructions describing how to incorporate the CSAPR applicable requirements into a source's title V permit. *http://www.epa.gov/airtransport/CSAPR/pdfs/CSAPR_Title_V_Permit_Guidance.pdf.*

[111] *http://www2.epa.gov/airmarkets/part-75-petition-responses.*

CFR 70.7(c) and 71.7(c)).[112] For sources newly subject to title V that will also be covered sources under the final FIPs, the initial title V permit issued pursuant to 40 CFR 70.7(a) should address the final FIP requirements.

As in CSAPR, the approach to title V permitting under the proposed FIPs imposes no independent permitting requirements and should reduce the burden on sources already required to be permitted under title V and on permitting authorities.

E. Relationship to Other Emission Trading and Ozone Transport Programs

1. Interactions With Existing CSAPR[113] Annual Programs, Title IV Acid Rain Program, NO_X SIP Call, Section 176A Petition, and Other State Implementation Plans

a. CSAPR Annual Programs

Nothing in this proposal affects any CSAPR NO_X annual or CSAPR SO_2 Group 1 or CSAPR SO_2 Group 2 requirements. The CSAPR annual requirements were premised on the 1997 and 2006 $PM_{2.5}$ NAAQS that are not being addressed in this rulemaking. The CSAPR NO_X annual trading program and the CSAPR SO_2 Group 1 and Group 2 trading programs remain in place and will continue to be administered by the EPA.

The EPA acknowledges that, in addition to the ozone budgets discussed above, the D.C. Circuit has remanded for reconsideration the CSAPR SO_2 budgets for Alabama, Georgia, South Carolina, and Texas. *EME Homer City II,* 795 F.3d at 138. This proposal does not address the remand of these CSAPR phase 2 SO_2 emissions budgets. The EPA intends to address the remand of the phase 2 SO_2 annual emissions budgets separately.

b. Title IV Interactions

This proposed rule if adopted would not affect any Acid Rain Program requirements. Any Title IV sources that are subject to provisions of this proposed rule would still need to continue to comply with all Acid Rain provisions. Acid Rain Program SO_2 and NO_X requirements are established independently in Title IV of the Clean Air Act, and will continue to apply independently of this proposed rule's provisions. Acid Rain sources will still be required to comply with Title IV requirements, including the requirement to hold Title IV allowances to cover SO_2 emissions at the end of a compliance year.

c. NO_X SIP Call Interactions

States affected by both the NO_X SIP Call and any final CSAPR ozone update for the 2008 NAAQS will be required to comply with the requirements of both rules. This proposed rule requires NO_X ozone season emission reductions from EGUs greater than 25 MW in nearly all NO_X SIP Call states and at levels greater than required by the NO_X SIP Call. Therefore, this proposed rule would satisfy the requirements of the NO_X SIP Call for these large EGU units.

The NO_X SIP Call states used the NO_X Budget Trading Program to comply with the NO_X SIP Call requirements for EGUs serving a generator with a nameplate capacity greater than 25 MW and large non-EGUs with a maximum rated heat input capacity greater than 250 MMBTU/hr. (In some states, EGUs smaller than 25 MW were also part of the NBP as a carryover from the Ozone Transport Commission NO_X Budget Trading Program.) When the EPA promulgated CAIR, it allowed states to modify that program and include all NO_X Budget Trading Program units in the CAIR NO_X Ozone-season Trading Program as a way to continue to meet the requirements of the NO_X SIP Call for these sources.

In CSAPR, however, the EPA allowed states to expand applicability of the trading program to EGUs smaller than 25 MW but did not allow the expansion of applicability to include large non-EGU sources. The reason for excluding large non-EGU sources was largely that emissions from these sources were generally much lower than the budget amount and there was concern that surplus allowances created as a result of an overestimation of baseline emissions and subsequent shutdowns (since 1999 when the NO_X SIP Call was promulgated) would prevent needed reductions by the EGUs to address significant contribution to downwind air quality impacts.

Since then, states have had to find appropriate ways to continue to show compliance with the NO_X SIP Call, particularly for large non-EGUs.[114] Most states that included such sources in CAIR are still working to find suitable solutions.[115]

Therefore, the EPA is taking comment on whether to allow any NO_X SIP Call state affected by this proposed rule to voluntarily submit a SIP revision at a budget level that is environmentally neutral to address the state's NO_X SIP Call requirement for ozone season NO_X reductions. The SIP revision could include a rule to expand the applicability of the CSAPR NO_X ozone-season trading program to include all NO_X Budget Trading Program units. Analysis shows that these units (mainly large non-EGU boilers, combustion turbines, and combined cycle units with a maximum rated heat input capacity greater than 250 mmBtu/hr) continue to emit well below their portion of the NO_X SIP Call budget. In order to ensure that the necessary amount of EGU emission reductions occur for this proposed rule, the corresponding state ozone-season emissions budget amount could be increased by the lesser of the highest ozone season NO_X emissions (in the last 3–5 years)[116] from those units or the relevant non-EGU budget under the NO_X SIP Call, and this small group of non-EGUs could participate in the CSAPR ozone-season trading program. The environmental impact would be neutral using this approach, and hourly reporting of emissions under part 75 would continue. This approach would address requests by states for help in determining an appropriate way to address the continuing NO_X SIP Call requirement as to non-EGU sources. EPA proposes that if this option is finalized that the variability limits established for EGUs be unchanged as a result of including these non-EGUs. The assurance provisions would apply to EGUs, and emissions from non-EGUs would not affect the assurance levels.

The NO_X SIP Call generally requires that states choosing to rely on large EGUs and large non-EGUs for meeting NO_X SIP Call emission reduction requirements must establish a NO_X mass emissions cap on each source and require part 75, subpart H monitoring. As an alternative to source-by-source NO_X mass emission caps, a state may impose NO_X emission rate limits on each source and use maximum operating capacity for estimating NO_X mass emissions or may rely on other requirements that the state demonstrates to be equivalent to either the NO_X mass

[112] A permit is reopened for cause if any new applicable requirements (such as those under a FIP) become applicable to a covered source with a remaining permit term of 3 or more years. If the remaining permit term is less than 3 years, such new applicable requirements will be added to the permit during permit renewal. See 40 CFR 70.7(f)(1)(I) and 71.7(f)(1)(I).

[113] The CSAPR Annual Programs are referred to in regulations as the Transport Rule NO_X Annual Trading Program (40 CFR 97.401–97.435), the Transport Rule SO_2 Group 1 Trading Program (40 CFR 97.601–97.635) and the Transport Rule SO_2 Group 2 Trading Program (40 CFR 97.701–97.735).

[114] CSAPR generally satisfies NO_X SIP Call requirements for EGUs in most affected states because the CSAPR cap is lower than the EGU portion of the NO_X SIP Call emission levels.

[115] Affected sources continue to report ozone season emissions using part 75 as required by the NO_X SIP Call and emissions in most states cannot (or are not likely to) exceed NO_X SIP Call non-EGU budget levels.

[116] EPA requests comment on the appropriate time period for this determination.

emission caps or the NO_X emission rate limits that assume maximum operating capacity. Collectively, the caps or their alternatives cannot exceed the portion of the state budget for those sources. *See* 40 CFR 51.121(f)(2) and (i)(4). If the EPA were to allow a state to expand the applicability of this proposed rule to include all the NO_X Budget Trading Program units in the CSAPR NO_X ozone-season trading program, the cap requirement would be met through the new budget and the monitoring requirement would be met through the trading program provisions, which require part 75 monitoring. Whether this option is finalized or not, the EPA will work with states to ensure that NO_X SIP Call obligations continue to be met. The EPA requests comment on the voluntary inclusion of NO_X SIP Call non-EGUs in this 2008 ozone-season proposed rule.

d. CAA Section 176A Petition To Expand the OTR

On December 9, 2013, the EPA received a CAA section 176A petition from the states of Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. The petition was amended on December 12, 2013 to add the state of Pennsylvania as a petitioning state. The petition requests that the EPA add 8 states and the remainder of the Commonwealth of Virginia to the current Ozone Transport Region that was established under CAA section 184.[117] The EPA will address this petition at a future date.

e. Other State Implementation Plans

In this proposal, the EPA has not conducted any technical analysis to determine whether compliance with the proposed rule would satisfy other requirements for EGUs in any attainment or nonattainment areas (*e.g.,* RACT or BART). For that reason, the EPA is not now making determinations nor establishing any presumptions that compliance with the proposed rule satisfies any other requirements for EGUs. Based on analyses that states conduct on a case-by-case basis, states may be able to conclude that compliance with the proposed rule for certain EGUs fulfills other SIP requirements.

[117] The named 8 states are: Illinois, Indiana, Kentucky, Michigan, North Carolina, Ohio, Tennessee, and West Virginia. Currently, the portion of the Commonwealth of Virginia in the OTR is in the consolidated metropolitan statistical area that includes the District of Columbia and northern Virginia.

2. Other Federal Rulemakings

a. Clean Power Plan

On August 3, 2015, President Obama and EPA announced the Clean Power Plan—a historic and important action on emissions that contribute to climate change. The CPP reduces carbon pollution from the power sector. With strong but achievable standards for power plants, and customized goals for states to cut the carbon pollution (CO_2) that is driving climate change, the Clean Power Plan (CPP) provides national consistency, accountability and a level playing field while reflecting each state's energy mix.

The Clean Air Act—under section 111(d)—creates a partnership between EPA, states, tribes and U.S. territories—with EPA setting a goal and states and tribes choosing how they will meet it. The CPP follows that approach. The CPP establishes interim and final CO_2 emission performance rates and statewide goals. States then develop and implement plans that ensure that the power plants in their state—either individually, together or in combination with other measures—achieve these rates or goals. States will be required to submit a state plan, or an initial submittal with an extension request, by September 6, 2016. Complete state plans must be submitted no later than September 6, 2018. The interim rates and goals are assessed over the years 2022 to 2029 and the final CO_2 emission performance rates, rate-based goals, or mass-based goals are assessed for 2030 and after.

Because the final deadline for states to submit complete plans under the CPP is September 2018 and because mandatory CPP reductions do not begin until the interim period (*i.e.,* starting in 2022), the EPA does not anticipate significant interactions with the CPP and the near-term (*i.e.,* starting in 2017) ozone season EGU NO_X emission reduction requirements under this proposal.

However the EPA notes that actions taken to reduce CO_2 emissions (*e.g.,* deployment of zero-emitting generation) may also reduce ozone season NO_X emissions. To the extent that states or electric utilities consider emission reduction strategies to meet these two separate requirements—CPP and interstate ozone transport—in a coordinated manner, they may find efficiency gains in that actions to meet the CPP goals may also help meet interstate ozone transport requirements.

The EPA believes that timing flexibility provided in the CPP offers significant benefits that allow states to develop plans that will help achieve a number of goals, including, but not limited to: Reducing cost, addressing reliability concerns, addressing concerns about stranded assets, and facilitating the integration of meeting the emission guidelines and compliance by affected EGUs with other air quality and pollution control obligations on the part of both states and affected EGUs.

The EPA is also cognizant of the potential influence of addressing interstate ozone transport on the CPP. As states and utilities undertake the near- and longer-term planning that will be needed for the CPP, they will have the opportunity to consider how compliance with this proposed rule can anticipate, or be consistent with, expected compliance strategies for the CPP. While some EGU NO_X mitigation strategies, most notably shifting generation from higher-NO_X emitting coal-fired units to lower NO_X emitting NGCC units, can potentially also reduce CO_2 emissions, the EGU emissions analysis performed for this interstate transport action does not results in a notable difference in CO_2 emissions. However, EPA's results do not preclude states and utilities from considering these programs together. And, as the EPA has structured the interstate transport obligations that would be established by this proposal as requirements to limit aggregate affected EGU emissions and the EPA is not proposing to enforce source-specific emission reduction requirements, EGU owners have the flexibility to plan for compliance with the interstate ozone transport requirements in ways that are consistent with state and EGU strategies to reduce CO_2 emissions for the Clean Power Plan.

With respect to concerns about potentially stranded investments [118] in NO_X control equipment, the EPA's budget-setting approach quantifies NO_X reductions from upgrading combustion controls at coal-fired units. However, CSAPR's flexible compliance does not require that specific NO_X controls be installed at any specific facilities, and we would not expect such controls to be installed on units that may not be economic to operate in the future.

b. 2015 Ozone Standard

On October 1, 2015, the EPA strengthened the ground-level ozone NAAQS to 70 ppb, based on extensive scientific evidence about ozone's effects on public health and welfare. This proposed rule to update CSAPR to address interstate emissions transport

[118] A potential stranded investment is an investment in an EGU NO_X reduction strategy (*e.g.,* combustion controls) for which the affected EGU retires before the investment is fully depreciated.

with respect to the 2008 ozone NAAQS is a separate and distinct regulatory action and is not meant to address the CAA's good neighbor provision with respect to the strengthened 2015 ozone NAAQS.

The EPA is mindful of the need to address ozone transport for the 2015 ozone NAAQS. The statutory deadline for the EPA to finalize area designations is October 1, 2017. Further, good neighbor SIPs from states are due on October 1, 2018. The steps taken under this proposal to reduce interstate ozone transport, when finalized, will help states attain and maintain the 2015 ozone NAAQS. Moreover, to facilitate the implementation of the CAA good neighbor provision the EPA intends to provide information regarding steps 1 and 2 of the CSAPR framework in the fall of 2016. In particular, the EPA expects to conduct modeling necessary to identify projected nonattainment and maintenance receptors and identify the upwind states that contribute significantly to these receptors.

VIII. Costs, Benefits, and Other Impacts of the Proposed Rule

The EPA evaluated the costs, benefits, and impacts of compliance with the proposed EGU NO_X ozone-season emissions budgets that reflect uniform NO_X costs of $1,300 per ton (see proposed emissions budgets in table VI.1). In addition, the EPA also assessed compliance with other more and less stringent alternative EGU NO_X ozone-season emissions budgets, reflecting uniform NO_X costs of $3,400 per ton and $500 per ton, respectively (see alternative emissions budgets in tables VI.2 and VI.3). The EPA evaluated the impact of implementing these emissions budgets to reduce interstate transport for the 2008 ozone NAAQS in 2017. More details for this assessment can be found in the Regulatory Impact Analysis in the docket for this proposed rule.

The EPA notes that its analysis of the regulatory control scenarios (*i.e.,* the proposal and more and less stringent alternatives) is illustrative in nature, in part because the EPA proposes to implement the proposed EGU NO_X emissions budgets via a regional NO_X ozone-season allowance trading program. This implementation approach provides utilities with the flexibility to determine their own compliance path. The EPA's assessment develops and analyzes one possible scenario for implementing the NO_X budgets proposed by this action and one possible scenario for implementing the more and less stringent alternatives.

Table VIII.1 provides the projected 2017 EGU emissions reductions for the evaluated regulatory control scenarios.

TABLE VIII.1—PROJECTED 2017 EMISSIONS REDUCTIONS OF NO_X, SO_2, AND CO_2 WITH THE PROPOSED NO_X EMISSIONS BUDGETS AND MORE OR LESS STRINGENT ALTERNATIVES

[TONS] [1]

	Proposal	More stringent alternative	Less stringent alternative
NO_X (annual)	89,969	92,582	23,686
NO_X (ozone season)	84,856	83,680	25,051
SO_2 (annual)	383	425	301
CO_2 (annual)	610,092	614,385	719,760

[1] NO_X and SO_2 emissions are reported in English (short) tons; CO_2 is reported in metric tons.

The EPA estimates the costs associated with compliance with the illustrative proposed regulatory control alternative to be approximately $93 million annually. These costs represent the private compliance cost of reducing NO_X emissions to comply with the proposal and include monitoring, recordkeeping, and reporting costs. Table VIII.2 provides the estimated costs for the evaluated regulatory control scenarios, including the proposal and more and less stringent alternatives. Estimates are in 2011 dollars.

TABLE VIII.2—COST ESTIMATES FOR COMPLIANCE WITH THE PROPOSED NO_X EMISSIONS BUDGETS AND MORE AND LESS STRINGENT ALTERNATIVES

[2011]$ [1]

	Proposal	More stringent alternative	Less stringent alternative
Costs	$93	$96	$4.7

[1] Levelized annualized costs over the period 2016 through 2040, discounted using the 4.77 discount rate used in IPM's objective function of minimizing the net present value of the stream of total costs of electricity generation.

In this analysis, the EPA monetized the estimated benefits associated with reducing population exposure to ozone and $PM_{2.5}$ and co-benefits of decreased emissions of CO_2, but was unable to monetize the co-benefits associated with reducing exposure to mercury, carbon monoxide, and NO_2, as well as ecosystem effects and visibility impairment. In addition, the EPA expects positive health and welfare impacts associated with reduced levels of hydrogen chloride, but could not quantify these impacts. Among the benefits it could quantify, the EPA estimated combinations of health benefits at discount rates of 3 percent and 7 percent (as recommended by the EPA's *Guidelines for Preparing Economic Analyses* [U.S. EPA, 2014] and OMB's *Circular A–4* [OMB, 2003]) and climate co-benefits at discount rates of 5 percent, 3 percent, 2.5 percent, and 3 percent (95th percentile) (as recommended by the interagency working group). The EPA estimates the monetized ozone-related benefits [119] of the proposal to be $490 million to $790 million (2011$) in 2017 and the

[119] The ozone-related health benefits range is based on applying different adult mortality functions (*i.e.,* Smith *et al.* (2009) and Zanobetti and Schwartz (2008)).

$PM_{2.5}$-related co-benefits [120] of the proposal to be $190 million to $430 million (2011$) using a 3% discount rate and $170 million to $380 million (2011$) using a 7% discount rate. Further, the EPA estimates CO_2-related co-benefits of $6.5 to $66 million (2011$). Additional details on this analysis are provided in the RIA for this proposal. Tables VIII.3 and VIII.5 summarize the quantified monetized human health and climate benefits of the proposal and the more and less stringent control alternatives. Table VIII.4 summarizes the estimated avoided ozone- and $PM_{2.5}$-related health incidences for the proposal and the more and less stringent control alternatives.

TABLE VIII.3—ESTIMATED HEALTH BENEFITS OF PROJECTED 2017 EMISSIONS REDUCTIONS FOR THE PROPOSAL AND MORE OR LESS STRINGENT ALTERNATIVES

[Millions of 2011]$ [1]

	Proposal	More stringent alternative	Less stringent alternative
NO_X (as ozone)	$490 to $790	$500 to $820	$140 to $220
NO_X (as $PM_{2.5}$):			
3% Discount Rate	190 to 430	190 to 440	49 to 110
7% Discount Rate	170 to 380	170 to 390	45 to 100
Total:			
3% Discount Rate	670 to 1,200	690 to 1,300	190 to 340
7% Discount Rate	650 to 1,200	670 to 1,200	180 to 330

[1] The health benefits range is based on adult mortality functions (*e.g.,* from Krewski *et al.* (2009) with Smith *et al.* (2009) to Lepeule *et al.* (2012) with Zanobetti and Schwartz (2008)).

TABLE VIII.4—SUMMARY OF ESTIMATED AVOIDED OZONE-RELATED AND $PM_{2.5}$-RELATED HEALTH INCIDENCES FROM PROJECTED 2017 EMISSIONS REDUCTIONS FOR THE PROPOSAL AND MORE OR LESS STRINGENT ALTERNATIVES[1]

	Proposal	More stringent alternative	Less stringent alternative
Ozone-Related Health Effects			
Avoided Premature Mortality:			
Smith *et al.* (2009) (all ages)	48	50	14
Zanobetti and Schwartz (2008) (all ages)	81	83	23
Avoided Morbidity:			
Hospital admissions—respiratory causes (ages > 65)	79	81	22
Emergency room visits for asthma (all ages)	320	330	90
Asthma exacerbation (ages 6–18)	93,000	95,000	26,000
Minor restricted-activity days (ages 18–65)	240,000	240,000	67,000
School loss days (ages 5–17)	77,000	79,000	22,000
$PM_{2.5}$-Rrelated Health Effects			
Avoided Premature Mortality:			
Krewski *et al.* (2009) (adult)	21	22	6
Lepeule *et al.* (2012) (adult)	48	50	13
Woodruff *et al.* (1997) (infant)	<1	<1	<1
Avoided Morbidity:			
Emergency department visits for asthma (all ages)	12	12	3
Acute bronchitis (age 8–12)	31	32	8
Lower respiratory symptoms (age 7–14)	390	400	100
Upper respiratory symptoms (asthmatics age 9–11)	560	570	150
Minor restricted-activity days (age 18–65)	16,000	16,000	4,200
Lost work days (age 18–65)	2,700	2,700	700
Asthma exacerbation (age 6–18)	580	600	150
Hospital admissions—respiratory (all ages)	6	7	2
Hospital admissions—cardiovascular (age > 18)	8	8	2
Non-Fatal Heart Attacks (age >18)	.....	.....	.....
Peters *et al.* (2001)	25	26	7
Pooled estimate of 4 studies	3	3	1

[1] All estimates are rounded to whole numbers with two significant figures.

[120] The $PM_{2.5}$-related health co-benefits range is based on applying different adult mortality functions (*i.e.,* Krewski *et al.* (2009) and Lepeule *et al.* (2012)).

TABLE VIII.5—ESTIMATED GLOBAL CLIMATE CO-BENEFITS OF CO_2 REDUCTIONS FOR THE PROPOSAL AND MORE OR LESS STRINGENT ALTERNATIVES

[Millions of 2011$] [1]

Discount rate and statistic	Proposal	More stringent alternative	Less stringent alternative
5% (average)	$6.5	$6.5	$7.6
3 (average)	23	23	27
2.5 (average)	35	35	41
3 (95th percentile)	66	66	78

[1] The social cost of carbon ($SC–CO_2$) values are dollar-year and emissions-year specific. $SC–CO_2$ values represent only a partial accounting of climate impacts.

The EPA combined this information to perform a benefit-cost analysis for this proposal (shown in table VIII.6 and for the more and less stringent alternatives—shown in the RIA in the docket for this proposed rule).

TABLE VIII.6—TOTAL COSTS, TOTAL MONETIZED BENEFITS, AND NET BENEFITS OF THE PROPOSAL IN 2017 FOR U.S.

[Millions of 2011$]

Climate Co-Benefits	$23.
Air Quality Health	670 to 1200.
Total Benefits	700 to 1200.
Annualized	93.
Net Benefits	600 to 1100.
Non-Monetized	Non-monetized climate benefits. Reductions in exposure to ambient NO_2 and SO_2. Reductions in mercury deposition. Ecosystem benefits assoc. with reductions in Visibility impairment.

There are additional important benefits that the EPA could not monetize. Due to current data and modeling limitations, our estimates of the co-benefits from reducing CO_2 emissions do not include important impacts like ocean acidification or potential tipping points in natural or managed ecosystems. Unquantified benefits also include climate co-benefits from reducing emissions of non-CO_2 GHGs (*e.g.,* nitrous oxide and methane) and co-benefits from reducing direct exposure to SO_2, NO_X, and hazardous air pollution (*e.g.,* mercury), as well as from reducing ecosystem effects and visibility impairment. Based upon the foregoing discussion, it remains clear that the benefits of this proposed action are substantial, and far exceed the costs. Additional details on benefits, costs, and net benefits estimates are provided in the RIA for this proposal.

For this proposed rule, the EPA analyzed the costs to the electric power sector using IPM. The IPM is a dynamic linear programming model that can be used to examine the economic impacts of air pollution control policies for SO_2 and NO_X throughout the contiguous United States for the entire power system. Documentation for IPM can be found in the docket for this rulemaking or at *www.epa.gov/powersectormodeling.*

The EPA provides a qualitative assessment of economic impacts associated with electricity price changes to consumers that may result from this proposed rule. This assessment can be found in the RIA for this proposed rule.

Executive Order 13563 directs federal agencies to consider the effect of regulations on job creation and employment. According to the Executive Order, ''our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science'' (Executive Order 13563, 2011). Although standard benefit-cost analyses have not typically included a separate analysis of regulation-induced employment impacts, employment impacts are of particular concern and questions may arise about their existence and magnitude.

States have the responsibility and flexibility to implement policies and practices as part of developing SIPs for compliance with the emissions budgets found in this proposed rule. Given the wide range of approaches that may be used and industries that could be affected, quantifying the associated employment impacts is difficult.

IX. Summary of Proposed Changes to the Regulatory Text for the CSAPR FIPs and CSAPR Trading Programs

This section describes proposed amendments to the regulatory text in the CFR for the CSAPR FIPs and the CSAPR NO_X Ozone-Season Trading Program related to the findings and remedy discussed throughout this preamble. This section also describes other minor proposed corrections to the existing CFR text for the CSAPR FIPs and the CSAPR trading programs more generally.

The proposed regulatory text amendments related to the CSAPR FIPs and the CSAPR NO_X Ozone-Season Trading Program would be made in parts 52, 78, and 97 of title 40 of the CFR. Proposed changes to update the list of states that would be subject to FIPs to address obligations related to transported ozone pollution are in §§ 52.38(b)(2) (summarizing all states subject to FIPs), 52.540 (ending FIP for Florida), 52.882 (establishing FIP for Kansas), and 52.2140 (ending FIP for South Carolina). Section 97.510 contains the proposed changes establishing or revising the amounts of NO_X Ozone-Season trading budgets, new unit set-asides (NUSAs), Indian country NUSAs, and variability limits for states whose sources participate in the CSAPR NO_X Ozone-Season Trading Program. Additional proposed changes to accommodate trading program participation by sources whose coverage

starts in different years are in §§ 97.506(c)(3) (compliance deadlines), 97.512 (NUSA allowance allocation procedures), 97.530(b) (monitor certification deadlines), and 97.534(d) (reporting deadlines).

Proposed changes to § 52.38(b)(3) through (5) would update states' options to submit SIP revisions which, upon approval by the EPA, would modify certain CSAPR trading program provisions as applied to those states or replace the states' FIPs with SIPs—options that correspond closely to states' SIP revision options under CSAPR as initially promulgated. Proposed changes in § 97.521 (allowance recordation) delay the deadlines for recording CSAPR NO_X Ozone-Season allowances for the control periods in 2018 through 2022 in order to coordinate with the proposed updated submission deadlines for the optional SIP revisions. A similar proposed delay in the deadline for recording allowances for the control period in 2017 would provide time to finalize this rulemaking and would thereby allow the EPA to record allocations of 2017 allowances based on the final revised budgets instead of recording allocations based on existing budgets that are proposed to be superseded.

The proposed limitations on the use of emission allowances issued for a compliance period before 2017 or from the state NO_X Ozone-Season trading budget for Georgia are implemented by redefining sources' obligations under the trading program in terms of ''tonnage equivalents'' of allowances rather than in terms of nominal quantities of allowances. Section 97.502 contains a proposed new definition of ''tonnage equivalent'' and related proposed modifications to the definitions of ''CSAPR NO_X Ozone-Season allowance'' and ''CSAPR NO_X Ozone-Season emissions limitation.'' A new § 97.524(f) sets out the proposed procedures for determining the tonnage equivalent of an allowance. Additional proposed changes to reflect the use of allowances based on their tonnage equivalents (rather than their nominal numbers) to meet various obligations are contained in §§ 97.506(c) (standard requirements relating to NO_X emissions), 97.511(c) (corrections of incorrect allowance allocations), 97.524 (compliance with emissions limitations and excess emissions provisions), and 97.525 (compliance with assurance provisions). A proposed change to § 78.1 would make EPA's determinations of the tonnage equivalents of particular allowance holdings subject to the administrative appeal procedures set forth in part 78.

In addition to the proposed CFR changes described above, this proposal also includes other minor amendments throughout the sections of parts 52, 78, and 97 implementing CSAPR, including sections implementing CSAPR's other three emissions trading programs. The most common category of these minor changes consists of proposed corrections to cross-references. Some cross-references would change as a result of this proposal and corrections of those cross-references are therefore related to the changes described above, while other cross-references as originally published indicated incorrect locations because of typographical errors or indicated correct locations but did not use the correct CFR format. In virtually all cases, the intended correct cross-reference can be determined from context, but the corrections clarify the regulations.

Besides the proposed corrections to cross-references, most of the remaining proposed corrections address other typographical errors. However, a small number of the proposed CFR changes correct errors that are not cross-references or obviously typographical errors. While the EPA views all of these proposed corrections as noncontroversial, a few merit a short explanation.

First, the phrase ''with regard to the State'' or ''the State and'' would be added in a number of locations in §§ 52.38 and 52.39 where it was inadvertently omitted. The added phrase clarifies that when the EPA approves a state's SIP revision as modifying or replacing provisions in a CSAPR trading program, the modification or replacement is effective only with regard to that particular state. Correcting the omissions of these phrases would make the language concerning SIP revisions consistent for all the types of SIP revisions under all the CSAPR trading programs.

Second, the phrase ''in part'' would be removed from the existing FIP language in various sections of part 52 for certain states with Indian country to clarify that in order to replace a CSAPR FIP affecting the sources in these states, a SIP revision must fully, not ''in part,'' correct the SIP deficiency identified by the EPA as the basis for the FIP. The intended purpose of the words ''in part''—specifically, to indicate that approval of a state's SIP revision would not relieve any sources in Indian country within the borders of the state from obligations under the FIP—is already served by other language in those FIPs. The proposed corrections would make the language in these CSAPR FIPs consistent with the FIP language for the remaining CSAPR FIPs that address states with Indian country. Analogous proposed changes to the general CSAPR FIP language in §§ 52.38(a)(5) and (6) and (b)(5) and (6) and 52.39(f), (i), and (j) would remove the phrase ''in whole or in part'' (referencing states without Indian country and states with Indian country, respectively) while adding language distinguishing the effect that the EPA's approval of a SIP revision would have on sources in the state from the lack of effect on any sources in Indian country within the borders of the state.

Third, language would be added to § 78.1 clarifying that determinations by the EPA Administrator under the CSAPR trading programs that are subject to the part 78 administrative appeal procedures are subject to those procedures whether the source in question participates in a CSAPR trading program under a FIP or under an approved SIP revision. This approach is consistent with the approach taken under CAIR FIPs and SIPs and with the EPA's intent in CSAPR, as evidenced by the lack of any proposal or discussion in the CSAPR rulemaking regarding deviation from the historical approach. This approach is also consistent with provisions in §§ 52.38 and 52.39 prohibiting approvable SIP revisions from altering certain provisions of the CSAPR trading programs, including the provisions specifying that administrative appeal procedures for determinations of the EPA Administrator under the trading programs are set forth in part 78.

Fourth, the phrase ''steam turbine generator'' would be changed to ''generator'' in the list of required equipment in the definition of a ''cogeneration system'' in §§ 97.402, 97.502, 97.602, and 97.702. Absent this correction, a combustion turbine in a facility that uses the combustion turbine in combination with an electricity generator and heat recovery steam generator, but no steam turbine, to produce electricity and useful thermal energy would not meet the definition of a ''cogeneration unit.'' The proposed correction would clarify that a combustion turbine in such a facility should be able to qualify as a ''cogeneration unit'' (assuming it meets other relevant criteria) under the CSAPR trading programs, as it could under the CAIR trading programs. The consistency of this approach with the EPA's intent in the CSAPR rulemaking is evidenced by the lack of any proposal or discussion in that rulemaking regarding the concept of narrowing the set of

facilities qualifying for an applicability exemption as cogeneration units. To the contrary, as discussed in the preamble to the CSAPR proposal (75 FR 45307, August 2, 2010), the definition of ''cogeneration system'' was created in CSAPR to potentially broaden the set of facilities qualifying for the exemption, specifically by facilitating qualification as ''cogeneration units'' for certain units that might not meet the required levels of efficiency on an individual basis but that operate as components of multi-unit ''cogeneration systems'' that do meet the required levels of efficiency.

Fifth, the deadline for recording certain allowance allocations under §§ 97.421(j), 97.521(j), 97.621(j), and 97.721(j) would be changed from the ''date on which'' the EPA receives the necessary allocation information to the date ''15 days after the date on which'' the EPA receives the information. The EPA's lack of intention in the CSAPR rulemaking to establish the deadline as defined prior to the correction is evidenced by the impracticability of complying with such a deadline.

Sixth, a proposed change to a description of a required notice under the assurance provisions in §§ 97.425(b)(2)(iii)(B), 97.525(b)(2)(iii)(B), 97.625(b)(2)(iii)(B), and 97.725(b)(2)(iii)(B) would modify the phrase ''any adjustments'' to the phrase ''calculations incorporating any adjustments'' in order to clarify that the required notice will identify not only any adjustments made to previously noticed calculations, but also the complete calculations with (or without) such adjustments. The intended meaning is clear from the subsequent provisions that use this notice as the point of reference for the complete calculations used in the succeeding administrative procedures.

Finally, the EPA notes that the proposed amendments include updating the nomenclature in the CFR from its name as initially proposed—''Transport Rule'' or ''TR''—to its name as finalized—''Cross-State Air Pollution Rule'' or ''CSAPR.'' This update is intended to reduce confusion and simplify communications regarding the regulations by allowing a single name to be used in all contexts.

The EPA invites comment on the proposed regulatory text amendments described above and shown at the end of this notice.

X. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, which is contained in the ''Regulatory Impact Analysis for the Proposed Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS'' [EPA–452/R–15–009], is available in the docket and is briefly summarized in section VIII of this preamble.

Consistent with Executive Orders 12866 and 13563, the EPA estimated the costs and benefits for three regulatory control alternatives: The proposed EGU NO_X ozone-season emissions budgets and more and less stringent alternatives. This proposed action would reduce ozone season NO_X emissions from EGUs in 23 eastern states. Actions taken to comply with the proposed EGU NO_X ozone-season emissions budgets would also reduce emissions of other criteria air pollution and hazardous air pollution emissions, including annual NO_X, and CO_2. The benefits associated with these co-pollutant reductions are referred to as co-benefits, as these reductions are not the primary objective of this proposed rule.

The RIA for this proposal analyzed illustrative compliance approaches for implementing the proposed FIPs. This proposal would establish EGU NO_X ozone-season emissions budgets for 23 states and implement these budgets via the existing CSAPR NO_X ozone-season allowance trading program.

The EPA evaluated the costs, benefits, and impacts of implementing the proposed EGU NO_X ozone-season emissions budgets that reflect uniform NO_X costs of $1,300 per ton (see proposed emissions budgets in table VI.1). In addition, the EPA also assessed implementation of other more and less stringent alternative EGU NO_X ozone-season emissions budgets, reflecting uniform NO_X costs of $3,400 per ton and $500 per ton, respectively (see alternative emissions budgets in tables VI.2 and VI.3). The EPA evaluated the impact of implementing these emissions budgets to reduce interstate transport for the 2008 ozone NAAQS in 2017. More details for this assessment can be found in the Regulatory Impact Analysis in the docket for this proposed rule.

The EPA notes that its analysis of the regulatory control scenarios (*i.e.,* the proposal and more and less stringent alternatives) is illustrative in nature, in part because the EPA proposes to implement the proposed EGU NO_X emissions budgets via a regional NO_X ozone-season allowance trading program. This implementation approach provides utilities with the flexibility to determine their own compliance path. The EPA's assessment develops and analyzes one possible scenario for implementing the NO_X budgets proposed by this action and one possible scenario for implementing the more and less stringent alternatives.

The EPA estimates the costs associated with compliance with the illustrative proposed regulatory control alternative to be approximately $93 million (2011$) annually. These costs represent the private compliance cost of reducing NO_X emissions to comply with the proposal.

In this analysis, the EPA monetized the estimated benefits associated with the reduced exposure to ozone and $PM_{2.5}$ and co-benefits of decreased emissions of CO_2, but was unable to monetize the co-benefits associated with reducing exposure to mercury, carbon monoxide, and NO_2, as well as ecosystem effects and visibility impairment. In addition, there are expected to be unquantified health and welfare impacts associated with changes in hydrogen chloride. Specifically, the EPA estimated combinations of health benefits at discount rates of 3 percent and 7 percent (as recommended by the EPA's *Guidelines for Preparing Economic Analyses* [U.S. EPA, 2014] and OMB's *Circular A–4* [OMB, 2003]) and climate co-benefits at discount rates of 5 percent, 3 percent, 2.5 percent, and 3 percent (95th percentile) (as recommended by the interagency working group). The EPA estimates the monetized ozone-related benefits [121] of the proposal to be $490 million to $790 million (2011$) in 2017 and the $PM_{2.5}$-related co-benefits [122] of the proposal to be $190 million to $430 million (2011$) using a 3% discount rate and $170 million to $380 million (2011$) using a 7% discount rate. Further, the EPA estimates CO_2-related co-benefits of $6.5 to $66 million (2011$). Additional details on this analysis are provided in the RIA for this proposal. Tables X.A–

[121] The ozone-related health benefits range is based on applying different adult mortality functions (*i.e.,* Smith et al. (2009) and Zanobetti and Schwartz (2008)).

[122] The $PM_{2.5}$-related health co-benefits range is based on applying different adult mortality functions (*i.e.,* Krewski et al. (2009) and Lepeule et al. (2012)).

1, X.A–2, and X.A–3 summarize the quantified human health and climate benefits and the costs of the proposal and the more and less stringent control alternatives.

TABLE X.A–1—ESTIMATED HEALTH BENEFITS OF PROJECTED 2017 EMISSIONS REDUCTIONS FOR THE PROPOSAL AND MORE OR LESS STRINGENT ALTERNATIVES

[Millions of 2011$] [1]

	Proposal	More stringent	Less stringent
NO_X (as ozone)	$490 to $790	$500 to $820	$140 to $220
NO_X (as $PM_{2.5}$)			
3% Discount Rate	$190 to $430	$190 to $440	$49 to $110.
7% Discount Rate	$170 to $380	$170 to $390	$45 to $100.
Total			
3% Discount Rate	$670 to $1,200	$690 to $1,300	$190 to $340.
7% Discount Rate	$650 to $1,200	$670 to $1,200	$180 to $330.

[1] The health benefits range is based on adult mortality functions (*e.g.,* from Krewski et al. (2009) with Smith *et al.* (2009) to Lepeule *et al.* (2012) with Zanobetti and Schwartz (2008)).

TABLE X.A–2—ESTIMATED GLOBAL CLIMATE CO-BENEFITS OF CO_2 REDUCTIONS FOR THE PROPOSAL AND MORE OR LESS STRINGENT ALTERNATIVES

[Millions of 2011$] [1]

Discount rate and statistic	Proposal	More stringent	Less stringent
5% (average)	$6.5	$6.5	$7.6
3% (average)	23	23	27
2.5% (average)	35	35	41
3% (95th percentile)	66	66	78

[1] The social cost of carbon ($SC–CO_2$) values are dollar-year and emissions-year specific. $SC–CO_2$ values represent only a partial accounting of climate impacts.

The EPA combined this information to perform a benefit-cost analysis for this proposal (shown in table VIII.6 and for the more and less stringent alternatives—shown in the RIA in the docket for this proposed rule).

TABLE X.A–3—TOTAL COSTS, TOTAL MONETIZED BENEFITS, AND NET BENEFITS OF THE PROPOSAL IN 2017 FOR U.S.

[Millions of 2011$]

Climate Co-Benefits	$23.
Air Quality Health Benefits	$670 to $1200.
Total Benefits	$700 to $1200.
Annualized Costs	$93.
Compliance Costs	$10.
Net Benefits	$600 to $1100.
Non-Monetized Benefits	Non-monetized climate benefits. Reductions in exposure to ambient NO_2 and SO_2. Reductions in mercury deposition. Ecosystem benefits assoc. with reductions in emissions of NO_X, SO_2, and PM. Visibility impairment.

There are additional important benefits that the EPA could not monetize. Due to current data and modeling limitations, our estimates of the co-benefits from reducing CO_2 emissions do not include important impacts like ocean acidification or potential tipping points in natural or managed ecosystems. Unquantified benefits also include climate co-benefits from reducing emissions of non-CO_2 GHGs (*e.g.,* nitrous oxide and methane) and co-benefits from reducing direct exposure to SO_2, NO_X, and hazardous air pollution (*e.g.,* mercury), as well as from reducing ecosystem effects and visibility impairment. Based upon the foregoing discussion, it remains clear that the benefits of this proposed action are substantial, and far exceed the costs. Additional details on benefits, costs, and net benefits estimates are provided in the RIA for this proposal.

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2391.04. You can find a copy of the ICR in the docket for this proposed rule, and it is briefly summarized here.

The information generated by information collection activities under CSAPR is used by the EPA to ensure that affected facilities comply with the emission limits and other requirements. Records and reports are necessary to enable EPA or states to identify affected facilities that may not be in compliance

with the requirements. The recordkeeping requirements require only the specific information needed to determine compliance. These recordkeeping and reporting requirements are established pursuant to CAA sections 110(a)(2)(D) and (c) and 301(a) (42 U.S.C. 7410(a)(2)(D) and (c) and 7601(a)) and are specifically authorized by CAA section 114 (42 U.S.C. 7414). Reported data may also be used for other regulatory and programmatic purposes. All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to EPA policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

All of the EGUs that would be subject to changed information collection requirements under this proposed rule are already subject to information collection requirements under CSAPR. Most of these EGUs also are already subject to information collection requirements under the Acid Rain Program (ARP) established under Title IV of the 1990 Clean Air Act Amendments. Both CSAPR and the ARP have existing approved ICRs: EPA ICR Number 2391.03/OMB Control Number 2060–0667 (CSAPR) and EPA ICR Number 1633.16/OMB Control Number 2060–0258 (ARP). The burden and costs of the information collection requirements covered under the CSAPR ICR are estimated as incremental to the information collection requirements covered under the ARP ICR. Most of the information used to estimate burden and costs in this ICR was developed for the existing CSAPR and ARP ICRs.

This proposed rule would change the universe of sources subject to certain information collection requirements under CSAPR but would not change the substance of any CSAPR information collection requirements. The burden and costs associated with the proposed changes in the reporting universe are estimated as reductions from the burden and costs under the existing CSAPR ICR. (This proposed rule would not change any source's information collection requirements with respect to the ARP.) The EPA intends to incorporate the burden and costs associated with the proposed changes in the reporting universe under this rulemaking into the next renewal of the CSAPR ICR.

Respondents/affected entities: Entities potentially affected by this proposed action are EGUs in the states of Florida, Kansas, and South Carolina that meet the applicability criteria for the CSAPR NO_X Ozone-Season Trading Program in 40 CFR 97.404.

Respondent's obligation to respond: Mandatory (sections 110(a) and 301(a) of the Clean Air Act).

Estimated number of respondents: 116 sources in Florida, Kansas, and South Carolina with one or more EGUs.

Frequency of response: Quarterly, occasionally.

Total estimated burden: Reduction of 14,064 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Reduction of $1,472,047 (per year), includes reduction of $450,951 operation and maintenance costs.

The burden and cost estimates above reflect the reduction in burden and cost for Florida sources with EGUs that would no longer be required to report NO_X mass emissions and heat input data for the ozone season to the EPA under the proposed rule and that are not subject to similar information collection requirements under the Acid Rain Program. Because these EGUs would no longer need to collect NO_X emissions or heat input data under 40 CFR part 75, the estimates above also reflect the reduction in burden and cost to collect and quality assure these data and to maintain the associated monitoring equipment.

The EPA estimates that the proposed rule would cause no change in information collection burden or cost for EGUs in Kansas that would be required to report NO_X mass emissions and heat input data for the ozone season to the EPA or for EGUs in South Carolina that would no longer be required to report NO_X emissions and heat input data for the ozone season to the EPA. The EGUs in both Kansas and South Carolina already are and would remain subject to requirements to report NO_X mass emissions and heat input data for the entire year to the EPA under the CSAPR NO_X Annual Trading Program, and the requirements related to ozone season reporting are a subset of the requirements related to annual reporting. Similarly, the EPA estimates that the proposed rule would cause no change in information collection burden or cost for EGUs in Florida that are subject to the Acid Rain Program because of the close similarity between the information collection requirements under CSAPR and under the Acid Rain Program.

More information on the ICR analysis is included in the docket for this rule.

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.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this proposed rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *oria_submissions@omb.eop.gov*, Attention: Desk Officer for the EPA. Because OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than January 4, 2016. The EPA will respond to any ICR-related comments in the final rule. The information collection requirements in the proposed rule have been submitted for approval to OMB under the PRA. The information collection requirements are not enforceable until OMB approves them. The information collection activities in this proposed rule include monitoring and the maintenance of records.

E. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses, small organizations, and small governmental jurisdictions.

The EPA has lessened the impacts for small entities by excluding all units smaller than 25 MWe. This exclusion, in addition to the exemptions for cogeneration units and solid waste incineration units, eliminates the burden of higher costs for a substantial number of small entities located in the 23 states for which the EPA is proposing FIPs.

Within these states, the EPA identified a total of 318 potentially affected EGUs (*i.e.,* greater than 25 MWe) warranting examination in its RFA analysis. Of these, EPA identified 16 potentially affected EGUs that are owned by 7 entities that met the Small Business Administration's criteria for identifying small entities. The EPA estimated the annualized net compliance cost to these 7 small entities to be approximately −$38.3 million in 2017, or savings of $38.3 million. The fact that the net compliance costs for all entities are actually net savings does not mean that each small entity would benefit from the proposal to update CSAPR. The net savings are driven by entities that are able to increase their revenues by increasing generation. Of the 7 small entities considered in this analysis, 1 entity may experience

compliance costs greater than 1 or 3 percent of generation revenues in 2017. Since this entity is not projected to operate in the base case, we are unable to compare the estimated compliance costs to base case generation revenues. However, we note that this entity is located in a cost of service market, where typically we expect entities should be able to recover all of their costs of complying with the proposal.

EPA has concluded that there is no significant economic impact on a substantial number of small entities (No SISNOSE) for this rule. Details of this analysis are presented in the RIA, which is in the public docket.

F. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. However, the EPA analyzed the economic impacts of the proposal on government entities. According to EPA's analysis, the total net economic impact on government owned entities (state- and municipality-owned utilities and subdivisions) is expected to be negative (*i.e.,* cost savings) in 2014. Note that we expect the proposal to potentially have an impact on only one category of government-owned entities (municipality-owned entities). This analysis does not examine potential indirect economic impacts associated with the proposal, such as employment effects in industries providing fuel and pollution control equipment, or the potential effects of electricity price increases on government entities. For more information on the estimated impact on government entities, refer to the RIA, which is in the public docket.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law.

This action proposes to implement EGU NO_X ozone season emissions reductions in 23 eastern states. However, at this time, none of the existing or planned EGUs affected by this proposed rule are owned by tribes or located in Indian country. This action may have tribal implications if a new affected EGU is built in Indian country. Additionally, tribes have a vested interest in how this proposed rule would affect air quality.

In developing CSAPR, which was promulgated on July 6, 2011 to address interstate transport of ozone pollution under the 1997 ozone NAAQS,[123] the EPA consulted with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing that regulation to permit them to have meaningful and timely input into its development. A summary of that consultation is provided in 76 FR 48346 (August 8, 2011).

EPA received comments from several tribal commenters regarding the availability of CSAPR allowance allocations to new units in Indian country. EPA responded to these comments by instituting Indian country new unit set-asides in the final CSAPR. In order to protect tribal sovereignty, these set-asides are managed and distributed by the federal government regardless of whether CSAPR in the adjoining or surrounding state is implemented through a FIP or SIP. While there are no existing affected EGUs in Indian country covered by this proposal, the Indian country set-asides will ensure that any future new units built in Indian country will be able to obtain the necessary allowances. This proposal maintains the Indian country new unit set-aside and adjusts the amounts of allowances in each set-aside according to the same methodology of the original CSAPR rule.

The EPA has informed tribes of our development of this proposal through a National Tribal Air Association—EPA air policy conference call (January 29, 2015). The EPA plans to further consult with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to permit them to have meaningful and timely input into its development. The EPA will facilitate this consultation before finalizing this proposed rule.

As required by section 7(a), the EPA's Tribal Consultation Official has certified that the requirements of the executive order have been met in a meaningful and timely manner. A copy of the certification is included in the docket for this action.

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

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not involve decisions on environmental health or safety risks that may disproportionately affect children. The EPA believes that the ozone-related benefits, $PM_{2.5}$-related co-benefits, and CO_2-related co-benefits would further improve children's health.

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

This action, which is a significant regulatory action under Executive Order 12866, is likely to have a significant effect on the supply, distribution, or use of energy. The EPA notes that one aspect of this proposal that may affect energy supply, disposition or use is the EPA's proposing and taking comment on a range of options with respect to use of 2015 vintage and 2016 vintage CSAPR NO_X ozone-season allowances for compliance with 2017 and later ozone season requirements. The EPA has prepared a Statement of Energy Effects for the proposed regulatory control alternative as follows. We estimate a much less than 1 percent change in retail electricity prices on average across the contiguous U.S. in 2017, and a much less than 1 percent reduction in coal-fired electricity generation in 2017 as a result of this rule. The EPA projects that utility power sector delivered natural gas prices will change by less than 1 percent in 2017. For more information on the estimated energy effects, refer to the RIA, which is in the public docket.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects

[123] CSAPR also addressed interstate transport of fine particulate matter ($PM_{2.5}$) under the 1997 and 2006 $PM_{2.5}$ NAAQS.

on minority, low-income or indigenous populations.

The EPA notes that this action proposes to update CSAPR to reduce interstate ozone transport with respect to the 2008 ozone NAAQS. This proposed rule uses EPA's authority in CAA section 110(a)(2)(d) to reduce (nitrogen oxides) NO_X pollution that significantly contributes to downwind ozone nonattainment or maintenance areas. As a result, the proposed rule will reduce exposures to ozone in the most-contaminated areas (*i.e.,* areas that are not meeting the 2008 ozone National Ambient Air Quality Standards (NAAQS)). In addition, this proposed rule separately identifies both nonattainment areas and maintenance areas. This requirement reduces the likelihood that areas close to the level of the standard will exceed the current health-based standards in the future. The EPA proposes to implement these emission reductions using the CSAPR EGU NO_X ozone-season emissions trading program with assurance provisions.

EPA recognizes that many environmental justice communities have voiced concerns in the past about emission trading and the potential for any emission increases in any location. The EPA believes that CSAPR mitigated these concerns and that this proposal, which applies the CSAPR framework to reduce interstate ozone pollution and implement these reductions, will also minimize community concerns. The EPA seeks comment from communities on this proposal.

Ozone pollution from power plants have both local and regional components: Part of the pollution in a given location—even in locations near emission sources—is due to emissions from nearby sources and part is due to emissions that travel hundreds of miles and mix with emissions from other sources.

It is important to note that the section of the Clean Air Act providing authority for this proposed rule, section 110(a)(2)(D), unlike some other provisions, does not dictate levels of control for particular facilities. CSAPR allows sources to trade allowances with other sources in the same or different states while firmly constraining any emissions shifting that may occur by requiring a strict emission ceiling in each state (the assurance level). In addition, assurance provisions in the existing CSAPR regulations that will remain in place under this proposal outline the allowance surrender penalties for failing to meet the assurance level; there are additional allowance penalties as well as financial penalties for failing to hold an adequate number of allowances to cover emissions.

This approach reduces EGU emissions in each state that significantly contribute to downwind nonattainment or maintenance areas, while allowing power companies to adjust generation as needed and ensure that the country's electricity needs will continue to be met. EPA maintains that the existence of these assurance provisions, including the penalties imposed when triggered, will ensure that state emissions will stay below the level of the budget plus variability limit.

In addition, all sources must hold enough allowances to cover their emissions. Therefore, if a source emits more than its allocation in a given year, either another source must have used less than its allocation and be willing to sell some of its excess allowances, or the source itself had emitted less than its allocation in one or more previous years (*i.e.,* banked allowances for future use).

In summary, the CSAPR minimizes community concerns about localized hot spots and reduces ambient concentrations of pollution where they are most needed by sensitive and vulnerable populations by: Considering the science of ozone transport to set strict state emissions budgets to reduce significant contributions to ozone nonattainment and maintenance (*i.e.,* the most polluted) areas; implementing air quality-assured trading; requiring any emissions above the level of the allocations to be offset by emission decreases; and imposing strict penalties for sources that contribute to a state's exceedance of its budget plus variability limit. In addition, it is important to note that nothing in this proposed rule allows sources to violate their title V permit or any other federal, state, or local emissions or air quality requirements.

In addition, it is important to note that CAA section 110(a)(2)(d), which addresses transport of criteria pollutants between states, is only one of many provisions of the CAA that provide EPA, states, and local governments with authorities to reduce exposure to ozone in communities. These legal authorities work together to reduce exposure to these pollutants in communities, including for minority, low-income, and tribal populations, and provide substantial health benefits to both the general public and sensitive sub-populations.

The EPA has informed communities of our development of this proposal through an Environmental Justice community call (January 28, 2015) and a National Tribal Air Association—EPA air policy conference call (January 29, 2015). The EPA plans to further consult with communities early in the process of developing this regulation to permit them to have meaningful and timely input into its development. The EPA will facilitate this engagement before finalizing this proposed rule.

K. Determinations Under Section 307(b)(1) and (d)

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit if (i) the agency action consists of ''nationally applicable regulations promulgated, or final action taken, by the Administrator,'' or (ii) such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

The EPA proposes to find that any final action related to this rulemaking is ''nationally applicable'' or of ''nationwide scope and effect'' within the meaning of section 307(b)(1). Through this rulemaking action, the EPA interprets section 110 of the CAA, a provision which has nationwide applicability. In addition, the proposed rule would apply to 23 States. The proposed rule is also based on a common core of factual findings and analyses concerning the transport of pollutants between the different states subject to it. For these reasons, the Administrator proposes to determine that any final action related to the proposed rule is of nationwide scope and effect for purposes of section 307(b)(1). Thus, pursuant to section 307(b) any petitions for review of any final actions regarding the rulemaking would be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date any final action is published in the **Federal Register**.

In addition, pursuant to sections 307(d)(1)(C) and 307(d)(1)(V) of the CAA, the Administrator proposes to determine that this action is subject to the provisions of section 307(d). CAA section 307(d)(1)(B) provides that section 307(d) applies to, among other things, to ''the promulgation or revision of an implementation plan by the Administrator under CAA section 110(c).'' 42 U.S.C. 7407(d)(1)(B). Under section 307(d)(1)(V), the provisions of section 307(d) also apply to ''such other actions as the Administrator may

determine.'' 42 U.S.C. 7407(d)(1)(V). The Agency has complied with procedural requirements of CAA section 307(d) during the course of this rulemaking.

List of Subjects in 40 CFR Parts 52, 78, and 97.

Environmental protection, Administrative practice and procedure, Air pollution control, Electric power plants, Incorporation by reference, Nitrogen oxides, Reporting and recordkeeping requirements.

Dated: November 16, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, parts 52, 78, and 97 of chapter I of title 40 of the *Code of Federal Regulations* are proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

§§ 52.38, 52.39, 52.54, 52.55, 52.184, 52.540, 52.584, 52.585, 52.731, 52.732, 52.789, 52.790, 52.840, 52.841, 52.882, 52.883, 52.940, 52.941, 52.984, 52.1084, 52.1085, 52.1186, 52.1187, 52.1240, 52.1241, 52.1284, 52.1326, 52.1327, 52.1428, 52.1429, 52.1584, 52.1585, 52.1684, 52.1685, 52.1784, 52.1785, 52.1882, 52.1883, 52.1930, 52.2040, 52.2041, 52.2140, 52.2141, 52.2240, 52.2241, 52.2283, 52.2284, 52.2440, 52.2441, 52.2540, 52.2541, 52.2587, and 52.2588 [Amended]

■ 2. Sections 52.38, 52.39, 52.54, 52.55, 52.184, 52.540, 52.584, 52.585, 52.731, 52.732, 52.789, 52.790, 52.840, 52.841, 52.882, 52.883, 52.940, 52.941, 52.984, 52.1084, 52.1085, 52.1186, 52.1187, 52.1240, 52.1241, 52.1284, 52.1326, 52.1327, 52.1428, 52.1429, 52.1584, 52.1585, 52.1684, 52.1685, 52.1784, 52.1785, 52.1882, 52.1883, 52.1930, 52.2040, 52.2041, 52.2140, 52.2141, 52.2240, 52.2241, 52.2283, 52.2284, 52.2440, 52.2441, 52.2540, 52.2541, 52.2587, and 52.2588 are amended by removing ''TR Federal Implementation Plan'' wherever it appears and adding in its place ''CSAPR Federal Implementation Plan'', by removing ''TR NO_X'' wherever it appears and adding in its place ''CSAPR NO_X'', and by removing ''TR SO_2'' wherever it appears and adding in its place ''CSAPR SO_2''.

§§ 52.540, 52.840, 52.841, 52.882, 52.883, 52.984, 52.1186, 52.1187, 52.1240, 52.1241, 52.1284, 52.1428, 52.1429, 52.1684, 52.1685, 52.1784, 52.1785, 52.2140, 52.2141, 52.2283, 52.2284, 52.2587, and 52.2588 [Amended]

■ 3. Sections 52.540, 52.840, 52.841, 52.882, 52.883, 52.984, 52.1186, 52.1187, 52.1240, 52.1241, 52.1284, 52.1428, 52.1429, 52.1684, 52.1685, 52.1784, 52.1785, 52.2140, 52.2141, 52.2283, 52.2284, 52.2587, and 52.2588 are amended by removing ''correcting in part the SIP's deficiency that is the basis for the CSAPR Federal Implementation Plan'' wherever it appears and adding in its place ''correcting the SIP's deficiency that is the basis for the CSAPR Federal Implementation Plan''.

Subpart A—General Provisions

§ 52.36 [Amended]

■ 4. Section 52.36 is amended in paragraph (e)(1)(i) by removing ''paragraphs (a) through (e)'' and adding in its place ''paragraphs (a) through (c)''.

■ 5. Section 52.38 is amended by:

■ a. Revising the section heading;

■ b. In paragraph (a)(2), by removing ''the sources in the following States'' and adding in its place ''sources in each of the following States'';

■ c. In paragraph (a)(3)(ii), by adding ''the'' before ''CSAPR NO_X Annual trading budget'';

■ d. In paragraph (a)(3)(v)(A), by removing ''paragraph'' and adding in its place ''paragraphs'';

■ e. In the table in paragraph (a)(4)(i)(B), by removing ''annual'' and adding in its place ''Annual'', and by removing ''administrator'' and adding in its place ''the Administrator'';

■ f. In paragraph (a)(4)(ii), by removing ''for the first control period'' and adding in its place ''applicable to the first control period'';

■ g. In paragraph (a)(5) introductory text, by removing ''in whole or in part, as appropriate,'', and by removing ''paragraphs (a)(1) through (4) of this section'' and adding in its place ''paragraphs (a)(1) through (4) of this section with regard to sources in the State but not sources in any Indian country within the borders of the State'';

■ h. In the table in paragraph (a)(5)(i)(B), by removing ''annual'' and adding in its place ''Annual'', and by removing ''administrator'' and adding in its place ''the Administrator'';

■ i. In paragraph (a)(5)(iv), by adding after ''97.412(b)'' the words ''of this chapter'';

■ j. In paragraph (a)(5)(v), by removing ''97.425, and'' and adding in its place ''and 97.425 of this chapter and'', and by adding after ''other provisions'' the words ''of subpart AAAAA of part 97 of this chapter'';

■ k. In paragraph (a)(5)(vi), by removing ''paragraphs (a)(5)(i) and (ii)'' and adding in its place ''paragraph (a)(5)(i)'';

■ l. In paragraph (a)(6), by removing ''in whole or in part, as appropriate,'', by removing ''described in paragraphs (a)(1) through (5)'' and adding in its place ''set forth in paragraphs (a)(1) through (4)'', and by removing ''the sources'' and adding in its place ''sources'';

■ m. In paragraph (a)(7), by removing ''a State'' and adding in its place ''the State'';

■ n. In paragraph (b)(1), by adding ''subpart BBBBB of'' before ''part 97'';

■ o. Revising paragraph (b)(2);

■ p. Redesignating paragraph (b)(3) as paragraph (b)(3)(i); in redesignated paragraph (b)(3)(i), by further redesignating paragraphs (i) through (v) as paragraphs (A) through (E); and in redesignated paragraph (b)(3)(i)(E), by further redesignating paragraphs (A) and (B) as paragraphs (*1*) and (*2*);

■ q. In newly redesignated paragraph (b)(3)(i) introductory text, by removing ''paragraph (b)(2)'' and adding in its place ''paragraph (b)(2)(i) or (ii)'';

■ r. In newly redesignated paragraph (b)(3)(i)(B), by adding ''the'' before ''CSAPR NO_X Ozone Season trading budget'';

■ s. In newly redesignated paragraph (b)(3)(i)(E)(*1*), by removing ''paragraph (b)(3)(i) through (iv)'' and adding in its place ''paragraphs (b)(3)(i)(A) through (D)'';

■ t. In newly redesignated paragraph (b)(3)(i)(E)(*2*), by removing ''paragraph (b)(3)(v)(A)'' and adding in its place ''paragraph (b)(3)(i)(E)(*1*)'';

■ u. Adding a new paragraph (b)(3)(ii);

■ v. In paragraph (b)(4) introductory text, by removing ''paragraph (b)(2)'' and adding in its place ''paragraph (b)(2)(ii) or (iii)'';

■ w. In paragraph (b)(4)(i), by removing ''§§ '' and adding in its place ''§ '', by adding after ''chapter'' the words ''with regard to the State'', and by removing ''whenever'' and adding in its place ''wherever'';

■ x. Revising paragraph (b)(4)(ii) introductory text;

■ y. In paragraph (b)(4)(ii)(B), by revising the table;

■ z. In paragraph (b)(5) introductory text, by removing ''paragraph (b)(2)'' and adding in its place ''paragraph (b)(2)(ii) or (iii)'', by removing ''in whole or in part, as appropriate,'', and by removing ''paragraphs (b)(1) through (4) of this section'' and adding in its place ''paragraphs (b)(1) through (4) of this section with regard to sources in the State but not sources in any Indian country within the borders of the State'';

■ aa. In paragraph (b)(5)(i), by removing ''§§ '' and adding in its place ''§ '', by

adding after ''chapter'' the words ''with regard to the State'', and by removing ''whenever'' and adding in its place ''wherever'';

■ bb. Revising paragraph (b)(5)(ii) introductory text;

■ cc. In paragraph (b)(5)(ii)(B), by removing ''auction of CSAPR'' and adding in its place ''auctions of CSAPR'', and by revising the table;

■ dd. In paragraph (b)(5)(ii)(C), by removing ''any control period'' and adding in its place ''any such control period'';

■ ee. In paragraph (b)(5)(iii), by adding a comma after ''May adopt'';

■ ff. In paragraph (b)(5)(v), by adding after ''97.512(b)'' the words ''of this chapter'';

■ gg. In paragraph (b)(5)(vi), by removing ''97.525, and'' and adding in its place ''and 97.525 of this chapter and'', and by adding after ''other provisions'' the words ''of subpart BBBBB of part 97 of this chapter'';

■ hh. In paragraph (b)(5)(vii), by removing ''paragraph (b)(5)(i) through (v)'' and adding in its place ''paragraph (b)(5)(i) or (ii) of this section and paragraphs (b)(5)(iii) through (v)'', by removing ''paragraphs (5)(ii)(B) and (C)'' and adding in its place ''paragraphs (b)(5)(ii)(B) and (C)'', and by removing ''paragraphs (b)(5)(ii) and (iii)'' and adding in its place ''paragraph (b)(5)(i) or (ii)'';

■ ii. In paragraph (b)(6), by removing ''in whole or in part, as appropriate,'', and by removing ''paragraphs (b)(1) through (5)'' and adding in its place ''paragraphs (b)(1) through (4)''; and

■ jj. In paragraph (b)(7), by removing ''a State'' and adding in its place ''the State''.

The additions and revisions read as follows:

§ 52.38 What are the requirements of the Federal Implementation Plans (FIPs) for the Cross-State Air Pollution Rule (CSAPR) relating to emissions of nitrogen oxides?

* * * * *

(b) * * *

(2) The provisions of subpart BBBBB of part 97 of this chapter apply to sources in each of the following States and Indian country located within the borders of such States with regard to emissions in the following years:

(i) With regard to emissions in 2015 and 2016 only, Florida and South Carolina;

(ii) With regard to emissions in 2015 and each subsequent year, Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin; and

(iii) With regard to emissions in 2017 and each subsequent year, Kansas.

(3) * * *

(ii) Notwithstanding the provisions of paragraph (b)(1) of this section, a State other than Georgia listed in paragraph (b)(2)(ii) or (iii) of this section may adopt and include in a SIP revision, and the Administrator will approve, as CSAPR NO_X Ozone Season allowance allocation provisions replacing the provisions in § 97.511(a) of this chapter with regard to the State and the control period in 2018, a list of CSAPR NO_X Ozone Season units and the amount of CSAPR NO_X Ozone Season allowances allocated to each unit on such list, provided that the list of units and allocations meets the following requirements:

(A) All of the units on the list must be units that are in the State and commenced commercial operation before January 1, 2015;

(B) The total amount of CSAPR NO_X Ozone Season allowance allocations on the list must not exceed the amount, under § 97.510(a) of this chapter for the State and the control period in 2018, of the CSAPR NO_X Ozone Season trading budget minus the sum of the new unit set-aside and Indian country new unit set-aside;

(C) The list must be submitted electronically in a format specified by the Administrator; and

(D) The SIP revision must not provide for any change in the units and allocations on the list after approval of the SIP revision by the Administrator and must not provide for any change in any allocation determined and recorded by the Administrator under subpart BBBBB of part 97 of this chapter;

(E) Provided that:

(*1*) By November 15, 2016, the State must notify the Administrator electronically in a format specified by the Administrator of the State's intent to submit to the Administrator a complete SIP revision meeting the requirements of paragraphs (b)(3)(ii)(A) through (D) of this section by April 1, 2017; and

(*2*) The State must submit to the Administrator a complete SIP revision described in paragraph (b)(3)(ii)(E)(*1*) of this section by April 1, 2017.

(4) * * *

(ii) The State may adopt, as CSAPR NO_X Ozone Season allowance allocation or auction provisions replacing the provisions in §§ 97.511(a) and (b)(1) and 97.512(a) of this chapter with regard to the State and the control period in 2017 or any subsequent year or, for Kansas, 2019 or any subsequent year, any methodology under which the State or the permitting authority allocates or auctions CSAPR NO_X Ozone Season allowances and may adopt, in addition to the definitions in § 97.502 of this chapter, one or more definitions that shall apply only to terms as used in the adopted CSAPR NO_X Ozone Season allowance allocation or auction provisions, if such methodology—

* * * * *

(B) * * *

Year of the control period for which CSAPR NO_X Ozone Season allowances are allocated or auctioned	Deadline for submission of allocations or auction results to the Administrator
2017	November 1, 2016.
2018	November 1, 2016.
2019	June 1, 2018.
2020	June 1, 2018.
2021	June 1, 2019.
2022	June 1, 2019.
2023 and any year thereafter	June 1 of the fourth year before the year of the control period.

* * * * *

(5) * * *

(ii) May adopt, as CSAPR NO_X Ozone Season allowance allocation provisions replacing the provisions in §§ 97.511(a) and (b)(1) and 97.512(a) of this chapter with regard to the State and the control period in 2019 or any subsequent year or, for Georgia, 2017 or any subsequent year, any methodology under which the State or the permitting authority allocates or auctions CSAPR NO_X Ozone Season allowances and that—

* * * * *

(B) * * *

Year of the control period for which CSAPR NO_X Ozone Season allowances are allocated or auctioned	Deadline for submission of allocations or auction results to the Administrator
2017	November 1, 2016.
2018	November 1, 2016.
2019	June 1, 2018.
2020	June 1, 2018.
2021	June 1, 2019.
2022	June 1, 2019.
2023 and any year thereafter	June 1 of the fourth year before the year of the control period.

* * * * *

§ 52.39 What are the requirements of the Federal Implementation Plans (FIPs) for the Cross-State Air Pollution Rule (CSAPR) relating to emissions of sulfur dioxide?

■ 6. Section 52.39 is amended by:

■ a. Revising the section heading as set forth above;

■ b. In paragraph (d)(2), by adding ''the'' before ''CSAPR SO_2 Group 1 trading budget'';

■ c. In paragraph (d)(5)(i), by removing ''paragraph (d)(1) through (4)'' and adding in its place ''paragraphs (d)(1) through (4)'';

■ d. In paragraph (e)(1) introductory text, by adding after ''with regard to'' the words ''the State and'';

■ e. In paragraph (e)(1)(ii), by removing ''auction of CSAPR'' and adding in its place ''auctions of CSAPR'', and by removing in the table ''administrator'' and adding in its place ''the Administrator'';

■ f. In paragraph (f) introductory text, by removing ''in whole or in part, as appropriate,'', and by removing ''paragraphs (a), (b), (d), and (e) of this section'' and adding in its place ''paragraphs (a), (b), (d), and (e) of this section with regard to sources in the State but not sources in any Indian country within the borders of the State'';

■ g. In paragraph (f)(1) introductory text, by adding after ''with regard to'' the words ''the State and'', and by removing ''and any subsequent year'' and adding in its place ''or any subsequent year'';

■ h. In paragraph (f)(1)(i), by removing ''for such control period'' and adding in its place ''for any such control period'';

■ i. In paragraph (f)(1)(ii), by removing ''auction of CSAPR'' and adding in its place ''auctions of CSAPR'', and by removing in the table ''administrator'' and adding in its place ''the Administrator'';

■ j. In paragraph (f)(1)(iv), by removing ''paragraphs (f)(2)(ii) and (iii)'' and adding in its place ''paragraphs (f)(1)(ii) and (iii)'';

■ k. In paragraph (f)(4), by adding after ''97.612(b)'' the words ''of this chapter'';

■ l. In paragraph (f)(5), by removing ''97.625, and'' and adding in its place ''and 97.625 of this chapter and'', and by adding after ''other provisions'' the words ''of subpart CCCCC of part 97 of this chapter'';

■ m. In paragraph (f)(6), by removing ''hold an auction under paragraph (f)(1)(ii) and (iii)'' and adding in its place ''hold an auction under paragraph (f)(1)'';

■ n. In paragraph (g) introductory text, by adding after ''with regard to'' the words ''the State and'';

■ o. In paragraph (g)(2), by adding ''the'' before ''CSAPR SO_2 Group 2 trading budget'';

■ p. In paragraph (g)(5)(i), by removing ''paragraph (g)(1) through (4)'' and adding in its place ''paragraphs (g)(1) through (4)'';

■ q. In paragraph (h)(1) introductory text, by adding after ''with regard to'' the words ''the State and'', and by removing ''and any subsequent year'' and adding in its place ''or any subsequent year'';

■ r. In paragraph (h)(1)(ii), by removing ''auction of CSAPR'' and adding in its place ''auctions of CSAPR'', and by removing in the table ''administrator'' and adding in its place ''the Administrator'';

■ s. In paragraph (h)(2), by removing ''hold an auction under paragraph (h)(1)(ii) and (iii)'' and adding in its place ''hold an auction under paragraph (h)(1)'';

■ t. In paragraph (i) introductory text, by removing ''in whole or in part, as appropriate,'', and by removing ''paragraphs (a), (c), (g), and (h) of this section'' and adding in its place ''paragraphs (a), (c), (g), and (h) of this section with regard to sources in the State but not sources in any Indian country within the borders of the State'';

■ u. In paragraph (i)(1) introductory text, by adding after ''with regard to'' the words ''the State and'', and by removing ''and any subsequent year'' and adding in its place ''or any subsequent year'';

■ v. In paragraph (i)(1)(ii), by removing ''auction of CSAPR'' and adding in its place ''auctions of CSAPR'', and by removing in the table ''administrator'' and adding in its place ''the Administrator'';

■ w. In paragraph (i)(4), by adding after ''97.712(b)'' the words ''of this chapter'';

■ x. In paragraph (i)(5), by removing ''97.725, and'' and adding in its place ''and 97.725 of this chapter and'', and by adding after ''other provisions'' the words ''of subpart DDDDD of part 97 of this chapter'';

■ y. In paragraph (i)(6), by removing ''hold an auction under paragraphs (i)(1)(ii) and (iii)'' and adding in its place ''hold an auction under paragraph (i)(1)'';

■ z. In paragraph (j), by removing ''in whole or in part, as appropriate,'', by adding after ''CSAPR Federal Implementation Plan'' the words ''set forth in paragraphs (a), (b), (d), and (e) of this section or paragraphs (a), (c), (g), and (h) of this section, as applicable'', and by removing ''paragraph (b) and (c)'' and adding in its place ''paragraph (b) or (c)''; and

■ aa. In paragraph (k), by removing ''a State'' and adding in its place ''the State''.

Subpart B—Alabama

§ 52.54 [Amended]

■ 7. Section 52.54 is amended in paragraph (b)(2) by removing ''the'' before ''Alabama's SIP revision''.

Subpart K—Florida

■ 8. Section 52.540 is amended by adding paragraph (c) to read as follows:

§ 52.540 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?

* * * * *

(c) Notwithstanding paragraph (a) of this section, no source or unit located in the State of Florida or Indian country within the borders of the State shall be required under paragraph (a) of this section to comply with the requirements set forth under the CSAPR NO_X Ozone Season Trading Program in subpart BBBBB of part 97 of this chapter with regard to emissions after 2016.

Subpart R—Kansas

■ 9. Section 52.882 is amended by revising paragraph (b) to read as follows:

§ 52.882 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?

* * * * *

(b)(1) The owner and operator of each source and each unit located in the State of Kansas and Indian country within the borders of the State and for which requirements are set forth under the CSAPR NO_X Ozone Season Trading Program in subpart BBBBB of part 97 of this chapter must comply with such requirements. The obligation to comply with such requirements with regard to sources and units in the State will be eliminated by the promulgation of an approval by the Administrator of a revision to Kansas' State Implementation Plan (SIP) as correcting the SIP's deficiency that is the basis for the CSAPR Federal Implementation Plan under § 52.38(b), except to the extent the Administrator's approval is partial or conditional. The obligation to comply with such requirements with regard to sources and units located in Indian country within the borders of the State will not be eliminated by the promulgation of an approval by the Administrator of a revision to Kansas' SIP.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, if, at the time of the approval of Kansas' SIP revision described in paragraph (b)(1) of this section, the Administrator has already started recording any allocations of CSAPR NO_X Ozone Season allowances under subpart BBBBB of part 97 of this chapter to units in the State for a control period in any year, the provisions of subpart BBBBB of part 97 of this chapter authorizing the Administrator to complete the allocation and recordation of CSAPR NO_X Ozone Season allowances to units in the State for each such control period shall continue to apply, unless provided otherwise by such approval of the State's SIP revision.

Subpart X—Michigan

§ 52.1187 [Amended]

■ 10. Section 52.1187 is amended in paragraph (c)(2) by removing ''Maryland's SIP revision'' and adding in its place ''Michigan's SIP revision''.

Subpart PP—South Carolina

■ 11. Section 52.2140 is amended by adding paragraph (b)(3) to read as follows:

§ 52.2140 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?

* * * * *

(b) * * *

(3) Notwithstanding paragraph (b)(1) of this section, no source or unit located in the State of South Carolina or Indian country within the borders of the State shall be required under paragraph (b)(1) of this section to comply with the requirements set forth under the CSAPR NO_X Ozone Season Trading Program in subpart BBBBB of part 97 of this chapter with regard to emissions after 2016.

PART 78—APPEAL PROCEDURES

■ 12. The authority citation for part 78 continues to read as follows:

Authority: 42 U.S.C. 7401, 7403, 7410, 7411, 7426, 7601, and 7651, *et seq.*

§§ 78.1 and 78.4 [Amended]

■ 13. Sections 78.1 and 78.4 are amended by removing ''TR NO_X'' wherever it appears and adding in its place ''CSAPR NO_X'', and by removing ''TR SO_2'' wherever it appears and adding in its place ''CSAPR SO_2''.

■ 14. Section 78.1 is amended by:

■ a. In paragraph (a)(1), by adding after ''part 97 of this chapter'' the words ''or State regulations approved under § 52.38(a)(4) or (5) or (b)(4) or (5) of this chapter or § 52.39(e), (f), (h), or (i) of this chapter'', and by adding a new third sentence at the end of the paragraph;

■ b. Adding paragraph (b)(14)(viii); and

■ c. In paragraphs (b)(16)(ii), (iii), and (v), by removing ''SO_2 Group 1'' and adding in its place ''SO_2 Group 2''.

The additions read as follows:

§ 78.1 Purpose and scope.

(a)(1) * * * All references in paragraph (b) of this section and in § 78.3 to subpart AAAAA of part 97 of this chapter, subpart BBBBB of part 97 of this chapter, subpart CCCCC of part 97 of this chapter, and subpart DDDDD of part 97 of this chapter shall be read to include the comparable provisions in State regulations approved under § 52.38(a)(4) or (5) of this chapter, § 52.38(b)(4) or (5) of this chapter, § 52.39(e) or (f) of this chapter, and § 52.39(h) or (i) of this chapter, respectively.

* * * * *

(b) * * *

(14) * * *

(viii) The determination of the tonnage equivalent of a CSAPR NO_X Ozone Season allowance under § 97.524(f) of this chapter.

* * * * *

§ 78.4 [Amended]

■ 15. Section 78.4 is amended in paragraph (a)(1)(i) by removing ''a affected'' and adding in its place ''an affected'', by adding ''or'' before ''CSAPR SO_2 Group 2 unit'', and by removing '', or a unit for which a TR opt-in application is submitted and not withdrawn''.

PART 97—FEDERAL NO_X BUDGET TRADING PROGRAM, CAIR NO_X AND SO_2 TRADING PROGRAMS, AND CSAPR NO_X AND SO_2 TRADING PROGRAMS

■ 16. The heading of part 97 is revised to read as set forth above.

■ 17. The authority citation for part 97 continues to read as follows:

Authority: 42 U.S.C. 7401, 7403, 7410, 7426, 7601, and 7651, *et seq.*

§§ 97.401 through 97.735 [Amended]

■ 18. Sections 97.401 through 97.735 are amended by removing ''Transport Rule (TR)'' wherever it appears and adding in its place ''Cross-State Air Pollution Rule (CSAPR)'', by removing ''TR NO_X'' wherever it appears and adding in its place ''CSAPR NO_X'', and by removing ''TR SO_2'' wherever it appears and adding in its place ''CSAPR SO_2''.

Subpart AAAAA—CSAPR NO_X Annual Trading Program

■ 19. The heading of subpart AAAAA of part 97 is revised to read as set forth above.

§ 97.402 [Amended]

■ 20. Section 97.402 is amended by:

■ a. Relocating all definitions beginning with ''*CSAPR*'' to their alphabetical locations in the list of definitions;

■ b. In the definition of ''*Cogeneration system*'', by removing ''steam turbine generator'' and adding in its place ''generator'';

■ c. In the definition of ''*Commence commercial operation*'', in paragraph (2) introductory text, by adding after ''defined in'' the word ''the'';

■ d. In the definition of ''*CSAPR NO_X Annual allowances held* or *hold TR NO_4 Annual allowances*'', by removing ''*TR NO_4*'' and adding in its place ''*CSAPR NO_X*'';

■ e. In the definition of ''*CSAPR SO_2 Group 2 Trading Program*'', by removing ''52.39(a)'' and adding in its place ''§ 52.39(a)'';

■ f. In the definition of ''*Fossil fuel*'', by removing ''§§ '' and adding in its place § '';

■ g. In the definition of ''*Owner*'', by removing the paragraph designator ''3)'' and adding in its place the paragraph designator ''(3)''; and

■ h. In the definition of ''*Sequential use of energy*'', in paragraph (2), by adding after ''from'' the word ''a''.

§ 97.404 [Amended]

■ 21. Section 97.404 is amended by:
■ a. In paragraph (b)(2)(ii), by removing ''paragraph (b)(1)(i)'' and adding in its place ''paragraph (b)(2)(i)''; and
■ b. Italicizing the headings of paragraphs (c)(1) and (2).

§ 97.406 [Amended]

■ 22. Section 97.406 is amended by:
■ a. Italicizing the headings of paragraphs (c)(1) and (2) and (c)(4) through (7); and
■ b. In the heading of paragraph (c)(4), by adding ''CSAPR NO_X Annual'' before ''allowances.''

§ 97.410 State NO_X Annual trading budgets, new unit set-asides, Indian country new unit set-asides, and variability limits.

■ 23. Section 97.410 is amended by:
■ a. Revising the heading as set forth above;
■ b. Removing ''NO_X annual trading budget'' wherever it appears and adding in its place ''NO_X Annual trading budget'';
■ c. Removing ''NO_X annual new unit set-aside'' wherever it appears and adding in its place ''new unit set-aside'';
■ d. Removing ''NO_X annual Indian country new unit set-aside'' wherever it appears and adding in its place ''Indian country new unit set-aside'';
■ e. Removing ''NO_X annual variability limit'' wherever it appears and adding in its place ''variability limit'';
■ f. In paragraph (a) introductory text, by removing ''new unit-set aside'' and adding in its place ''new unit set-aside'';
■ g. Adding and reserving paragraphs (a)(11)(vi) and (a)(16)(vi); and
■ h. In paragraph (c), by adding after ''Each'' the word ''State'', by removing ''identified'', and by removing ''set aside'' wherever it appears and adding in its place ''set-aside''.

§ 97.411 [Amended]

■ 24. Section 97.411 is amended by:
■ a. Italicizing the headings of paragraphs (b)(1) and (2);
■ b. In paragraphs (b)(1)(iii) and (b)(2)(iii), by adding after ''November 30 of'' the word ''the'';
■ c. In paragraph (c)(1)(ii), by removing ''§ 52.38(a)(3), (4), or (5)'' and adding in its place ''§ 52.38(a)(4) or (5)'';
■ d. In paragraph (c)(5)(i)(B), by adding after ''§ 52.38(a)(4) or (5)'' the words ''of this chapter'';
■ e. In paragraph (c)(5)(ii) introductory text, by removing ''of this paragraph'' and adding in its place ''of this section'';
■ f. In paragraph (c)(5)(ii)(B), by adding after ''§ 52.38(a)(4) or (5)'' the words ''of this chapter''; and
■ g. In paragraph (c)(5)(iii), by removing ''of this paragraph'' and adding in its place ''of this section''.

§ 97.412 [Amended]

■ 25. Section 97.412 is amended by:
■ a. In paragraph (a)(2), by removing ''§§ '' and adding in its place ''§ '';
■ b. In paragraph (a)(4)(i), by removing ''paragraph (a)(1)(i) through (iii)'' and adding in its place ''paragraphs (a)(1)(i) through (iii)'';
■ c. In paragraph (a)(4)(ii), by adding after ''paragraph (a)(4)(i)'' the words ''of this section'';
■ d. In paragraph (a)(9)(i), by adding after ''November 30 of'' the word ''the'';
■ e. In paragraph (b)(4)(ii), by adding after ''paragraph (b)(4)(i)'' the words ''of this section'';
■ f. In paragraph (b)(9)(i), by adding after ''November 30 of'' the word ''the''; and
■ g. In paragraph (b)(10)(ii), by adding after ''§ 52.38(a)(4) or (5)'' the words ''of this chapter''.

§ 97.421 [Amended]

■ 26. Section 97.421 is amended by:
■ a. In paragraphs (c), (d), and (e), by removing ''period'' and adding in its place ''periods''; and
■ b. In paragraph (j), by removing ''the date'' and adding in its place ''the date 15 days after the date''.

§ 97.425 [Amended]

■ 27. Section 97.425 is amended by:
■ a. In paragraph (b)(2)(iii) introductory text, by removing ''paragraph (b)(1)(i)'' and adding in its place ''paragraph (b)(1)(ii)'';
■ b. In paragraph (b)(2)(iii)(B), by adding ''the calculations incorporating'' before ''any adjustments'';
■ c. In paragraph (b)(4)(i), by removing ''the'' before ''them''; and
■ d. In paragraph (b)(6)(iii)(B), by removing after ''appropriate'' the word ''at''.

§ 97.426 [Amended]

■ 28. Section 97.426 is amended in paragraph (b) by removing ''97.427, or 97.428'' and adding in its place ''§ 97.427, or § 97.428''.

§ 97.428 [Amended]

■ 29. Section 97.428 is amended in paragraph (b) by removing ''paragraph (a)(1)'' and adding in its place ''paragraph (a)''.

§ 97.430 [Amended]

■ 30. Section 97.430 is amended by:
■ a. In paragraph (b) introductory text, by adding after ''operator'' the words ''of a CSAPR NO_X Annual unit'', by adding ''the later of'' before ''the following dates'' each time it appears, and by removing the final period and adding in its place a colon;
■ b. Removing paragraphs (b)(1) and (b)(2) introductory text;
■ c. Redesignating paragraphs (b)(2)(i) and (ii) as paragraphs (b)(1) and (2);
■ d. In newly redesignated paragraph (b)(2), by removing the final semicolon and adding in its place a period;
■ e. In paragraph (b)(3) introductory text, by removing ''§§ '' and adding in its place ''§ ''; and
■ f. In paragraph (b)(3)(iii), by adding after ''§ 75.66'' the words ''of this chapter''.

§ 97.431 [Amended]

■ 31. Section 97.431 is amended by:
■ a. Italicizing the headings of paragraphs (d)(1) through (3), (d)(3)(i) through (iv), (d)(3)(iv)(A) through (D), and (d)(3)(v); and
■ b. In paragraph (d)(3) introductory text, by removing ''§§ '' and adding in its place ''§ ''.

§ 97.434 [Amended]

■ 32. Section 97.434 is amended by:
■ a. In paragraph (b), by adding ''the'' before ''requirements'';
■ b. In paragraph (d)(1) introductory text, by removing ''the CSAPR'' and adding in its place ''a CSAPR'', and by adding ''the later of'' before the final colon;
■ c. In paragraph (d)(1)(i), by removing ''For a unit that commences commercial operation before July 1, 2014, the'' and adding in its place ''The''; and
■ d. In paragraph (d)(1)(ii), by removing ''For a unit that commences commercial operation on or after July 1, 2014, the'' and adding in its place ''The'', and by removing '', unless that quarter is the third or fourth quarter of 2014, in which case reporting shall commence in the quarter covering January 1, 2015 through March 31, 2015''.

Subpart BBBBB—CSAPR NO_X Ozone Season Trading Program

■ 33. The heading of subpart BBBBB of part 97 is revised to read as set forth above.
■ 34. Section 97.502 is amended by:
■ a. Relocating all definitions beginning with ''*CSAPR*'' to their alphabetical locations in the list of definitions;
■ b. In the definition of ''*Cogeneration system*'', by removing ''steam turbine generator'' and adding in its place ''generator'';
■ c. In the definition of ''*Commence commercial operation*'', in paragraph (2) introductory text, by adding after ''defined in'' the word ''the'';

■ d. Revising the definitions of ''*CSAPR NO_X Ozone Season allowance*'' and ''*CSAPR NO_X Ozone Season emissions limitation*'';
■ e. In the definitions of ''*CSAPR SO_2 Group 1 Trading Program*'' and ''*CSAPR SO_2 Group 2 Trading Program*'', by removing ''52.39(a)'' and adding in in its place ''§ 52.39(a)'';
■ f. In the definition of ''*Fossil fuel*'', by removing ''§§'' and adding in its place §'';
■ g. In the definition of ''*Sequential use of energy*'', in paragraph (2), by adding after ''from'' the word ''a''; and
■ h. Adding, in alphabetical order, a definition of ''*Tonnage equivalent.*''

The additions and revisions read as follows:

§ 97.502 Definitions.

* * * * *

CSAPR NO_X Ozone Season allowance means a limited authorization under the CSAPR NO_X Ozone Season Trading Program issued and allocated or auctioned to a CSAPR NO_X Ozone Season unit in a State (or Indian country within the borders of such State) by the Administrator under this subpart, or by the State or permitting authority under a SIP revision approved by the Administrator under § 52.38(b)(3), (4), or (5) of this chapter, to emit either:

(1) One ton of NO_X in the State (or Indian country located within the borders of such State) during a control period of the specified calendar year for which the authorization is allocated or auctioned; or

(2) As determined under § 97.524(f), up to one ton of NO_X in another State (or Indian country located within the borders of another State) or during a control period after the specified calendar year for which the authorization is allocated or auctioned.

* * * * *

CSAPR NO_X Ozone Season emissions limitation means, for a CSAPR NO_X Ozone Season source, the tonnage of NO_X emissions authorized in a control period in a given year by the tonnage equivalent of CSAPR NO_X Ozone Season allowances available for deduction for the source under § 97.524(a) for such control period.

* * * * *

Tonnage equivalent means, with regard to a specific individual CSAPR NO_X Ozone Season allowance held or deducted for an identified purpose, the portion of one ton represented by the CSAPR NO_X Ozone Season allowance as determined under § 97.524(f) or, with regard to a specific group of CSAPR NO_X Ozone Season allowances held or deducted for a common identified purpose, the unrounded sum of the tonnage equivalents of the individual CSAPR NO_X Ozone Season allowances comprising the group.

* * * * *

§ 97.504 [Amended]

■ 35. Section 97.504 is amended by:
■ a. In paragraph (b)(2)(ii), by removing ''paragraph (b)(1)(i)'' and adding in its place ''paragraph (b)(2)(i)'', and by removing ''TR NO_X'' and adding in its place ''CSAPR NO_X''; and
■ b. Italicizing the headings of paragraphs (c)(1) and (2).
■ 36. Section 97.506 is amended by:
■ a. Italicizing the headings of paragraphs (c), (c)(1) and (2), and (c)(4) through (7);
■ b. Revising paragraphs (c)(1)(i), (c)(2)(i) introductory text, and (c)(2)(v)(B);
■ c. Redesignating paragraph (c)(3)(i) as paragraph (c)(3)(i)(A), and revising it;
■ d. Adding paragraph (c)(3)(i)(B);
■ e. In the heading of paragraph (c)(4), by adding ''CSAPR NO_X Ozone Season'' before ''allowances''; and
■ f. Revising paragraph (c)(6) introductory text.

The revisions and additions read as follows:

§ 97.506 Standard requirements.

* * * * *

(c) * * *

(1) * * *

(i) As of the allowance transfer deadline for a control period in a given year, the owners and operators of each CSAPR NO_X Ozone Season source and each CSAPR NO_X Ozone Season unit at the source shall hold, in the source's compliance account, CSAPR NO_X Ozone Season allowances available for deduction for such control period under § 97.524(a) with a tonnage equivalent not less than the tons of total NO_X emissions for such control period from all CSAPR NO_X Ozone Season units at the source.

* * * * *

(2) * * *

(i) If total NO_X emissions during a control period in a given year from all CSAPR NO_X Ozone Season units at CSAPR NO_X Ozone Season sources in a State (and Indian country within the borders of such State) exceed the State assurance level, then the owners and operators of such sources and units in each group of one or more sources and units having a common designated representative for such control period, where the common designated representative's share of such NO_X emissions during such control period exceeds the common designated representative's assurance level for the State and such control period, shall hold (in the assurance account established for the owners and operators of such group) CSAPR NO_X Ozone Season allowances available for deduction for such control period under § 97.525(a) with a tonnage equivalent not less than two times the product (rounded to the nearest whole number), as determined by the Administrator in accordance with § 97.525(b), of multiplying—

* * * * *

(v) * * *

(B) Each ton of the tonnage equivalent of CSAPR NO_X Ozone Season allowances that the owners and operators fail to hold for such control period in accordance with paragraphs (c)(2)(i) through (iii) of this section and each day of such control period shall constitute a separate violation of this subpart and the Clean Air Act.

(3) * * *

(i)(A) Except as provided in paragraph (c)(3)(i)(B) of this section, a CSAPR NO_X Ozone Season unit shall be subject to the requirements under paragraph (c)(1) of this section for the control period starting on the later of May 1, 2015 or the deadline for meeting the unit's monitor certification requirements under § 97.530(b) and for each control period thereafter.

(B) A CSAPR NO_X Ozone Season unit in the State of Kansas (or Indian country within the borders of the State) that is not a CSAPR NO_X Ozone Season unit in another State (or Indian country within the borders of another State) during any portion of a control period in 2015 or 2016 shall be subject to the requirements under paragraph (c)(1) of this section for the control period starting on the later of May 1, 2017 or the deadline for meeting the unit's monitor certification requirements under § 97.530(b) and for each control period thereafter.

* * * * *

(6) *Limited authorization.* A CSAPR NO_X; Ozone Season allowance is a limited authorization to emit up to one ton of NO_X; during the control period in one year as determined under § 97.524(f). Such authorization is limited in its use and duration as follows:

* * * * *

■ 37. Section 97.510 is revised to read as follows:

§ 97.510 State NO_X Ozone Season trading budgets, new unit set-asides, Indian country new unit set-asides, and variability limits.

(a) The State NO_X Ozone Season trading budgets, new unit set-asides, and Indian country new unit set-asides

for allocations of CSAPR NO_X Ozone Season allowances for the control periods in 2015 and thereafter are as follows:

(1) *Alabama.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 31,746 tons.

(ii) The new unit set-aside for 2015 and 2016 is 635 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 9,979 tons.

(v) The new unit set-aside for 2017 and thereafter is 205 tons.

(vi) [Reserved]

(2) *Arkansas.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 15,110 tons.

(ii) The new unit set-aside for 2015 and 2016 is 756 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 6,949 tons.

(v) The new unit set-aside for 2017 and thereafter is 141 tons.

(vi) [Reserved]

(3) *Florida.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 28,644 tons.

(ii) The new unit set-aside for 2015 and 2016 is 544 tons.

(iii) The Indian country new unit set-aside for 2015 and 2016 is 29 tons.

(iv) [Reserved]

(v) [Reserved]

(vi) [Reserved]

(4) *Georgia.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 27,944 tons.

(ii) The new unit set-aside for 2015 and 2016 is 559 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 24,041 tons.

(v) The new unit set-aside for 2017 and thereafter is 481 tons.

(vi) [Reserved]

(5) *Illinois.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 21,208 tons.

(ii) The new unit set-aside for 2015 and 2016 is 1,697 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 12,078 tons.

(v) The new unit set-aside for 2017 and thereafter is 591 tons.

(vi) [Reserved]

(6) *Indiana.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 46,876 tons.

(ii) The new unit set-aside for 2015 and 2016 is 1,406 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 28,284 tons.

(v) The new unit set-aside for 2017 and thereafter is 565 tons.

(vi) [Reserved]

(7) *Iowa.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 16,532 tons.

(ii) The new unit set-aside for 2015 and 2016 is 314 tons.

(iii) The Indian country new unit set-aside for 2015 and 2016 is 17 tons.

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 8,351 tons.

(v) The new unit set-aside for 2017 and thereafter is 411 tons.

(vi) The Indian country new unit set-aside for 2017 and thereafter is 8 tons.

(8) *Kansas.* (i) [Reserved]

(ii) [Reserved]

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 9,272 tons.

(v) The new unit set-aside for 2017 and thereafter is 272 tons.

(vi) The Indian country new unit set-aside for 2017 and thereafter is 9 tons.

(9) *Kentucky.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 36,167 tons.

(ii) The new unit set-aside for 2015 and 2016 is 1,447 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 21,519 tons.

(v) The new unit set-aside for 2017 and thereafter is 647 tons.

(vi) [Reserved]

(10) *Louisiana.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 18,115 tons.

(ii) The new unit set-aside for 2015 and 2016 is 344 tons.

(iii) The Indian country new unit set-aside for 2015 and 2016 is 18 tons.

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 15,807 tons.

(v) The new unit set-aside for 2017 and thereafter is 612 tons.

(vi) The Indian country new unit set-aside for 2017 and thereafter is 16 tons.

(11) *Maryland.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 7,179 tons.

(ii) The new unit set-aside for 2015 and 2016 is 144 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 4,026 tons.

(v) The new unit set-aside for 2017 and thereafter is 485 tons.

(vi) [Reserved]

(12) *Michigan.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 28,041 tons.

(ii) The new unit set-aside for 2015 and 2016 is 533 tons.

(iii) The Indian country new unit set-aside for 2015 and 2016 is 28 tons.

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 19,115 tons.

(v) The new unit set-aside for 2017 and thereafter is 363 tons.

(vi) The Indian country new unit set-aside for 2017 and thereafter is 19 tons.

(13) *Mississippi.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 12,429 tons.

(ii) The new unit set-aside for 2015 and 2016 is 237 tons.

(iii) The Indian country new unit set-aside for 2015 and 2016 is 12 tons.

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 5,910 tons.

(v) The new unit set-aside for 2017 and thereafter is 584 tons.

(vi) The Indian country new unit set-aside for 2017 and thereafter is 6 tons.

(14) *Missouri.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 22,788 tons.

(ii) The new unit set-aside for 2015 is 684 tons and for 2016 is 1,367 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 15,323 tons.

(v) The new unit set-aside for 2017 and thereafter is 314 tons.

(vi) [Reserved]

(15) *New Jersey.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 4,128 tons.

(ii) The new unit set-aside for 2015 and 2016 is 83 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 2,015 tons.

(v) The new unit set-aside for 2017 and thereafter is 1,151 tons.

(vi) [Reserved]

(16) *New York.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 10,369 tons.

(ii) The new unit set-aside for 2015 and 2016 is 197 tons.

(iii) The Indian country new unit set-aside for 2015 and 2016 is 10 tons.

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 4,450 tons.

(v) The new unit set-aside for 2017 and thereafter is 89 tons.

(vi) The Indian country new unit set-aside for 2017 and thereafter is 4 tons.

(17) *North Carolina.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 22,168 tons.

(ii) The new unit set-aside for 2015 and 2016 is 1,308 tons.

(iii) The Indian country new unit set-aside for 2015 and 2016 is 22 tons.

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 12,275 tons.

(v) The new unit set-aside for 2017 and thereafter is 236 tons.

(vi) The Indian country new unit set-aside for 2017 and thereafter is 12 tons.

(18) *Ohio.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 41,284 tons.

(ii) The new unit set-aside for 2015 and 2016 is 826 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 16,660 tons.

(v) The new unit set-aside for 2017 and thereafter is 337 tons.

(vi) [Reserved]

(19) *Oklahoma.* (i) The NO_X Ozone Season trading budget for 2015 is 36,567 tons and for 2016 is 22,694 tons.

(ii) The new unit set-aside for 2015 is 731 tons and for 2016 is 454 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 16,215 tons.

(v) The new unit set-aside for 2017 and thereafter is 309 tons.

(vi) The Indian country new unit set-aside for 2017 and thereafter is 16 tons.

(20) *Pennsylvania.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 52,201 tons.

(ii) The new unit set-aside for 2015 and 2016 is 1,044 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 14,387 tons.

(v) The new unit set-aside for 2017 and thereafter is 1,017 tons.

(vi) [Reserved]

(21) *South Carolina.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 13,909 tons.

(ii) The new unit set-aside for 2015 and 2016 is 264 tons.

(iii) The Indian country new unit set-aside for 2015 and 2016 is 14 tons.

(iv) [Reserved]

(v) [Reserved]

(vi) [Reserved]

(22) *Tennessee.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 14,908 tons.

(ii) The new unit set-aside for 2015 and 2016 is 298 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 5,481 tons.

(v) The new unit set-aside for 2017 and thereafter is 109 tons.

(vi) [Reserved]

(23) *Texas.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 65,560 tons.

(ii) The new unit set-aside for 2015 and 2016 is 2,556 tons.

(iii) The Indian country new unit set-aside for 2015 and 2016 is 66 tons.

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 58,002 tons.

(v) The new unit set-aside for 2017 and thereafter is 2,852 tons.

(vi) The Indian country new unit set-aside for 2017 and thereafter is 58 tons.

(24) *Virginia.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 14,452 tons.

(ii) The new unit set-aside for 2015 and 2016 is 723 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 6,818 tons.

(v) The new unit set-aside for 2017 and thereafter is 1,844 tons.

(vi) [Reserved]

(25) *West Virginia.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 25,283 tons.

(ii) The new unit set-aside for 2015 and 2016 is 1,264 tons.

(iii) [Reserved]

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 13,390 tons.

(v) The new unit set-aside for 2017 and thereafter is 268 tons.

(vi) [Reserved]

(26) *Wisconsin.* (i) The NO_X Ozone Season trading budget for 2015 and 2016 is 14,784 tons.

(ii) The new unit set-aside for 2015 and 2016 is 872 tons.

(iii) The Indian country new unit set-aside for 2015 and 2016 is 15 tons.

(iv) The NO_X Ozone Season trading budget for 2017 and thereafter is 5,561 tons.

(v) The new unit set-aside for 2017 and thereafter is 115 tons.

(vi) The Indian country new unit set-aside for 2017 and thereafter is 6 tons.

(b) The States' variability limits for the State NO_X Ozone Season trading budgets for the control periods in 2017 and thereafter are as follows:

(1) The variability limit for Alabama is 2,096 tons.

(2) The variability limit for Arkansas is 1,459 tons.

(3) [Reserved]

(4) The variability limit for Georgia is 5,049 tons.

(5) The variability limit for Illinois is 2,536 tons.

(6) The variability limit for Indiana is 5,940 tons.

(7) The variability limit for Iowa is 1,754 tons.

(8) The variability limit for Kansas is 1,947 tons.

(9) The variability limit for Kentucky is 4,519 tons.

(10) The variability limit for Louisiana is 3,319 tons.

(11) The variability limit for Maryland is 845 tons.

(12) The variability limit for Michigan is 4,014 tons.

(13) The variability limit for Mississippi is 1,241 tons.

(14) The variability limit for Missouri is 3,218 tons.

(15) The variability limit for New Jersey is 423 tons.

(16) The variability limit for New York is 935 tons.

(17) The variability limit for North Carolina is 2,578 tons.

(18) The variability limit for Ohio is 3,499 tons.

(19) The variability limit for Oklahoma is 3,405 tons.

(20) The variability limit for Pennsylvania is 3,021 tons.

(21) [Reserved]

(22) The variability limit for Tennessee is 1,151 tons.

(23) The variability limit for Texas is 12,180 tons.

(24) The variability limit for Virginia is 1,432 tons.

(25) The variability limit for West Virginia is 2,812 tons.

(26) The variability limit for Wisconsin is 1,168 tons.

(c) Each State NO_X Ozone Season trading budget in this section includes any tons in a new unit set-aside or Indian country new unit set-aside, but does not include any tons in a variability limit.

■ 38. Section 97.511 is amended by:

■ a. Italicizing the headings of paragraphs (b)(1) and (2);

■ b. In paragraphs (b)(1)(iii) and (b)(2)(iii), by adding after ''August 31 of'' the word ''the'';

■ c. In paragraph (b)(2)(iv)(B), by adding a paragraph break after the end of the second sentence and before the paragraph designator ''(v)'' for the following paragraph (b)(2)(v);

■ d. In paragraph (c)(1)(ii), by removing ''§ 52.38(b)(3), (4), or (5)'' and adding in its place ''§ 52.38(b)(4) or (5)'', and by removing ''January 1'' and adding in its place ''May 1'';

■ e. Revising paragraph (c)(3);

■ f. In paragraph (c)(5)(i)(B), by adding after ''§ 52.38(b)(4) or (5)'' the words ''of this chapter'';

■ g. In paragraph (c)(5)(ii) introductory text, by removing ''of this paragraph'' and adding in its place ''of this section'';

■ h. In paragraph (c)(5)(ii)(B), by adding after ''§ 52.38(b)(4) or (5)'' the words ''of this chapter''; and

■ i. In paragraph (c)(5)(iii), by removing ''of this paragraph'' and adding in its place ''of this section''.

The revisions read as follows:

§ 97.511 Timing requirements for CSAPR NO_X Ozone Season allowance allocations.

* * * * *

(c) * * *

(3) If the Administrator already recorded such CSAPR NO_X Ozone Season allowances under § 97.521 and if the Administrator makes the determination under paragraph (c)(1) of this section before making deductions for the source that includes such recipient under § 97.524(b) for such control period, then the Administrator will deduct from the account in which such CSAPR NO_X Ozone Season allowances were recorded CSAPR NO_X Ozone Season allowances allocated for the same or a prior control period until the tonnage equivalent of the CSAPR NO_X Ozone Season allowances deducted under this paragraph equals or exceeds the tonnage equivalent of such already recorded CSAPR NO_X Ozone Season allowances, making all such deductions in whole CSAPR NO_X Ozone Season allowances. The authorized account representative shall ensure that there are CSAPR NO_X Ozone Season allowances in such account with a tonnage equivalent sufficient for completion of the deduction.

* * * * *

■ 39. Section 97.512 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. In paragraph (a)(4)(i), by removing ''paragraph (a)(1)(i) through (iii)'' and adding in its place ''paragraphs (a)(1)(i) through (iii)'';

■ c. In paragraph (a)(2), by removing ''§§ '' and adding in its place ''§ '';

■ d. In paragraph (a)(4)(ii), by adding after ''paragraph (a)(4)(i)'' the words ''of this section'';

■ e. In paragraph (a)(9)(i), by adding after ''August 31 of'' the word ''the'';

■ f. Revising paragraph (b) introductory text;

■ g. In paragraph (b)(4)(ii), by adding after ''paragraph (b)(4)(i)'' the words ''of this section'';

■ h. In paragraph (b)(9)(i), by adding after ''August 31 of'' the word ''the''; and

■ i. In paragraph (b)(10)(ii), by adding after ''§ 52.38(b)(4) or (5)'' the words ''of this chapter''.

The revisions read as follows:

§ 97.512 CSAPR NO_X Ozone Season allowance allocations to new units.

(a) For each control period in 2015 and thereafter and for the CSAPR NO_X Ozone Season units in each State for which a new unit set-aside is set forth in § 97.510 for that control period, the Administrator will allocate CSAPR NO_X Ozone Season allowances to the CSAPR NO_X Ozone Season units as follows:

* * * * *

(b) For each control period in 2015 and thereafter and for the CSAPR NO_X Ozone Season units located in Indian country within the borders of each State for which an Indian country new unit set-aside is set forth in § 97.510 for that control period, the Administrator will allocate CSAPR NO_X Ozone Season allowances to the CSAPR NO_X Ozone Season units as follows:

* * * * *

■ 40. Section 97.521 is amended by:

■ a. In paragraph (b) introductory text, by removing ''§ 52.38(b)(3)(i) through (iv)'' and adding in its place ''§ 52.38(b)(3)(i)(A) through (D)'';

■ b. Redesignating paragraph (c) as paragraph (c)(1), and revising it;

■ c. Adding paragraph (c)(2);

■ d. Revising paragraphs (d) and (e); and

■ e. In paragraph (j), by removing ''the date'' and adding in its place ''the date 15 days after the date''.

The revisions read as follows:

§ 97.521 Recordation of CSAPR NO_X Ozone Season allowance allocations and auction results.

* * * * *

(c)(1) By December 1, 2016, the Administrator will record in each CSAPR NO_X Ozone Season source's compliance account the CSAPR NO_X Ozone Season allowances allocated to the CSAPR NO_X Ozone Season units at the source, or in each appropriate Allowance Management System account the CSAPR NO_X Ozone Season allowances auctioned to CSAPR NO_X Ozone Season units, in accordance with § 97.511(a), or with a SIP revision approved under § 52.38(b)(4) or (5) of this chapter, for the control period in 2017 or, for such sources in Georgia, the control periods in 2017 and 2018.

(2) For the CSAPR NO_X Ozone Season sources not in Georgia, by December 1, 2016, the Administrator will record in each such source's compliance account the CSAPR NO_X Ozone Season allowances allocated to the CSAPR NO_X Ozone Season units at the source in accordance with § 97.511(a) for the control period in 2018, unless the State in which the source is located notifies the Administrator in writing by November 15, 2016 of the State's intent to submit to the Administrator a complete SIP revision by April 1, 2017 meeting the requirements of § 52.38(b)(3)(ii)(A) through (D) of this chapter.

(A) If the State does not submit to the Administrator by April 1, 2017 such complete SIP revision, the Administrator will record by April 15, 2017 in each CSAPR NO_X Ozone Season source's compliance account the CSAPR NO_X Ozone Season allowances allocated to the CSAPR NO_X Ozone Season units at the source in accordance with § 97.511(a) for the control period in 2018.

(B) If the State submits to the Administrator by April 1, 2017 and the Administrator approves by October 1, 2017 such complete SIP revision, the Administrator will record by October 1, 2017 in each CSAPR NO_X Ozone Season source's compliance account the CSAPR NO_X Ozone Season allowances allocated to the CSAPR NO_X Ozone Season units at the source as provided in such approved, complete SIP revision for the control period in 2018.

(C) If the State submits to the Administrator by April 1, 2017 and the Administrator does not approve by October 1, 2017 such complete SIP revision, the Administrator will record by October 1, 2017 in each CSAPR NO_X Ozone Season source's compliance account the CSAPR NO_X Ozone Season allowances allocated to the CSAPR NO_X Ozone Season units at the source in accordance with § 97.511(a) for the control period in 2018.

(d) By July 1, 2018, the Administrator will record in each CSAPR NO_X Ozone Season source's compliance account the CSAPR NO_X Ozone Season allowances allocated to the CSAPR NO_X Ozone Season units at the source, or in each appropriate Allowance Management System account the CSAPR NO_X Ozone Season allowances auctioned to CSAPR NO_X Ozone Season units, in accordance with § 97.511(a), or with a SIP revision approved under § 52.38(b)(4) or (5) of this chapter, for the control periods in 2019 and 2020.

(e) By July 1, 2019, the Administrator will record in each CSAPR NO_X Ozone Season source's compliance account the CSAPR NO_X Ozone Season allowances allocated to the CSAPR NO_X Ozone Season units at the source, or in each appropriate Allowance Management System account the CSAPR NO_X Ozone Season allowances auctioned to CSAPR NO_X Ozone Season units, in accordance with § 97.511(a), or with a SIP revision approved under § 52.38(b)(4) or (5) of this chapter, for the control periods in 2021 and 2022.

* * * * *

■ 41. Section 97.524 is amended by:

■ a. Revising paragraphs (b) introductory text, (b)(1), (c)(2) introductory text, and (c)(2)(i) and (ii);

■ b. Adding paragraphs (c)(2)(iii) through (v);

■ c. Revising paragraph (d); and

■ d. Adding paragraph (f).

The revisions and additions read as follows:

§ 97.524 Compliance with CSAPR NO_X Ozone Season emissions limitation.

* * * * *

(b) *Deductions for compliance.* After the recordation, in accordance with § 97.523, of CSAPR NO_X Ozone Season allowance transfers submitted by the allowance transfer deadline for a control period in a given year, the Administrator will deduct from each source's compliance account CSAPR NO_X Ozone Season allowances available under paragraph (a) of this section in order to determine whether the source meets the CSAPR NO_X Ozone Season emissions limitation for such control period, making all such deductions in whole CSAPR NO_X Ozone Season allowances, as follows:

(1) Until the tonnage equivalent of the CSAPR NO_X Ozone Season allowances deducted equals or exceeds the number of tons of total NO_X emissions from all CSAPR NO_X Ozone Season units at the source for such control period; or

* * * * *

(c) * * *

(2) *Default order of deductions.* The Administrator will deduct CSAPR NO_X Ozone Season allowances under paragraph (b) or (d) of this section from the source's compliance account in accordance with a complete request under paragraph (c)(1) of this section or, in the absence of such request or in the case of identification of an insufficient amount of CSAPR NO_X Ozone Season allowances in such request, in the following order:

(i) Any CSAPR NO_X Ozone Season allowances determined under paragraph (f)(1) of this section to have a tonnage equivalent of one ton per allowance that were allocated or auctioned from the NO_X Ozone Season trading budget for the State within whose borders the source is located to the units at the source and were not transferred out of the compliance account, in the order of recordation;

(ii) Any CSAPR NO_X Ozone Season allowances determined under paragraph (f)(1) of this section to have a tonnage equivalent of one ton per allowance that were not allocated or auctioned from the NO_X Ozone Season trading budget for the State within whose borders the source is located to any unit at the source and were transferred to and recorded in the compliance account pursuant to this subpart, in the order of recordation;

(iii) Any CSAPR NO_X Ozone Season allowances determined under paragraph (f)(2) of this section to have a tonnage equivalent of four tenths of one ton per allowance, in the order of recordation;

(iv) Any CSAPR NO_X Ozone Season allowances determined under paragraph (f)(3) of this section to have a tonnage equivalent of one fourth of one ton per allowance that were allocated or auctioned from the NO_X Ozone Season trading budget for the State within whose borders the source is located to the units at the source and were not transferred out of the compliance account, in the order of recordation; and

(v) Any CSAPR NO_X Ozone Season allowances determined under paragraph (f)(3) of this section to have a tonnage equivalent of one fourth of one ton per allowance that were not allocated or auctioned from the NO_X Ozone Season trading budget for the State within whose borders the source is located to any unit at the source and were transferred to and recorded in the compliance account pursuant to this subpart, in the order of recordation.

(d) *Deductions for excess emissions.* After making the deductions for compliance under paragraph (b) of this section for a control period in a year in which the CSAPR NO_X Ozone Season source has excess emissions, the Administrator will deduct from the source's compliance account CSAPR NO_X Ozone Season allowances allocated for a control period in a prior year or the control period in the year of the excess emissions or in the immediately following year, making all such deductions in whole CSAPR NO_X Ozone Season allowances, until the tonnage equivalent of the CSAPR NO_X Ozone Season allowances deducted under this paragraph equals or exceeds two times the number of tons of the source's excess emissions.

* * * * *

(f) *Tonnage equivalents of CSAPR NO_X Ozone Season allowances.* Where a determination is needed of the tonnage equivalent of a CSAPR NO_X Ozone Season allowance held or deducted under any provision of § 97.506(c), § 97.511(c), § 97.524, § 97.525, § 97.527, or § 97.528 relating to the holding or deduction of CSAPR NO_X Ozone Season allowances, the Administrator will make the determination as follows, provided that notwithstanding any such determination the CSAPR NO_X Ozone Season allowance remains subject to the limitations in § 97.506(c)(6):

(1) Except as provided under paragraph (f)(2) or (f)(3) of this section, the tonnage equivalent of each CSAPR NO_X Ozone Season allowance shall be one ton per allowance.

(2) Where a CSAPR NO_X Ozone Season allowance has been allocated or auctioned for a control period in 2017 or a subsequent year from the NO_X Ozone Season trading budget for Georgia, and where the CSAPR NO_X Ozone Season allowance is held or deducted for any purpose related to emissions from a CSAPR NO_X Ozone Season unit in another State (or Indian country within the borders of another State) or for the purpose of correcting an allocation or recordation error affecting a CSAPR NO_X Ozone Season unit in another State (or Indian country within the borders of another State), the tonnage equivalent of the CSAPR NO_X Ozone Season allowance shall be four tenths of one ton per allowance.

(3) Where a CSAPR NO_X Ozone Season allowance has been allocated or auctioned for a control period in 2015 or 2016, and where the CSAPR NO_X Ozone Season allowance is held or deducted for any purpose related to emissions from a CSAPR NO_X Ozone Season unit in any State except Georgia (or Indian country within the borders of such a State) in a control period in 2017 or a subsequent year or for the purpose of correcting an allocation or recordation error affecting a CSAPR NO_X Ozone Season unit in any State except Georgia (or Indian country within the borders of such a State) for a control period in 2017 or a subsequent year, the tonnage equivalent of the CSAPR NO_X Ozone Season allowance shall be one fourth of one ton per allowance.

(4) The Administrator will determine the year of the compliance period for which a CSAPR NO_X Ozone Season allowance was allocated or auctioned and the State from whose NO_X Ozone Season trading budget the CSAPR NO_X Ozone Season allowance was allocated or auctioned based on the records maintained in the Allowance Management System.

■ 42. Section 97.525 is amended by:

■ a. Revising paragraphs (b) introductory text and (b)(2)(ii);

■ b. In paragraph (b)(2)(iii) introductory text, by removing ''paragraph (b)(1)(i)'' and adding in its place ''paragraph (b)(1)(ii)'';

■ c. In paragraph (b)(2)(iii)(B), by adding ''the calculations incorporating'' before ''any adjustments''; and

■ d. Revising paragraphs (b)(4)(i), (b)(5), (b)(6) introductory text, (b)(6)(i) and (ii), (b)(6)(iii) introductory text, and (b)(6)(iii)(A) and (B).

The revisions read as follows:

§ 97.525 Compliance with CSAPR NO_X Ozone Season assurance provisions.

* * * * *

(b) *Deductions for compliance.* The Administrator will deduct CSAPR NO_X Ozone Season allowances available under paragraph (a) of this section for compliance with the CSAPR NO_X Ozone Season assurance provisions for a State for a control period in a given year in accordance with the following

procedures, making all such deductions in whole CSAPR NO_X Ozone Season allowances:

* * * * *

(2) * * *

(ii) By August 1 immediately after the promulgation of such notice, the Administrator will calculate, for each such State (and Indian country within the borders of such State) and such control period and each common designated representative for such control period for a group of one or more CSAPR NO_X Ozone Season sources and units in the State (and Indian country within the borders of such State), the common designated representative's share of the total NO_X emissions from all CSAPR NO_X Ozone Season units at CSAPR NO_X Ozone Season sources in the State (and Indian country within the borders of such State), the common designated representative's assurance level, and the tonnage equivalent (if any) of CSAPR NO_X Ozone Season allowances that the owners and operators of such group of sources and units must hold in accordance with the calculation formula in § 97.506(c)(2)(i) and will promulgate a notice of data availability of the results of these calculations.

* * * * *

(4) * * *

(i) As of midnight of November 1 immediately after the promulgation of each notice of data availability required in paragraph (b)(2)(iii)(B) of this section, the owners and operators described in paragraph (b)(3) of this section shall hold in the assurance account established for them and for the appropriate CSAPR NO_X Ozone Season sources, CSAPR NO_X Ozone Season units, and State (and Indian country within the borders of such State) under paragraph (b)(3) of this section CSAPR NO_X Ozone Season allowances, available for deduction under paragraph (a) of this section, with a total tonnage equivalent not less than the tonnage equivalent such owners and operators are required to hold with regard to such sources, units and State (and Indian country within the borders of such State) as calculated by the Administrator and referenced in such notice.

* * * * *

(5) After November 1 (or the date described in paragraph (b)(4)(ii) of this section) immediately after the promulgation of each notice of data availability required in paragraph (b)(2)(iii)(B) of this section and after the recordation, in accordance with § 97.523, of CSAPR NO_X Ozone Season allowance transfers submitted by midnight of such date, the Administrator will determine whether the owners and operators described in paragraph (b)(3) of this section hold, in the assurance account for the appropriate CSAPR NO_X Ozone Season sources, CSAPR NO_X Ozone Season units, and State (and Indian country within the borders of such State) established under paragraph (b)(3) of this section, CSAPR NO_X Ozone Season allowances available under paragraph (a) of this section with the tonnage equivalent that the owners and operators are required to hold with regard to such sources, units, and State (and Indian country within the borders of such State) as calculated by the Administrator and referenced in the notice required in paragraph (b)(2)(iii)(B) of this section.

(6) Notwithstanding any other provision of this subpart and any revision, made by or submitted to the Administrator after the promulgation of the notice of data availability required in paragraph (b)(2)(iii)(B) of this section for a control period in a given year, of any data used in making the calculations referenced in such notice, the tonnage equivalents of CSAPR NO_X Ozone Season allowances that the owners and operators are required to hold in accordance with § 97.506(c)(2)(i) for such control period shall continue to be such tonnage equivalents as calculated by the Administrator and referenced in such notice required in paragraph (b)(2)(iii)(B) of this section, except as follows:

(i) If any such data are revised by the Administrator as a result of a decision in or settlement of litigation concerning such data on appeal under part 78 of this chapter of such notice, or on appeal under section 307 of the Clean Air Act of a decision rendered under part 78 of this chapter on appeal of such notice, then the Administrator will use the data as so revised to recalculate the tonnage equivalents of CSAPR NO_X Ozone Season allowances that owners and operators are required to hold in accordance with the calculation formula in § 97.506(c)(2)(i) for such control period with regard to the CSAPR NO_X Ozone Season sources, CSAPR NO_X Ozone Season units, and State (and Indian country within the borders of such State) involved, provided that such litigation under part 78 of this chapter, or the proceeding under part 78 of this chapter that resulted in the decision appealed in such litigation under section 307 of the Clean Air Act, was initiated no later than 30 days after promulgation of such notice required in paragraph (b)(2)(iii)(B) of this section.

(ii) If any such data are revised by the owners and operators of a CSAPR NO_X Ozone Season source and CSAPR NO_X Ozone Season unit whose designated representative submitted such data under paragraph (b)(2)(i) of this section, as a result of a decision in or settlement of litigation concerning such submission, then the Administrator will use the data as so revised to recalculate the tonnage equivalents of CSAPR NO_X Ozone Season allowances that owners and operators are required to hold in accordance with the calculation formula in § 97.506(c)(2)(i) for such control period with regard to the CSAPR NO_X Ozone Season sources, CSAPR NO_X Ozone Season units, and State (and Indian country within the borders of such State) involved, provided that such litigation was initiated no later than 30 days after promulgation of such notice required in paragraph (b)(2)(iii)(B) of this section.

(iii) If the revised data are used to recalculate, in accordance with paragraphs (b)(6)(i) and (ii) of this section, the tonnage equivalent of CSAPR NO_X Ozone Season allowances that the owners and operators are required to hold for such control period with regard to the CSAPR NO_X Ozone Season sources, CSAPR NO_X Ozone Season units, and State (and Indian country within the borders of such State) involved—

(A) Where the tonnage equivalent of CSAPR NO_X Ozone Season allowances that the owners and operators are required to hold increases as a result of the use of all such revised data, the Administrator will establish a new, reasonable deadline on which the owners and operators shall hold CSAPR NO_X Ozone Season allowances with the additional tonnage equivalent in the assurance account established by the Administrator for the appropriate CSAPR NO_X Ozone Season sources, CSAPR NO_X Ozone Season units, and State (and Indian country within the borders of such State) under paragraph (b)(3) of this section. The owners' and operators' failure to hold such additional tonnage equivalent, as required, before the new deadline shall not be a violation of the Clean Air Act. The owners' and operators' failure to hold such additional tonnage equivalent, as required, as of the new deadline shall be a violation of the Clean Air Act. Each ton of the tonnage equivalent of CSAPR NO_X Ozone Season allowances that the owners and operators fail to hold as required as of the new deadline, and each day in such control period, shall be a separate violation of the Clean Air Act.

(B) For the owners and operators for which the tonnage equivalent of CSAPR NO_X Ozone Season allowances required to be held decreases as a result of the use of all such revised data, the Administrator will record, in all accounts from which CSAPR NO_X Ozone Season allowances were transferred by such owners and operators for such control period to the assurance account established by the Administrator for the appropriate CSAPR NO_X Ozone Season sources, CSAPR NO_X Ozone Season units, and State (and Indian country within the borders of such State) under paragraph (b)(3) of this section, a total amount of the CSAPR NO_X Ozone Season allowances held in such assurance account that the Administrator determines may be transferred from such assurance account without causing the tonnage equivalent of the CSAPR NO_X Ozone Season allowances held by such owners and operators in such assurance account to fall below the tonnage equivalent required to be held by such owners and operators in such assurance account, making any transfers in whole CSAPR NO_X Ozone Season allowances. If CSAPR NO_X Ozone Season allowances were transferred to such assurance account from more than one account, the tonnage equivalent of CSAPR NO_X Ozone Season allowances recorded in each such transferor account will be in proportion to the percentage of the total tonnage equivalent of CSAPR NO_X Ozone Season allowances transferred to such assurance account for such control period from such transferor account.

* * * * *

§ 97.528 [Amended]

■ 43. Section 97.528 is amended in paragraph (b) by removing ''paragraph (a)(1)'' and adding in its place ''paragraph (a)''.

■ 44. Section 97.530 is amended by:

■ a. Revising paragraphs (b) introductory text and (b)(1) through (3);

■ b. In paragraph (b)(4) introductory text, by removing ''§§ '' and adding in its place ''§ ''; and

■ c. In paragraph (b)(4)(iii), by adding after ''§ 75.66'' the words ''of this chapter''.

The revisions read as follows:

§ 97.530 General monitoring, recordkeeping, and reporting requirements.

* * * * *

(b) *Compliance deadlines.* Except as provided in paragraph (e) of this section, the owner or operator of a CSAPR NO_X Ozone Season unit shall meet the monitoring system certification and other requirements of paragraphs (a)(1) and (2) of this section on or before the latest of the following dates and shall record, report, and quality-assure the data from the monitoring systems under paragraph (a)(1) of this section on and after the latest of the following dates:

(1)(i) For a unit other than a unit described in paragraph (b)(1)(ii) of this section, May 1, 2015; or

(ii) For a unit in the State of Kansas (or Indian country within the borders of the State) that is not a CSAPR NO_X Ozone Season unit in another State (or Indian country within the borders of another State) during any portion of a control period in 2015 or 2016, May 1, 2017;

(2) 180 calendar days after the date on which the unit commences commercial operation; or

(3) Where data for the unit is reported on a control period basis under § 97.534(d)(2)(ii)(B), and where the compliance date under paragraph (b)(2) of this section is not in a month from May through September, May 1 immediately after the compliance date under paragraph (b)(2) of this section.

* * * * *

§ 97.531 [Amended]

■ 45. Section 97.531 is amended by:

■ a. Italicizing the headings of paragraphs (d)(1) through (3), (d)(3)(i) through (iv), (d)(3)(iv)(A) through (D), and (d)(3)(v);

■ b. In paragraph (d)(3) introductory text, by removing ''§§ '' and adding in its place ''§ ''; and

■ c. Redesignating paragraphs (d)(3)(v)(A)(1) through (5) as paragraphs (d)(3)(v)(A)(*1*) through (*5*).

■ 46. Section 97.534 is amended by:

■ a. In paragraph (b), by adding ''the'' before ''requirements'';

■ b. Revising paragraphs (d)(1) and (2);

■ c. Redesignating paragraph (d)(6) as paragraph (d)(5)(ii); and

■ d. In paragraph (e)(3), by removing ''paragraph (d)(2)(ii)'' and adding in its place ''paragraph (d)(2)(ii)(B)''.

The revisions read as follows:

§ 97.534 Recordkeeping and reporting.

* * * * *

(d) * * *

(1) The designated representative shall report the NO_X mass emissions data and heat input data for a CSAPR NO_X Ozone Season unit, in an electronic quarterly report in a format prescribed by the Administrator, for each calendar quarter indicated under paragraph (d)(2) of this section beginning with the latest of:

(i)(A) For a unit other than a unit described in paragraph (d)(1)(i)(B) of this section, the calendar quarter covering May 1, 2015 through June 30, 2015; or

(B) For a unit in the State of Kansas (or Indian country within the borders of the State) that is not a CSAPR NO_X Ozone Season unit in another State (or Indian country within the borders of another State) during any portion of a control period in 2015 or 2016, the calendar quarter covering May 1, 2017 through June 30, 2017;

(ii) The calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under § 97.530(b); or

(iii) For a unit that reports on a control period basis under paragraph (d)(2)(ii)(B) of this section, if the calendar quarter under paragraph (d)(1)(ii) of this section does not include a month from May through September, the calendar quarter covering May 1 through June 30 immediately after the calendar quarter under paragraph (d)(1)(ii) of this section.

(2)(i) If a CSAPR NO_X Ozone Season unit is subject to the Acid Rain Program or a CSAPR NO_X Annual emissions limitation or if the owner or operator of such unit chooses to report on an annual basis under this subpart, then the designated representative shall meet the requirements of subpart H of part 75 of this chapter (concerning monitoring of NO_X mass emissions) for such unit for the entire year and report the NO_X mass emissions data and heat input data for such unit for the entire year.

(ii) If a CSAPR NO_X Ozone Season unit is not subject to the Acid Rain Program or a CSAPR NO_X Annual emissions limitation, then the designated representative shall either:

(A) Meet the requirements of subpart H of part 75 of this chapter for such unit for the entire year and report the NO_X mass emissions data and heat input data for such unit for the entire year in accordance with paragraph (d)(2)(i) of this section; or

(B) Meet the requirements of subpart H of part 75 of this chapter (including the requirements in § 75.74(c) of this chapter) for such unit for the control period and report the NO_X mass emissions data and heat input data (including the data described in § 75.74(c)(6) of this chapter) for such unit only for the control period of each year.

* * * * *

Subpart CCCCC—CSAPR SO_2 Group 1 Trading Program

■ 47. The heading of subpart CCCCC of part 97 is revised to read as set forth above.

§ 97.602 [Amended]

■ 48. Section 97.602 is amended by:
■ a. Relocating all definitions beginning with ''*CSAPR*'' to their alphabetical locations in the list of definitions;
■ b. In the definition of ''*Cogeneration system*'', by removing ''steam turbine generator'' and adding in its place ''generator'';
■ c. In the definition of ''*Commence commercial operation*'', in paragraph (2) introductory text, by adding after ''defined in'' the word ''the'';
■ d. In the definition of ''*Fossil fuel*'', by removing ''§§ '' and adding in its place § ''; and
■ e. In the definition of ''*Sequential use of energy*'', in paragraph (2), by adding after ''from'' the word ''a''.

§ 97.604 [Amended]

■ 49. Section 97.604 is amended by:
■ a. In paragraph (b)(2)(ii), by removing ''paragraph (b)(1)(i)'' and adding in its place ''paragraph (b)(2)(i)''; and
■ b. Italicizing the headings of paragraphs (c)(1) and (2).

§ 97.606 [Amended]

■ 50. Section 97.606 is amended by:
■ a. Italicizing the headings of paragraphs (c)(1) and (2) and (c)(4) through (7);
■ b. In the heading of paragraph (c)(4), by adding ''CSAPR SO_2 Group 1'' before ''allowances''; and
■ c. In paragraph (d)(2), by removing ''subpart H'' and adding in its place ''subpart B''.

§ 97.610 State SO_2 Group 1 trading budgets, new unit set-asides, Indian country new unit set-asides, and variability limits.

■ 51. Section 97.610 is amended by:
■ a. Revising the heading as set forth above;
■ b. Removing ''SO_2 trading budget'' wherever it appears and adding in its place ''SO_2 Group 1 trading budget'';
■ c. Removing ''SO_2 new unit set-aside'' wherever it appears and adding in its place ''new unit set-aside'';
■ d. Removing ''SO_2 Indian country new unit set-aside'' wherever it appears and adding in its place ''Indian country new unit set-aside'';
■ e. Removing ''SO_2 variability limit'' wherever it appears and adding in its place ''variability limit'';
■ f. In paragraph (a) introductory text, by adding ''Group 1'' before ''trading budgets'', and by removing ''new unit-set aside'' and adding in its place ''new unit set-aside'';
■ g. Adding and reserving paragraphs (a)(2)(vi) and (a)(11)(vi); and
■ h. In paragraph (c), by adding after ''Each'' the word ''State'', and by removing ''set aside'' wherever it appears and adding in its place ''set-aside''.

§ 97.611 [Amended]

■ 52. Section 97.611 is amended by:
■ a. Italicizing the headings of paragraphs (b)(1) and (2);
■ b. In paragraphs (b)(1)(iii) and (b)(2)(iii), by adding after ''November 30 of'' the word ''the'';
■ c. In paragraph (c)(1)(ii), by removing ''§ 52.39(d), (e), or (f)'' and adding in its place ''§ 52.39(e) or (f)'';
■ d. In paragraph (c)(5)(i)(B), by adding after ''§ 52.39(e) or (f)'' the words ''of this chapter'';
■ e. In paragraph (c)(5)(ii) introductory text, by removing ''of this paragraph'' and adding in its place ''of this section'';
■ f. In paragraph (c)(5)(ii)(B), by adding after ''§ 52.39(e) or (f)'' the words ''of this chapter''; and
■ g. In paragraph (c)(5)(iii), by removing ''of this paragraph'' and adding in its place ''of this section''.

§ 97.612 [Amended]

■ 53. Section 97.612 is amended by:
■ a. In paragraph (a)(2), by removing ''§§ '' and adding in its place ''§ '';
■ b. In paragraph (a)(4)(i), by removing ''paragraph (a)(1)(i) through (iii)'' and adding in its place ''paragraphs (a)(1)(i) through (iii)'';
■ c. In paragraph (a)(4)(ii), by adding after ''paragraph (a)(4)(i)'' the words ''of this section'';
■ d. In paragraph (a)(9)(i), by adding after ''November 30 of'' the word ''the'';
■ e. In paragraph (b)(4)(ii), by adding after ''paragraph (b)(4)(i)'' the words ''of this section'';
■ f. In paragraph (b)(9)(i), by adding after ''November 30 of'' the word ''the'';
■ g. In paragraph (b)(10)(ii), by removing ''§ 52.39(d), (e), or (f)'' and by adding in its place ''§ 52.39(e) or (f)''; and
■ h. In paragraph (b)(11), by adding after ''paragraphs (b)(9), (10) and (12)'' the words ''of this section''.

§ 97.621 [Amended]

■ 54. Section 97.621 is amended by:
■ a. In paragraphs (c), (d), and (e), by removing ''period'' and adding in its place ''periods'';
■ b. In paragraphs (f) and (g), by removing ''§ 52.39(e) and (f)'' and adding in its place ''§ 52.39(e) or (f)''; and
■ c. In paragraph (j), by removing ''the date'' and adding in its place ''the date 15 days after the date''.

§ 97.625 [Amended]

■ 55. Section 97.625 is amended by:
■ a. In paragraph (b)(2)(iii) introductory text, by removing ''paragraph (b)(1)(i)'' and adding in its place ''paragraph (b)(1)(ii)''; and
■ b. In paragraph (b)(2)(iii)(B), by adding ''the calculations incorporating'' before ''any adjustments''.

§ 97.628 [Amended]

■ 56. Section 97.628 is amended in paragraph (b) by removing ''paragraph (a)(1)'' and adding in its place ''paragraph (a)''.

§ 97.630 [Amended]

■ 57. Section 97.630 is amended by:
■ a. In paragraph (b) introductory text, by adding after ''operator'' the words ''of a CSAPR SO_2 Group 1 unit'', by adding ''the later of'' before ''the following dates'' each time it appears, and by removing the final period and adding in its place a colon;
■ b. Removing paragraphs (b)(1) and (b)(2) introductory text;
■ c. Redesignating paragraphs (b)(2)(i) and (ii) as paragraphs (b)(1) and (2);
■ d. In newly redesignated paragraph (b)(2), by removing the final semicolon and adding in its place a period;
■ e. In paragraph (b)(3) introductory text, by removing ''§§ '' and adding in its place ''§ ''; and
■ f. In paragraph (b)(3)(iii), by adding after ''§ 75.66'' the words ''of this chapter''.

§ 97.631 [Amended]

■ 58. Section 97.631 is amended by:
■ a. Italicizing the headings of paragraphs (d)(1) through (3), (d)(3)(i) through (iv), (d)(3)(iv)(A) through (D), and (d)(3)(v);
■ b. In paragraph (d)(3) introductory text, by removing ''§§ '' and adding in its place ''§ ''; and
■ c. Redesignating paragraphs (d)(3)(v)(A)(1) through (3) as paragraphs (d)(3)(v)(A)(*1*) through (*3*).

§ 97.634 [Amended]

■ 59. Section 97.634 is amended by:
■ a. In paragraph (b) by adding ''the'' before ''requirements'';
■ b. In paragraph (d)(1) introductory text, by removing ''the CSAPR'' and adding in its place ''a CSAPR'', and by adding ''the later of'' before the final colon;
■ c. In paragraph (d)(1)(i), by removing ''For a unit that commences commercial operation before July 1, 2014, the'' and adding in its place ''The''; and
■ d. In paragraph (d)(1)(ii), by removing ''For a unit that commences commercial operation on or after July 1, 2014, the'' and adding in its place ''The'', and by removing '', unless that quarter is the third or fourth quarter of 2014, in which case reporting shall commence in the quarter covering January 1, 2015 through March 31, 2015''.

Subpart DDDDD—CSAPR SO_2 Group 2 Trading Program

■ 60. The heading of subpart DDDDD of part 97 is revised to read as set forth above.

§ 97.702 [Amended]

■ 61. Section 97.702 is amended by:
■ a. Relocating all definitions beginning with ''*CSAPR*'' to their alphabetical locations in the list of definitions;
■ b. In the definition of ''*Cogeneration system*'', by removing ''steam turbine generator'' and adding in its place ''generator'';
■ c. In the definition of ''*Commence commercial operation*'', in paragraph (2) introductory text, by adding after ''defined in'' the word ''the'';
■ d. In the definition of ''*Fossil fuel*'', by removing ''§§ '' and adding in its place ''§ ''; and
■ e. In the definition of ''*Sequential use of energy*'', in paragraph (2), by adding after ''from'' the word ''a''.

§ 97.704 [Amended]

■ 62. Section 97.704 is amended by:
■ a. In paragraph (b)(2)(ii), by removing ''paragraph (b)(1)(i)'' and adding in its place ''paragraph (b)(2)(i)''; and
■ b. Italicizing the headings of paragraphs (c)(1) and (2).

§ 97.706 [Amended]

■ 63. Section 97.706 is amended by:
■ a. Italicizing the headings of paragraphs (c)(1) and (2) and (c)(4) through (7);
■ b. In the heading of paragraph (c)(4), by adding ''CSAPR SO_2 Group 2'' before ''allowances''; and
■ c. In paragraph (d)(2), by removing ''subpart H'' and adding in its place ''subpart B''.

§ 97.710 State SO_2 Group 2 trading budgets, new unit set-asides, Indian country new unit set-asides, and variability limits.

■ 64. Section 97.710 is amended by:
■ a. Revising the heading as set forth above;
■ b. Removing ''SO_2 trading budget'' wherever it appears and adding in its place ''SO_2 Group 2 trading budget'';
■ c. Removing ''SO_2 new unit set-aside'' wherever it appears and adding in its place ''new unit set-aside'';
■ d. Removing ''SO_2 Indian country new unit set-aside'' wherever it appears and adding in its place ''Indian country new unit set-aside'';
■ e. Removing ''SO_2 variability limit'' wherever it appears and adding in its place ''variability limit'';
■ f. In paragraph (a) introductory text, by adding ''Group 2'' before ''trading budgets'', and by removing ''new unit-set aside'' and adding in its place ''new unit set-aside''; and
■ g. In paragraph (c), by adding after ''Each'' the word ''State'', by removing ''identified under'' and adding in its place ''in'', by removing ''excludes'' and adding in its place ''does not include'', and by removing ''set aside'' wherever it appears and adding in its place ''set-aside''.

§ 97.711 [Amended]

■ 65. Section 97.711 is amended by:
■ a. Italicizing the headings of paragraphs (b)(1) and (2);
■ b. In paragraphs (b)(1)(iii) and (b)(2)(iii), by adding after ''November 30 of'' the word ''the'';
■ c. In paragraph (c)(1) introductory text, by adding after ''approved'' each time it appears the word ''under'';
■ d. In paragraph (c)(1)(ii), by removing ''§ 52.39(g), (h), or (i)'' and adding in its place ''§ 52.39(h) or (i)'';
■ e. In paragraph (c)(5)(i)(B), by adding after ''§ 52.39(h) or (i)'' the words ''of this chapter'';
■ f. In paragraph (c)(5)(ii) introductory text, by removing ''of this paragraph'' and adding in its place ''of this section'';
■ g. In paragraph (c)(5)(ii)(B), by adding after ''§ 52.39(h) or (i)'' the words ''of this chapter''; and
■ h. In paragraph (c)(5)(iii), by removing ''of this paragraph'' and adding in its place ''of this section''.

§ 97.712 [Amended]

■ 66. Section 97.712 is amended by:
■ a. In paragraph (a)(2), by removing ''§§ '' and adding in its place ''§ '';
■ b. In paragraph (a)(4)(i), by removing ''paragraph (a)(1)(i) through (iii)'' and adding in its place ''paragraphs (a)(1)(i) through (iii)'';
■ c. In paragraph (a)(4)(ii), by adding after ''paragraph (a)(4)(i)'' the words ''of this section'';
■ d. In paragraph (a)(9)(i), by adding after ''November 30 of'' the word ''the'';
■ e. In paragraph (b)(4)(ii), by adding after ''paragraph (b)(4)(i)'' the words ''of this section'';
■ f. In paragraph (b)(9)(i), by adding after ''November 30 of'' the word ''the''; and
■ g. In paragraph (b)(10)(ii), by removing ''§ 52.39(g), (h), or (i)'' and by adding in its place ''§ 52.39(h) or (i)''.

§ 97.721 [Amended]

■ 67. Section 97.721 is amended by:
■ a. In paragraphs (c), (d), and (e), by removing ''period'' and adding in its place ''periods'''';
■ b. In paragraphs (f) and (g), by removing ''§ 52.39(h) and (i)'' and adding in its place ''§ 52.39(h) or (i)''; and
■ c. In paragraph (j), by removing ''the date'' and adding in its place ''the date 15 days after the date'', and by removing the comma before ''described''.

§ 97.725 [Amended]

■ 68. Section 97.725 is amended by:
■ a. In paragraph (b)(2)(iii) introductory text, by removing ''paragraph (b)(1)(i)'' and adding in its place ''paragraph (b)(1)(ii)'';
■ b. In paragraph (b)(2)(iii)(B), by adding ''the calculations incorporating'' before ''any adjustments''; and
■ c. In paragraph (b)(6)(iii)(B), by removing after ''appropriate'' the word ''at''.

§ 97.728 [Amended]

■ 69. Section 97.728 is amended in paragraph (b) by removing ''paragraph (a)(1)'' and adding in its place ''paragraph (a)''.

§ 97.730 [Amended]

■ 70. Section 97.730 is amended by:
■ a. Italicizing the heading of paragraph (a);
■ b. In paragraph (b) introductory text, by adding after ''operator'' the words ''of a CSAPR SO_2 Group 2 unit'', by adding ''the later of'' before ''the following dates'' each time it appears, and by removing the final period and adding in its place a colon;
■ c. Removing paragraphs (b)(1) and (b)(2) introductory text;
■ d. Redesignating paragraphs (b)(2)(i) and (ii) as paragraphs (b)(1) and (2);
■ e. In newly redesignated paragraph (b)(2), by removing the final semicolon and adding in its place a period;
■ f. In paragraph (b)(3) introductory text, by removing ''§§ '' and adding in its place ''§ ''; and
■ g. In paragraph (b)(3)(iii), by adding after ''§ 75.66'' the words ''of this chapter''.

§ 97.731 [Amended]

■ 71. Section 97.731 is amended by:
■ a. Italicizing the headings of paragraphs (d)(1) through (3), (d)(3)(i) through (iv), (d)(3)(iv)(A) through (D), and (d)(3)(v);
■ b. In paragraph (d)(3) introductory text, by removing ''§§ '' and adding in its place ''§ ''; and
■ c. Redesignating paragraphs (d)(3)(v)(A)(1) through (3) as paragraphs (d)(3)(v)(A)(*1*) through (*3*).

§ 97.734 [Amended]

■ 72. Section 97.734 is amended by:
■ a. In paragraph (b) by adding ''the'' before ''requirements'';
■ b. In paragraph (d)(1) introductory text, by removing ''the CSAPR'' and adding in its place ''a CSAPR'', and by adding ''the later of'' before the final colon;

■ c. In paragraph (d)(1)(i), by removing ''For a unit that commences commercial operation before July 1, 2014, the'' and adding in its place ''The''; and

■ d. In paragraph (d)(1)(ii), by removing ''For a unit that commences commercial operation on or after July 1, 2014, the'' and adding in its place ''The'', and by removing '', unless that quarter is the third or fourth quarter of 2014, in which case reporting shall commence in the quarter covering January 1, 2015 through March 31, 2015''.

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FEDERAL REGISTER

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Part III

The President

Federal Register
Vol. 80, No. 232
Thursday, December 3, 2015

Presidential Documents

Title 3—

The President

Proclamation 9373 of November 30, 2015

National Impaired Driving Prevention Month, 2015

By the President of the United States of America

A Proclamation

No person should suffer the tragedy of losing someone as a result of drunk, drugged, or distracted driving, but for far too long the danger of impaired driving has robbed people of the comfort of knowing that when they or a loved one leaves home they will return safely. Impaired driving puts drivers, passengers, and pedestrians at risk, and each year it claims the lives of thousands of Americans. During National Impaired Driving Prevention Month, we recommit to preventing these incidents by acting responsibly and by promoting responsible behavior in those around us. Together, we can enhance public safety and work to ensure a happy, healthy life for all our people.

During the holidays—a season that includes a spike in travel and celebrations that may include alcohol—and throughout the year, we must remain vigilant and aware of drivers that are distracted or under the influence of drugs or alcohol. Drunk drivers kill more than 10,000 people annually, and about one-third of traffic deaths in the United States involve a driver with a blood alcohol concentration above the legal limit. Driving under the influence of drugs, an increasingly common occurrence, carries the same risks as drunk driving and is just as avoidable. And driving distracted, including while using a cell phone, can lead to tragic outcomes that are also preventable. Every American can play a role in reducing the frequency of these incidents by speaking out and warning others of the dangers associated with impaired driving, taking away the keys of would-be drivers they know to be intoxicated, and reminding drivers they are riding with to stay focused on the road and to limit distractions. It is also critical for drivers and passengers alike to wear seatbelts regardless of how far they are traveling.

Across our Nation, State and local law enforcement agencies are working tirelessly to prevent and respond to impaired driving. The Drive Sober or Get Pulled Over campaign, occurring from December 16, 2015, through January 1, 2016, seeks to raise awareness of the dangers associated with drunk and drugged driving and aims to prevent as many of these tragedies from occurring as possible. At the Federal level, my Administration remains committed to doing our part. This year, we released an updated National Drug Control Strategy, which aims to reduce drugged driving by encouraging States to enact drugged driving laws and improve efforts to identify these impaired drivers. We also continue to support the efforts of the tireless advocates working to stop drunk driving, and we will keep pushing to equip law enforcement with the tools needed to end and prevent incidents of impaired driving. For more information, visit www.Distraction.gov, www.NHTSA.gov/DriveSober, and www.WhiteHouse.gov/ONDCP/DruggedDriving.

As we gather with friends and loved ones this month, I encourage all Americans to enjoy their time together responsibly. It is important to the health and safety of us all to plan ahead by designating a non-drinking driver, staying in place if impaired, and arranging for alternative means of transportation. During National Impaired Driving Prevention Month, let us pledge to always drive sober and alert and to avoid distractions behind

the wheel. Together, we can help ensure all our people are able to enjoy the holiday spirit and make memories with those they care about while safeguarding the well-being of everyone on the road.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim December 2015 as National Impaired Driving Prevention Month. I urge all Americans to make responsible decisions and take appropriate measures to prevent impaired driving.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

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Filed 12–2–15; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9374 of November 30, 2015

World AIDS Day, 2015

By the President of the United States of America

A Proclamation

More than three decades ago, the first known cases of HIV/AIDS sparked an epidemic in the United States—ushering in a time defined by how little we knew about it and in which those affected by it faced fear and stigmatization. We have made extraordinary progress in the fight against HIV since that time, but much work remains to be done. On World AIDS Day, we remember those who we have lost to HIV/AIDS, celebrate the triumphs earned through the efforts of scores of advocates and providers, pledge our support for those at risk for or living with HIV, and rededicate our talents and efforts to achieving our goal of an AIDS-free generation.

Today, more people are receiving life-saving treatment for HIV than ever before, and millions of HIV infections have been prevented. Still, more than 36 million people around the world live with HIV—including nearly 3 million children. My Administration is committed to ending the spread of HIV and improving the lives of all who live with it. In the United States, the Affordable Care Act has allowed more people to access coverage for preventive services like HIV testing, and new health plans are now required to offer HIV screening with no cost sharing. Insurance companies can no longer discriminate against individuals living with HIV/AIDS or any other pre-existing condition. Additionally, this year marks the 25th anniversary of the Ryan White CARE Act, which established the Ryan White Program—a program that helps provide needed care to the most vulnerable individuals and touches over half of all people living with HIV in America.

To further our fight to end the HIV epidemic, my Administration released our country's first comprehensive National HIV/AIDS Strategy in 2010. The Strategy provided a clear framework for changing the way we talk about HIV, and it offered a critical roadmap that prioritizes our Nation's response to this epidemic and organizes the ways we deliver HIV services. Earlier this year, I signed an Executive Order to update the Strategy through 2020, focusing on expanding HIV testing and care, widening support for those living with HIV to stay in comprehensive care, promoting universal viral suppression among individuals infected with HIV, and increasing access to preventive measures, including pre-exposure prophylaxis for people at substantial risk of acquiring HIV.

Additionally, the primary aims of the Strategy include reducing HIV-related disparities and health inequities, because HIV still affects specific populations disproportionately across our country. Certain individuals—including gay and bisexual men, Black women and men, Latinos and Latinas, people who inject drugs, transgender women, young people, and people in the Southern United States—are at greater risk for HIV, and we must target our efforts to reduce HIV-related health disparities and focus increased attention on highly vulnerable populations. My most recent Federal budget proposal includes more than $31 billion in funding for HIV/AIDS treatment, care, prevention, and research. We are also making great progress toward achieving a greater viral suppression rate among those diagnosed with HIV, and in the last 5 years, we have made critical funding increases to ensure more Americans have access to life-saving treatment.

We cannot achieve an AIDS-free generation without addressing the pervasive presence of HIV throughout the world, which is why our Nation is committed to achieving the goals laid out in the 2030 Agenda for Sustainable Development to reach more people living with HIV, promote global health, and end the AIDS epidemic. The President's Emergency Plan for AIDS Relief (PEPFAR) has helped save lives across the globe and has made significant impacts on the number of new HIV infections by strengthening international partnerships and expanding essential services for preventing and treating HIV. This year, I announced new targets for PEPFAR that aim to provide almost 13 million people with life-saving treatment by the end of 2017. The United States is also committing resources to support PEPFAR's work to achieve a 40 percent decrease in HIV incidence among young women and girls in the most vulnerable areas of sub-Saharan Africa. This is a shared responsibility, and America will remain a leader in the effort to end HIV/AIDS while continuing to work with the international community to address this challenge and secure a healthier future for all people.

Working with private industry, faith communities, philanthropic organizations, the scientific and medical communities, networks of people living with HIV and affected populations, and governments worldwide, we can accomplish our goals of reducing new HIV infections, increasing access to care, improving health outcomes for patients, reducing HIV-related disparities, and building a cohesive, coordinated response to HIV. On this day, let us pay tribute to those whom HIV/AIDS took from us too soon, and let us recognize those who continue to fight for a world free from AIDS. Let us also recognize researchers, providers, and advocates, who work each day on behalf of people living with HIV, and in honor of the precious lives we have lost to HIV. Together, we can forge a future in which no person—here in America or anywhere in our world—knows the pain or stigma caused by HIV/AIDS.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim December 1, 2015, as World AIDS Day. I urge the Governors of the States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, and the American people to join me in appropriate activities to remember those who have lost their lives to AIDS and to provide support and compassion to those living with HIV.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

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Reader Aids

Federal Register

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FEDERAL REGISTER PAGES AND DATE, DECEMBER

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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